

IN THE SUPREME COURT OF INDIA
ORIGINAL APPELLATE JURISDICTION
CONTEMPT PETITION (CRL.) NO. 10 OF 2009
IN
INTERLOCUTORY APPLICATION NOS. 1324, 1474, 2134 OF
2007
IN
WRIT PETITION (C) NO. 202 OF 1995

IN THE MATTER OF:

AMICUS CURIAE

PETITIONER

VERSUS

PRASHANT BHUSHAN & ANR.

RESPONDENTS

**REVISED QUESTIONS OF LAW TO BE REFERRED
TO THE CONSTITUTION BENCH**

In view of the Order dated 16.11.2011, passed by this Hon'ble Court in this case, wherein it was observed that the decision on whether the questions framed by Respondent No.1 on referring certain issues to the Constitution Bench will be heard at a later stage, the following are the revised questions of law of considerable constitutional importance including the questions of law, submitted originally, for consideration under Article 145 (3) of the Constitution of India:

1. Whether the expression of a *bona fide* opinion about the extent of corruption in any section of the judiciary would amount to contempt of Court?

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2. If the answer to Question 1 is in the affirmative, whether the person who expresses such an opinion about the extent of corruption in a section of judiciary is obliged to prove that his opinion is correct or whether it is enough to show that he *bona fide* held that opinion?
3. Since fetters on Article 19(1)(a) rights can only be imposed under Article 19(2) by a law made by the State which imposes reasonable restrictions inter alia in relation to contempt of court, and such law insofar as the Hon'ble Supreme Court is concerned can be framed by Parliament under Article 246 read with Entry 77 in List I of the Seventh Schedule, and such law has in fact been framed by Parliament in 1971, whether the Supreme Court in exercise of its powers under Article 129 can curtail free speech and expression only to the strict and limited extent permissible under the Contempt of Courts Act, 1971?
4. Whether the decisions in **Ex Capt. Harish Uppal v. Union of India (2003) 2 SCC 45** and **Supreme Court Bar Association v. Union of India (1998) 4 SCC 409** are mutually inconsistent and deserve to be reconciled by a bench of the appropriate strength, and whether in any event both judgments deserve to be referred to a larger bench in order to reconcile them with the issues raised in Question 3 above?

5. (a) Whether the Contempt of Courts Act, 1971 ought to bear on the manner in which the vast discretion in relation to contempt proceedings under Articles 129 and 215 of the Constitution is exercised?

(b) Whether, in answer to the foregoing question, the conflicting pronouncements of this Hon'ble Court in **Pallav Sheth v. Custodian (2001) 7 SCC 549** and **In re Prashant Bhushan, SMC (Crim.) No. 1 of 2020 (decided 14th August 2020)** deserve re-examination?
6. Whether, in light of the law laid down by this Hon'ble Court in **Dadu v. State of Maharashtra (2000) 8 SCC 437 (paras 17&18)** and, the absence of any provision for appeal against conviction in a *suo-motu* proceeding for criminal contempt initiated by this Hon'ble Court violates Article 21 of the Constitution of India?
7. Whether, after the interconnected reading of Articles 14, 19 & 21 in **RC Cooper v. Union of India (1970) 1 SCC 248** (11 Judges) and in **Maneka Gandhi v. Union of India (1978) 1 SCC 248** (7 Judges), the law of contempt should be subject to the concepts enumerated in these decisions, both in relation of the Contempt of Courts Act, 1971 as well as Articles 129 & 215 of the Constitution of India?

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8. Whether cases relating to Section 2(c)(i) of the Contempt of Courts Act 1971 decided before its enactment need to be re-examined in the light of the Contempt of Courts Act, 1971 and judgments interpreting it?
9. Whether the in-house procedure for dealing with complaints against judges laid down in **C. RavichandranIyer v. Justice A.M. Bhattacharjee and Ors. (1995) 5 SCC 457** prevents complainants, participants in the procedure and others from discussing the matter in the public domain?
10. Whether the decision in **C. RavichandranIyer v. Justice A.M. Bhattacharjee and Ors. (1995) 5 SCC 457** is compatible with constitutional limitations including those contained in Articles 19(2) and 14?

FILED BY

Ms. KAMINI JAISWAL
ADVOCATE FOR RESPONDENT NO. 1

Dated: 24.08.2020