



**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH.**

CROCP No. 12 of 2019 (O&M)

Reserved on: 21.11.2024

Pronounced on: 16.12.2024

Court on its own motion

.....Petitioner

Versus

Mulakh Raj Mehta, Advocate and another

....Respondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MRS. JUSTICE SUDEEPTI SHARMA**

Argued by: Mr. Ashwani Talwar, Advocate (Amicus Curiae),

Mr. Mulakh Raj-contemnor in person.

Mr. Amit Chauchary, Advocate
for respondent No. 1.

Mr. Amanpal, Advocate and
Mr. Jap Sehaj Singh, Advocate
for respondent No. 2.

SURESHWAR THAKUR, J.

CRM-21781-2024

The application is allowed as prayed for. Affidavit dated
22.4.2024 filed by respondent No. 2, is taken on record.

CRM-46269-2024

The application is allowed as prayed for. Annexures R-1/64
to R-1/64L and Annexure R-1/65 are taken on record.

CROCP No. 12 OF 2019

1. The proceedings in this case were initiated on a letter
bearing No. 266 dated 30.3.2019 written by Ms. Paramvir Nijjar,
Additional District and Sessions Judge, Hisar, addressed to the learned



District and Sessions Judge, Hisar, with a request to initiate contempt proceedings against Shri Mulakh Raj Mehta, Advocate, District Courts, Hisar and Shri Mahesh Mehta, Editor of 'Hisar Today' newspaper for getting published news dated 6.2.2019 and dated 16.2.2019 against her and other judges in newspaper 'Hisar Today', and, that too without any basis and with ulterior motive. The contents of the letter (supra) become extracted hereinafter.

"It is respectfully submitted that the undersigned is working as Additional District & Sessions Judge, Hisar since April, 2016. That the undersigned joined Harvana Judicial Services on July 17, 1995 as a Judicial Magistrate-cum-Civil Judge (Junior Division) and thereafter worked as adhoc Additional District & Sessions Judge (Fast Track Court) from February, 2008 and thereafter was promoted as regular Additional District & Sessions Judge in the month of February, 2009 and in the 23½ years of my judicial service, there has been no complaint whatsoever against the undersigned qua the integrity of the undersigned and the undersigned has had an unblemished career record.

2. *It is submitted that Shri Mulakh Raj Mehta, Advocate, District Courts, Hisar, who is a retired District Attorney, got published a news in newspaper 'Hisar Today' on 06.02.2019 with title 'Hisar Court Mein Bhrashtachar ke Aarop' and again on 16.02.2019 raising allegations of corruption against the undersigned and other judicial officers at Hisar with the title 'Court Mein Bhrashtachar'. The allegations raised by Shri Mulakh Raj Mehta, Advocate are without any basis and are false and frivolous and have been got published by him only to gain cheap publicity and to harm the reputation of Judiciary in the eyes of the public at large. The news dated 16.02.2019 got published by Shri Mulakh Raj Mehta, Advocate is based on the alleged resolution dated 07.02.2019 allegedly passed by the Bar Association, Hisar. That after the publication of news dated 16.02.2019, the Bar Association, Hisar convened a*



meeting of General House and passed a resolution on 16.02.2019 itself that in the resolution dated 07.02.2019 the names of the judges in the said resolution and further the fact of withdrawing their work had been wrongly mentioned. The act of Shri Mulakh Raj Mehta, Advocate of getting the news published and making the resolution viral through social media was also condemned.

3. *It is further respectfully submitted that Sh. Mulakh Raj Mehta in newspaper 'Hisar Today' dated 22.02.2019 got published the news that infact he had never named Sh. Amit Garg, learned Additional District & Sessions Judge, Hisar in his complaint and further asserted that Sh. Amit Garg was an honest judge. It would be pertinent to mention here that even in the newspaper dated 16.02.2019 i.e. prior to 22.02.2019, names of the undersigned as well as two other judicial officers i.e. including respected Sh. Amit Garg were published on the basis of complaint of Sh. Mulakh Raj Mehta and Sh. Mulakh Raj Mehta turned around and went on to claim in the newspaper dated 22.02.2019 that he had never named Sh. Amit Garg in his complaint, on the basis of which infact alleged resolution dated 07.02.2019 was passed by the Bar Association, Hisar. That the above only reveals dubious character of Sh. Mulakh Raj Mehta and the fact that his only intention was to malign the image of the judicial officers.*

4. *It is further submitted please that in the news dated 06.02.2019 Sh. Mulakh Raj Mehta also alleged that an official Vijay who is working at Hisar for the last 25 years used to influence the judges with whomsoever he remained as a Clerk and that said Vijay used to do 'Dalali of judges' and the said allegations infact harmed the reputation of all those judges with whom said Vijay had worked in the last 25 years in the Hisar courts and thereby Sh. Mulakh Raj Mehta had lowered the reputation and esteem of the judicial officers in the eyes the public at large.*

5. *It is further respectfully submitted that the undersigned was on leave from 03.02.2019 to 13.03.2019, since the father of the undersigned, who is retired army officer was to be operated*



upon on 07.02.2019 at Fortis, Mohali i.e. he had to undergo open heart surgery and thereafter while still being admitted in ICU Fortis Mohali, he unfortunately expired on 23.02.2019 and everyone in the courts at Hisar was well aware of this fact regarding the reason for the undersigned being on leave, but Sh. Mulakh Raj Mehta behind the back of the undersigned kept getting published false and frivolous news shamelessly, only with the ulterior motive to gain cheap popularity and to pressurize the judicial officers to get favourable decisions in his favour. It would be further pertinent to mention here that during the inspection at Hisar courts by the Hon'ble Administrative Judge on 15th and 16th March, 2019, majority of the members of Bar Association, Hisar raised a finger of accusation on the conduct of Sh. Mulakh Raj Mehta and levelled serious allegations on his integrity while he remained a District Attorney at Hisar and now as an advocate.

6. It is respectfully submitted that the unworthy act of Shri Mulakh Raj Mehta, Advocate of getting the fake news dated 06.02.2019 and 16.02.2019 published in newspaper 'Hisar Today' amounts to scandalising the Court and tends to lower the authority of the Court and is an attempt to interfere in the administration of justice. That since Sh. Mahesh Mehta, Editor of 'Hisar Today' published the news in his newspaper at the behest of Sh. Mulakh Raj Mehta, as such he was equally responsible for harming the reputation of the judiciary.

It is therefore, respectfully submitted that a contempt reference under Section 10 of the Contempt of Courts Act, 1971 be sent against Shri Mulakh Raj Mehta, Advocate, District Courts, Hisar and Sh. Mahesh Mehta, Editor of newspaper 'Hisar Today' to the Honourable Punjab and Haryana High Court so that they may be punished for Contempt of Court in accordance with the due process of law.”

2. In view thereof, the matter was registered as **CROCP No. 12 of 2019** as **Court on its own motion versus Mulakh Raj Mehta, Advocate and another.**
3. Notice in this case was issued to both the contemnors on



15.7.2019, in pursuance whereof, they have filed their respective replies. In the reply furnished by respondent No. 2, though he has admitted the fact that he had published the apposite news item in the newspaper 'Hisar Today' but he did so only after his verifying the truth of the contents as made therein, through his seeking an endorsement becoming made thereons by respondent No. 1, whereas, the defence taken by respondent No. 1 in his reply(ies) becomes based upon the resolutions passed by the Bar Association, pertaining to the inclusion and the deletion of names of certain officers. However, at the end of their replies, both the respondents tendered their unconditional and unqualified apology for the pain and embarrassment caused to the Hon'ble Courts.

4. However, vide order dated 31.8.2023, this Court did not accept the above tendered apology(ies) by the contemnors concerned, thus by observing that the above tendered apology(ies) by the contemnors concerned, rather wanting in remorse and being only an attempt to slip out of the charge, whereupons, the hereinafter extracted charges were drawn against the contemnors. Consequently, vide separate orders of even date, the hereafter charges were framed qua both the contemnors.

Charge against contemnor No. 1-Mulakh Raj Mehta

That, keeping in view the contents of the publication done on 6.2.2019 (Annexure-A), 16.2.2019 (Annexure-B) and 22.2.2019 (Annexure-C), published in newspaper 'Hisar Today' and the defence taken by you in the affidavit dated 18.10.2019 regarding the resolutions passed by the Bar, prima facie, we are of the considered opinion that you have committed and are guilty of scandalizing and tendering to



lower the authority of the Courts under Section 2(c)(i) read with Section 15(2) of the Contempt of Courts Act, 1971. You have, thus, lowered the authority of the Court and in this manner, committed criminal contempt punishable under Section 12 of the Contempt of Courts Act, 1971.”

Charge against contemnor No. 2-Mahesh Mehta

That, keeping in view the contents of the publication done on 6.2.2019 (Annexure-A), 16.2.2019 (Annexure-B) and 22.2.2019 (Annexure-C), published in newspaper ‘Hisar Today’ and the defence taken by you in the affidavit dated 27.11.2019 regarding the resolutions passed by the Bar, prima facie, we are of the considered opinion that you have committed and are guilty of scandalizing and tendering to lower the authority of the Courts under Section 2(c)(i) read with Section 15(2) of the Contempt of Courts Act, 1971. You have, thus, lowered the authority of the Court and in this manner, committed criminal contempt punishable under Section 12 of the Contempt of Courts Act, 1971.”

5. The said drawn charges were put to the contemnors, to which they pleaded not guilty, and, they also chose to lead defence evidence.

6. When this came up for hearing before this Court on 7.12.2023, the following order was passed by this Court-

“x x x x

We have gone through the news items published by respondent No.2 and apparently at the instance of respondent No.1 and find per se that the same is scandalous and published with the sole purpose to scandalize and lower the authority of the Courts at Hisar.

Faced with this situation, counsel for respondent No.1 submits that keeping in view the age of respondent No.1, liberal view be taken. Similar plea has also been taken by respondent No.2.

We feel that firstly in the facts and circumstances, an



apology should be tendered regarding the publication of the news in the same newspaper by respondent No.2 which will be reflected on the front page of the said newspaper. Respondent No. 1 shall also in the said publication give his unqualified apology which shall also be published along with the publication made by respondent No. 2 in order to mitigate their action which in the face of it contemptuous since they had no right as such to discredit the serving judicial officers by the methodology resorted to, more so the responsibility of respondent No.1 was more who has served as District Attorney and has retired from the said post.

Let the needful be done and proof of the same be furnished before this Court by the next date of hearing along with necessary affidavits that they will not indulge in such mudslinging ever in the future.”

7. In compliance of the order (supra) respondent No. 1 not only tendered an unconditional apology vis-a-vis the purported disparaging publications as became printed in daily newspaper ‘Hisar Today’, respectively on 6.2.2019, 16.2.2019 and on 22.2.2019, but has also, as borne from a reading of Annexure R-62, tendered therein an unqualified and unconditional apology for the earlier publications (supra) becoming so printed in the daily newspaper (supra), besides has therebys also withdrawn the supra. The contents of Annexure R-62 become extracted hereinafter.

“Sincere, unconditional apology and unconditional withdrawal of news.

In news paper Hisar today dt 06.02.2019, 16.02.2019 and 22.02.2019 news were published against some honourable judicial officers and some honourable courts to lower their authorities at my instance. I am sincerely repentant. I with folded hands tender my unconditional apology and withdraw each and every words published in the above said newspaper against honourable judicial officers/honourable court. I strongly believe that I would have no dignity in absence of dignity of honourable judicial officers and honourable



courts. I state that I have spent 55 years in the noble professor of law. I have unblemished record as an advocate and as well as prosecutor. I remained through out honest in my career. It was my first and last blunder. I had been commanding too much respect in the bar bench and in public life and it was an unfortunate slip by me for which I am really very sorry. I have made all endeavors to uphold the rule and majesty of law. To err is human, the lesson learnt by mistakes and errors done by me above would help me in future to take care of doing such acts. I assure that I would not do such acts throughout my left out life.”

8. In addition, respondent No. 2 has also tendered his unconditional apology by way of an affidavit dated 15.1.2024 (Annexure A-2). Subsequently, in compliance of the order dated 25.1.2024 passed by this Court, respondent No. 2 has also filed another affidavit dated 22.4.2024 stating therein that 2000 copies of the newspaper Hisar Today were circulated on 27.12.2023, and, therebys also he tendered his unconditional apology.

9. The news items respectively dated 6.2.2019, dated 16.2.2019 and dated 22.2.2019 are as under:-

News item dated 6.2.2019



[illegible]

एकव्योक्त मुलसुराज महता

गर्ग ईमानदार, इसमें कोई शक नहीं: महत्ता

मुलसुराज महता का सवाल: जज अमित गर्ग ईमानदार हैं जब मैंने उनका नाम ही नहीं लिया, तो कैसे आया उनका नाम रेसोलुशन में ?

दुडे न्यूज़ | हिसार

हिसार जिला सत्र न्यायलय में जजों के स्कैम और भ्रष्टाचार का पर्दाफाश करने वाले वकील मुलसुराज महता ने एक और सनसनीखेज बयान देकर साफ-साफ शब्दों में कहा है कि उन्होंने बार कॉउंसिल हिसार में सिर्फ 2 जजों के ऊपर भ्रष्टाचार का आरोप लगाया था जबकि उस बैठक में उन्होंने किसी भी एडिशनल सेशन जज अमित गर्ग का नाम

एकव्योक्त मुलसुराज महता

- गैरी बातो का सबूत उस दिन की बैठक की वीडियो रिकॉर्डिंग में मौजूद : महत्ता
- 16 तारीख को बार कॉउंसिल की बैठक में जज अमित गर्ग का नाम रेसोलुशन से हटाया गया : महत्ता

नहीं लिया था। उन्होंने कहा कि उन्होंने बार कॉउंसिल की बैठक में कहा था कि अमित गर्ग बहुत ईमानदार जज हैं और उनका किसी भी वकील से कोई शिकायत नहीं। मुलसुराज इसके न जाने कैसे बार कॉउंसिल ऑफ हिसार ने उनका नाम रेसोलुशन में डाला।

बात है कि एकव्योक्त मुलसुराज महता ने हिसार दुडे से की एकसकलसिव मुलाकात में कहा था कि मैंने जब इसी को लेकर बार कॉउंसिल में जो शिकायतें दूँ उसमें उन्होंने किसी भी जज का नाम नहीं लिखा था। क्योंकि वह किसी जज की बदनामी नहीं करना चाहते थे। मगर मीडिया में काफी वकीलों ने चर्चा की और मैंने एडिशनल

कापी वकीलों ने चर्चा की और मैंने एडिशनल सेशन जज परमवीर निचर और आरके जैन का नाम लिया था। महता ने आगे कहा कि मुझे यह भी नहीं पता कि बार कॉउंसिल के रेसोलुशन में अमित गर्ग का नाम कैसे आया। हालांकि बाद में बार कॉउंसिल ऑफ हिसार ने उन्हें बाद में बताया कि रेसोलुशन से अमित गर्ग का नाम हटा दिया गया।

मुझे नहीं पता कि बार कॉउंसिल के रेसोलुशन में जज अमित गर्ग का नाम कैसे आया?

बात है कि एकव्योक्त मुलसुराज महता ने हिसार दुडे को दिए एकसकलसिव मुलाकात में कहा था कि मैंने जब कॉर्ट में फैले भ्रष्टाचार को लेकर जब उन्होंने बार कॉउंसिल में जो शिकायतें दूँ उसमें उन्होंने किसी भी जज का नाम नहीं लिखा था। क्योंकि वह किसी जज की बदनामी नहीं करना चाहते थे। मगर मीडिया में काफी वकीलों ने चर्चा की और मैंने एडिशनल

का नाम लिया कि जो भ्रष्ट। महता ने आगे कहा कि मुझे यह भी नहीं पता कि बार कॉउंसिल के रेसोलुशन में अमित गर्ग का नाम कैसे आया। जबकि मैंने खुद मीडिया में कहा था कि गग ईमानदार जज हैं और किसी भी वकील ने उनका नाम पर बात तक नहीं की की बैठक में। फिर भी न जाने कैसे बार कॉउंसिल के रेसोलुशन में उनका नाम डाला गया। इसका संकेत उस दिन बार कॉउंसिल की बैठक में हुई वीडियो रिकॉर्डिंग से पता चल जाता। हालांकि बाद में बार कॉउंसिल ऑफ हिसार ने उन्हें बाद में बताया कि 16 तारीख की बैठक एक और बार कॉउंसिल की बैठक लेकर रेसोलुशन से जज अमित गर्ग का नाम हटा दिया था। मुलसुराज महता ने बताया कि 16 तारीख की हुई बैठक में वह नहीं जा सकें थे। यह मसला उन्हें बार कॉउंसिल में बताया भी था। महता ने कहा मुझे बाद में बताया गया कि आज के रेसोलुशन से हमने अमित गर्ग का नाम हटा दिया क्योंकि वह ईमानदार हैं। मुझे इस बात की खुशी हुई।

विजय की निपटारी से होगी तस्वीर साफ

■ अतिरिक्त सूचना महता ने कहा कि जिस को जजों का काम ले रहा हो उससे मेरे पता चलेंगे। मेरी मान्य है कि अगर किसी को जज के जज्य निपटार में और फिर इन्हें ठुकरा कर ले तो सच सच निपटारण बाहर आयेगा और इन्होंने जजों की हकीकत

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alleged therein to be brokering deals on behalf of the litigants concerned, thus with the members of the judiciary. Therefore, they submit that therebys there was no scandalization of the judiciary nor as such, any action for contempt is required to be drawn against the contemnors.

11. The learned counsels for the contemnors further submit, that even if assumingly any purported criminal contempt beomes aroused from the media item (supra), yet since they are theretos thus tendering their unconditional and unqualified apology, wherebys when they have expiated their guilt, if any, therebys the contempt proceedings be closed, and, the contemnors be discharged.

12. In addition, they further contend that since subsequent to the printing(s) of the said disparaging remarks in the newspaper (supra), respectively on 6.2.2019, 16.2.2019 and on 22.2.2019, rather the said printed news item(s) became withdrawn, through printing of a news item in newspaper “Hisar Today” on 27.12.2023 (Annexure R-62), besides when therein also became printed an unconditional apology. Therefore, it is vehemently contended that no contempt proceedings be undertaken against the contemnors concerned, and, that the contempt proceedings be dropped but after quashing the said drawn charges against them. In other words, the learned counsels submit, that the contemnors be discharged from the purported contempt, as becomes echoed in the supra drawn charges against them.

13. To strengthen the above submissions, the learned counsels for the contemnors submit, that since in terms of Section 13 of the Contempt of Courts Act, 1971 (for short ‘the Act of 1971’), relevant



portion whereof as occurs in clause (b) thereof, thus bestows statutory exculpation to evident truth of the published news item. Moreover, when the said statutory exculpation also is a permissible defence, but in the event of the same becoming published, thus evidently in public interest, besides when evidently the truth of the printed item, thus to well work as a valid defence, but also is ordained therein, as in the instant case, but becoming evidently proven to be bonafide. The provisions Section 13 of the Act of 1971 become extracted hereinafter.

“13. Contempts not punishable in certain cases.—

Notwithstanding anything contained in any law for the time being in force,—

- (a) no court shall impose a sentence under this Act for a contempt of court unless it is satisfied that the contempt is of such a nature that it substantially interferes, or tends substantially to interfere with the due course of justice;*
- (b) the court may permit, in any proceeding for contempt of court, justification by truth as a valid defence if it is satisfied that it is in public interest and the request for invoking the said defence is bona fide.”*

14. Consequently, they argue that the publication of the news itmes (supra) wherefrom the contempt proceedings became generated thus-

(a) became statutorily protected in terms of clause B of Section 13 of the Act of 1971, inasmuch, as the same became ingrained with truth, besides

(b) was in public interest.

(c) moreover, the said justifiable defence rather enabling the contemnors to evacuate themselves from the launched contempt proceedings as the same is a bonafidely raised defence.



15. To support the said, the learned counsel for the contemnors refer to the enquiry report dated 3.2.2020 appended with CRM No. 38367 of 2022 as Annexure R-1/61. The said is an enquiry report against Vijay Kumar, the then Reader, Grade-I posted in the Court of Shri Najar Singh, learned Principal District Judge (Family Court), Hisar. In the said enquiry, the Enquiry Officer concerned, on material available on record, found the indulgence of the said Viajy Kumar in corruption, and, it was ordered that a regular enquiry needs to be conducted against Vijay Kumar, thus to unearth the allegations reared by the contemnor one Mulakh Raj Mehta.

16. In consequence, it is vehemently argued before this Court by the learned counsels, that in view of the above the contemnors have both justifiably and bonafidely raised a good ground for exculpating themselves from the charges. They further contend, that in the wake of the supra, the published news, but professed the completest truth wherebys they were printed in public interest and that the said raised defence is thus evidently bonafidely raised.

17. The supra arguments addressed before this Court by the learned counsels for the contemnors, for the reasons to be assigned hereinafter, appeal to the judicial conscience of this Court, and, therebys this Court is led to discharge the contemnors and to close the instant contempt petition.

18. The defence of truth, as raised within the ambit of clause B of Section 13 of the Act of 1971, is well anchored upon the proceedings of the High Court, as disclosed in CRM-46269-2024 appended with the instant petition, wherein, it is stated that after conducting a fact finding



enquiry by OSD (Vigilance) of Punjab and Haryana High Court, upon the judicial officers, namely Mr. R.K.Jain, the then Additional District and Sessions Judge, Hisar, Ms. Paramveer Nijjar, the then Additional District and Sessions Judge, Hisar and, upon Mr. Amit Garg, Additional District and Sessions Judge, Hisar, the OSD (Vigilance) submitted his detailed report dated 17.3.2020 against Mr. R.K.Jain and Ms. Paramveer Nijjar and Mr. Amit Garg. After the said report, the Disciplinary and Vigilance Committee has convened a meeting, and, on 9.8.2021, it passed the hereinafter extracted decision-

“The Minutes of the meetings reads as under:-

“A The discreet inquiry dated 17.3.2020 and report dated 7.10.2020 submitted by OSD (Vigilance), Punjab have been perused and considered. The comments dated 28.9.2020, 22.9.2020 and 21.9.2020 submitted by Ms. Paramvir Nijjar, Sh. Raj Kumar Jain and Sh. Amit Garg respective have also been perused and considered. The comments subnmitted by Ms. Paramvir Nijjar and Sh. Raj Kumar Jain have been found to be unsatisfactory. After considered the nature of allegations and material on record, the Committee recommends that disciplinary proceedings for imposing major penalty under Rule 4(b) of the Haryana Civil Services (Punishment and Appeal) Rules, 2016 be initiated against the Judicial Officers Ms. Paramvir Nijjar and Sh. Raj Kumar Jain. Under orders of Hon’ble the Chief Justice, the matter was considered by Hon’ble Full Court in its meeting held on 30.11.2021, wherein it was resolved that disciplinary proceedings for imposing major penalty under Rule 4(b) of the Haryana Civil Services (Punishment and Appeal) Rules, 2016 be initiated against the officers-Ms. Paramvir Nijjar and Sh. Raj Kumar Jain Regular Departmenal Enquiry be also initiated against Sh. Vijay Kumar, Reader in accordance with the rules.”



19. In compliance to the above said decision, charge sheet was issued upon Ms. Paramvir Nijjar and Mr. R.K.Jain became charge sheeted for imposition of major penalty. Subsequently, Ms. Paramvir Nijjar vide letter dated 9.2.2023, sought voluntary retirement with a prayer therein that the charges levelled in the charge sheet (supra) be dropped. The said request of Ms. Paramvir Nijjar became accepted and the proceedings against the said officer were ordered to be dropped.

20. On the basis of the above drawn charges, regular inquiry was conducted by the learned District and Sessions Judge, Barnala upon Mr. R.K.Jain, and, in the findings given by the learned District and Sessions Judge, Barnala, Mr. R.K.Jain was found guilty.

21. In addition, vide letter No. 1129 SPL E.II/VII.B.3(Hy.) dated 9.11.2023 issued by the High Court to the District and Sessions Judge, Hisar, wherein he became intimated that vide order dated 8.11.2023, the Hon'ble Acting Chief Justice, has been pleased to advise him to accept the request of the delinquent official namely Vijay Kumar, for voluntary retirement after dropping further departmental proceedings against him in the interest of better administration. Subsequently, in view of the letter (supra), vide office order dated 10.11.2023, passed by the District and Sessions Judge, Hisar, the departmental proceedings pending against Vijay Kumar, Reader Grade-I, were dropped.

22. The effect of the above, is that, though the purported disparaging remarks, as became carried in the printed news items were not directly made against any judicial officer, but carried expressions against one Vijay Kumar, Reader, District Court, Hisar. As such, the



published news items, did not become either scandalous nor it made any disparaging remarks directly against the judiciary, thereby it was inappropriate for the learned Judge concerned, to proceed to make, a reference for criminal contempt action being drawn against the contemnors, nor prima facie, the charges were required to be framed against them. The reason for stating so, becomes firmly entrenched, in the above proven expressions occurring in the supra annexure appended to CRM No. 38367 of 2022, wherefrom, it is candidly forthcoming, that as a matter of fact, the media item published in the newspaper 'Hisar Today', thus was ultimately discovered to be truthful, even if some purported scandalous remarks were made against the members of the district judiciary.

23. If so, thereby reiteratedly an enhanced booster, is lent to the conclusion (supra), that the contemnors have aptly relied upon the supra statutorily expressed permissible defence, thus as occurs in clause B of Section 13 of the Act of 1971, to the extent, that thereby the contemnors have provingly displayed that the published news item thus is truthful, and, also is in public interest. Moreover, if the said published news item is a vindicable defence, the same if is also evidently bonafidely raised, thereby the printed news items becoming endowed with the benefit of supra statutory exculpation. In other words, when evidence in satiation(s) qua the supra expressed ingredients of the supra clause B of Section 13 of the Act of 1971, does exist on record, thereby the proceedings for contempt, as, launched against the contemnors do require theirs being closed.

24. Be that as it may, the above inferences are completely



supported by a judgment rendered by five Judges Constitutional Bench of the Apex Court in **Contempt Petition (Crl.) No. 11 of 1990**, titled as **Dr. Subramanian Swamy versus Arun Shourie**, wherein, in the relevant paragraphs thereof, paras whereof become extracted hereinafter, it has been held that truth can be pleaded as a defence in contempt proceedings.

“13. The legal position with regard to truth as a defence in contempt proceedings is now statutorily settled by [Section 13](#) of the 1971 Act (as substituted by Act 6 of 2006). The Statement of Objects and Reasons for the amendment of [Section 13](#) by Act 6 of 2006 read as follows:

“The existing provisions of the Contempt of Courts Act, 1971 have been interpreted in various judicial decisions to the effect that truth cannot be pleaded as a defence to a charge of contempt of court.

2. The National Commission to Review the Working of the Constitution (NCRWC) has also in its report, inter alia, recommended that in matters of contempt, it shall be open to the Court to permit a defence of justification by truth.

3. The Government has been advised that the amendments to the Contempt of Courts Act, 1971 to provide for the above provision would introduce fairness in procedure and meet the requirements of [Article 21](#) of the Constitution.

4. [Section 13](#) of the Contempt of Courts Act, 1971 provides certain circumstances under which contempt is not punishable. It is, therefore, proposed to substitute the said section, by an amendment.

5. The Contempt of Courts (Amendment) Bill, 2003 was introduced in the Lok Sabha on the 8th May, 2003 and the same was referred to the Department-related Parliamentary Standing Committee on Home Affairs for examination. The Hon’ble Committee considered the said Bill in its meeting held on the 2nd September, 2003. However, with the dissolution of the 13th Lok Sabha, the Contempt of Courts (Amendment) Bill, 2003 lapsed. It is proposed to re-introduce the said Bill with modifications of a drafting nature.”

14. Clause 13(b), now expressly provides that truth can be valid defence in contempt proceedings. Section 13, which has two clauses (a) and (b), now reads as follows:

“13. Contempts not punishable in certain cases-



Notwithstanding anything contained in any law for the time being in force,—

(a) no court shall impose a sentence under this Act for a contempt of court unless it is satisfied that the contempt is of such a nature that it substantially interferes, or tends substantially to interfere with the due course of justice;

(b) the court may permit, in any proceeding for contempt of court, justification by truth as a valid defence if it is satisfied that it is in public interest and the request for invoking the said defence is bona fide.”

15. The Court may now permit truth as a defence if two things are satisfied, viz., (i) it is in public interest and (ii) the request for invoking said defence is bona fide.”

25. In a judgment rendered by the Apex Court in ***Civil Appeal No. 9476 of 2013***, titled as ***T.C.Gupta versus Bimal Kumar Dutta and others***, it has been held as under:-

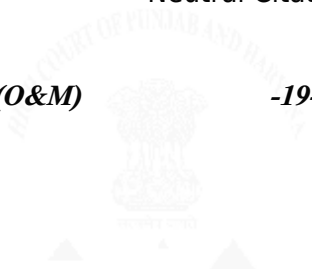
“10. The terms of the order of the High Court dated 18.08.2011; the averments/statements made in the contempt petition and the reply thereto on behalf of the appellant as well as the subsequent facts placed before us have received our due and anxious consideration. The interim order of the High Court had directed status quo to be maintained in respect of allotments. Admittedly, no allotments had been made by the appellant or any other authority. A contempt action being in the nature of quasi criminal proceeding the degree of satisfaction that must be reached by the Court to hold a person guilty of commission of contempt would be akin to what is required to prove a criminal charge, namely, proof beyond reasonable doubt. The order of the Court in respect of which violation is alleged must, therefore, be clear, unambiguous and unequivocal and defiance thereof must be apparent on the very face of the action with which a contemnor is charged. An interpretation of the terms of Court’s order in respect of which disobedience is alleged would not be appropriate while dealing with a charge of contempt. Such a charge cannot be brought home by unravelling the true meaning of the Court’s order by a



subsequent order when there is an apparent ambiguity, lack of clarity or dichotomy in the initial order. In a situation like the present where the High Court had directed maintenance of status quo as to allotment when the interim prayer was to stay the implementation of the final development plan “in view of contemplated grant of licence to the colonizers/developers/Societies” it was not open for the High Court to hold the contemnor guilty of commission of contempt by understanding the order dated 18.08.2011 to mean status quo or a restraint in respect of grant of licences under the Haryana Act of 1975.”

26. The consistent views expressed in the relevant paragraphs (supra), as carried in the verdicts (supra) are that in case the printed news item is evidently truthful, besides is in public interest, and, also when the same is made bonafidely, thereupon the printed news item becomes endowed with the apposite statutory protection, as therebys public interest is protected, which however would remain unprotected if the pioneering effort of the media is curbed. Moreover therebys, there would emerge transparency and integrity in the functioning of the judiciary, which but cannot be untenably precluded.

27. Resultantly, for all the above reasons, and, also when the contemnors irrespective of theirs raising the said justifiable defence, in the making of the news itmes, but have also proceeded to tender their unconditional and unqualified apology. Moreover when the contemnors have, through the published news item dated 27.12.2023, in the daily news paper ‘Hisar Today’, thus not only withdrawn all the earlier published purported disparaging news items, but have also therein expressed their unqualified and unconditional apology, therebys this Court is coaxed to discharge both the contemnors.



Final order

28. Consequently, the instant contempt petition is closed, and, the contemnors are hereby discharged.
29. The miscellaneous application(s), if any, is/are also disposed of.

(SURESHWAR THAKUR)
JUDGE

(SUDEEPTI SHARMA)
JUDGE

December 16th, 2024
Gurpreet

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No