

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.09.2022

CORAM:

**THE HON'BLE MR.JUSTICE G.R.SWAMINATHAN
AND**

THE HON'BLE MR.JUSTICE B.PUGALENDHI

SUO MOTU CONT P(MD) No.1124 of 2022

The Registrar (Judicial),
Madurai Bench of the Madras High Court,
Madurai.

... Referring Officer

vs.

1.Mr.Shankar @ Savukku Shankar

... Contemnor

2.Mr.Vinay Prakash, Grievance Officer,
Twitter Inc., 8th Floor, The Estate,
121, Dickenson Road, Bangalore – 560042.

3.Head of Facebook for India,
Office @ 4th Floor, Building 14,
Opus Towers, Mindspace, Cyberabad,
APIIC SW Unit Layout, Madhapur, Hyderabad-500081

4.Resident Grievance Officer for YouTube
Google LLC – India Liaison Office
Unit No.26, The Executive Center,

Level 8, DLF Centre, Sansad Marg,
Connaught Place, New Delhi – 110001.

5.The Secretary to Government,
Ministry of Electronics and Information Technology (MeitY),
Government of India, Eletronics Niketan, 6, CGO Complex,
Lodhi Road, New Delhi-110003. ... Respondents

Suo motu contempt proceedings initiated against Mr.Sankar @ Savukku Sankar as per the order of the Hon'ble Chief Justice dated 28.07.2022 vide R.O.C.No.7/22/RJ/MB.

For Registry	: Shri.A.L.Somayaji, Senior Counsel assisted by Shri.N.Mohideen Basha Standing counsel for High Court
For Respondent No.1	: Contemnor in-person
For Respondent No.5	: Mrs.L.Victoria Gowri, Assistant Solicitor General of India for Madurai Bench

ORDER

Shankar @ Savukku Shankar is no stranger to contempt proceedings.
The order dated 21.06.2016 in CrI OP No.27389 of 2013 etc., passed by the
Hon'ble Mr.Justice C.T.Selvam reads as follows :

"18.Thus, it is seen that Shankar s/o.Aachimuthu, a constable under suspension and one who has been arrested and released on bail in a CBCID case has repeatedly indulged in brazen acts of contempt. That such act continues to this present day is borne out by the fact that the website viz., www.savukkuonline.com, is presently functional. The registrant's name for the site contemptuously stands informed as Cyril Thamarai Selvam, which, we may remind, is the name of a sitting Judge of this Court, as does the admin name and depicts the continuous nature of contempt.

19.The investigating agency has informed that the payment for the service has been made by Shankar s/o.Aachimuthu Shankar using his City Bank Credit Card No. 4386280017803739. Being of the view that gross criminal contempt of this Court has been repeatedly and continuously indulged in, this Court in exercise of powers under Article 215 of the Constitution of India directs the Registrar (Judicial) of this Court to issue statutory notice of Contempt to Shankar S/o.Aachimuthu, No.12/6, TNHB Flats, Madhuravoyal, Chennai, returnable in four weeks. Thereafter, the 47 matter may be placed before My Lord The Honourable The Chief Justice towards being posted before an appropriate Bench. "

Six years have gone by and the criminal contempt initiated against Savukku Shankar on the file of the Principal Bench has not seen the light of the day. Its continuance in the cold storage appears to have emboldened him to be more vituperative, reckless and scandalous.

2.It is necessary to place on record that the contemnor herein is already facing proceedings for criminal contempt. This is because the contemnor alleged in the open court that since one of us felt offended by his strident criticism of some of the judgments, these proceedings have been initiated. We are fully conscious that no exception can be taken to fair criticism of one's judgments or judicial functioning. Article 19(1)(a) of the Constitution of India guarantees the right to freedom of speech and expression. But this right is not absolute. It is subject to Article 19(2) of the Constitution which reads as follows :

“(2)Nothing in sub-clause (a) of clause (1) shall affect the operation of any existing law, or prevent the State from making any law, in so far as such law imposes reasonable restrictions on the exercise of the right conferred by the said sub-clause in the interests of the sovereignty and integrity of India,] the security of the State, friendly relations with foreign States, public order, decency or morality, or in relation to

contempt of court, defamation or incitement to an offence.”

On the own showing of the contemnor, while commenting on some of the judgments authored by one of us, he has attributed ideological bias. Yet, no exception was taken. But when the contemnor tweeted on 18.07.2022 raising a question as to whom one of us met at Alagar Koil at 06.00 A.M on a day when the case pertaining to one Maridhas was being enquired. The contemnor was clearly suggesting that the outcome of the said case was influenced by the person whom one of us allegedly met. Since this innuendo questioned the judicial integrity of one of us, the Registry was directed to take action in the matter.

3.The Registry of the Madurai Bench of the Madras High Court prepared a detailed note and placed the papers before the Hon'ble Administrative Judge. The Hon'ble Administrative Judge directed the Registry to place the papers before the Hon'ble Chief Justice for passing appropriate order. The Hon'ble Chief Justice passed an administrative order assigning the hearing of this case to this Bench.

4.The Bench sat on 04.08.2022 to take up the case. In the meanwhile, the contemnor had given an interview to a YouTube Channel, namely, Red Pix on 22.07.2022. The contemnor trivialized the issue by suggesting that the Judge (one of us) referred by him in his tweet could have met the temple priest. But in the very same interview, he made the following statement :

"The entire higher judiciary is riddled with corruption".

We therefore took cognizance of the aforesaid offending statement and issued notice to the contemnor calling upon him to show cause as to why proceedings for criminal contempt should not be taken against him. Notice was duly served on him and he appeared before this Court on 01.09.2022 at 10.30 A.M.

5.The docket order passed on 01.09.2022 is self-explanatory. It reads as follows :

"Thiru.Shankar @ Savukku Shankar against whom the notice was ordered appeared in person before this Bench. He seeks time to offer his response to the show cause notice. Call this case on 08.09.2022 at 10.30 A.M."

6.The events that took place on the adjourned date have been captured as follows :

A

"This suo motu petition was listed on 01.09.2022. The contemnor appeared in response to the show cause notice and sought time to offer his response. He asserted categorically that he stood by what he said. When asked whether he required the assistance of counsel, he replied that he would conduct the case in person. When the court wanted to know how much time he would require to submit a written explanation, he answered that the court may grant any time it deemed fit. The case was adjourned to 08.09.2022 ie., today.

2.When the case was called at 10.30 A.M, the contemnor submitted a petition for being furnished with the following documents :

"1.Copy of the order which constituted the Bench that is hearing the Sua Motu Contempt Petition (MD) No.1124 of 2022.

2.Copy of the interview on the YouTube Channel RedPix on 22.07.2022 in electronic form.

3.Transcript of interview on the YouTube Channel RedPix on 22.07.2022 in which it has been allegedly stated that "The Entire Higher Judiciary is riddled with corruption". He also sought eight weeks time to prepare his reply.

3.We carefully considered the contemnor's request. This bench has been constituted by an order passed by the

Hon'ble Chief Justice in his capacity as Master of Roster. It is not for this Court to furnish a copy of the same to the petitioner. However, we direct the registry to download the interview in question and hand over the same in a pen drive to the contemnor together with its transcript.

4.The request for adjournment by eight weeks cannot be granted. The case was adjourned specifically for the purpose of showing cause. The contemnor asserted on his own that he stood by what he said. It is not as if evidence is sought to be adduced against the contemnor through witnesses. What is put against the contemnor is his own interview which is available in the public domain. During the last one week, the contemnor had given quite a few interviews to various YouTube Channels dealing with the subject matter of this proceedings. We are therefore satisfied that the contemnor merely wants to drag on the proceedings. The request for adjournment is not bonafide.

5.The case is therefore passed over to 01.00 PM for framing of charges."

B

"This suo motu petition was listed in the morning to enable the contemnor to show cause. Since he did not show cause, the matter was passed over for framing

charges. The case was called at 01.00 PM. The contemnor was present. The following charges were framed and read out to him :

"1.That in an interview to a YouTube Channel, namely, Red Pix on 22.07.2022, you made the following statement :

"The entire higher judiciary is riddled with corruption".

2.That you have written in your article dated 25.08.2022 published in Savukkuonline.com as follows :

"இன்றும் இவர்கள் சென்னை உயர்நீதிமன்றத்தை இவர்களின் புழக்கடை போல கருதி வருகிறார்கள். அதாவது சென்னை உயர்நீதிமன்றத்துக்கு என்ன ப்ராண்ட் பினாயில் வாங்க வேண்டும் என்பதைக் கூட, கவுல், ராமசுப்ரமணியம் மற்றும் சுந்தரேஷ் ஆகியோர்தான் இன்றும் தீர்மானித்து வருகிறார்கள். எளிமையாக சொல்வதென்றால், சென்னை உயர்நீதிமன்றத்தை இவர்கள் தங்கள் பரம்பரை சொத்து என்றே கருதுகிறார்கள்."

3.That you have in the very same article remarked as follows :

"(a)இந்த நீதிபதிகள் மிக மிக ஆபாசமானவர்கள் என்பதை தெரிந்து கொண்டேன். நடைபாதையில் பழம் விற்பனை செய்பவனிடம் இருக்கும் நேர்மை கூட இவர்களிடம் இல்லை என்பதை புரிந்து கொண்டேன்.

(b)அன்றாவது ஒன்றிரண்டு நல்ல நீதிபதிகளை பெற்றோம்.

இன்று, ஒன்றே ஒன்று கூட தேருவதில்லை.”

4. That in an interview to a YouTube Channel, namely, Red Pix on 01.07.2022, you made the following statements :

“இந்த பெண் பலவீனமுள்ள சில மாவட்ட நீதிபதிகளின் வீட்ல தான ஓ.ஏ-ங்கள் லாம் வேலை செய்யனும். இந்த கணவனை இழந்த கைம்பெண்கள் பாக்குறதுக்கு அழகா இருந்தாங்கன்னா, அப்பாயின்ட் பண்ணிட்டு, *they used to utilise their services.*” நீங்க ஒன்னும் பண்ண முடியாது அந்த ஓ.ஏ போயிட்டு எங்க சொல்ல முடியும். இன்னோன்னு, *it is convenient.* வேலை செய்ய வேணாம், சந்தோசமா இருக்கலாம், பணம் கிடைக்கும். *This is going on for quite sometime.*”

“ஒரு சீனியர் கவுன்சல் வந்து நின்னு தொண்டத் தண்ணி வத்த ஆர்க்யு பண்ணுவாரு.....ஆனா அந்த ஜட்ஜ்மெண்ட்-அ அந்த சீனியர் கவுன்சல் தான் எழுதுவாரு.”

“ஏன்னா?... இவங்களுக்கே சுயமரியாதையே கிடையாது பல நீதிபதிகளுக்கு. நான் தயக்கமில்லாமல் இதை சொல்கிறேன்.”

5. While commenting on the PSO system deployed for the security of the Judges in an interview given to a YouTube Channel, namely, Red Pix on 01.07.2022, you remarked that they have become brokers for Judges. You commented as follows :

“every body is happy. அந்த வீட்ல போய் வேலை செய்ய எஸ்.ஐ ஹேப்பி, அய்யோவாட மனைவி ஹேப்பி, நீதிபதி ஹேப்பி, அவர்கிட்ட செட்டிங் பண்ணி ஜட்ஜ்மெண்ட் வாங்குற

வழக்கறிஞர் ஹேப்பி and எதிர்தரப்பு ஆளுதான் வந்து இதை இருப்பான். அந்த எதிர்தரப்பு ஆளு அவந்தான் வந்து இந்த கேஸ்ச லுஸ் பன்றான். அவனும் இன்னோரு ஜட்ஜ் கிட்ட செட்டிங் பன்றதுக்கு இதே PSOs தான் உதவுவாங்க.”

6.In an interview given to a YouTube Channel, namely, News Sense on 06.09.2022 you made the following statements :

“மொத்த இருக்குற நீதிபதிகள்ல நீங்க சென்னை உயர்நீதிமன்றம்னு எடுத்துக்கிட்டங்கன்னா, ஒன்னு ரெண்டு நீதிபதிகள் தவற வேற யாரயும் நூல் பிடித்த மாதிரி நேர்மையானவர்கள் என்று என்னால் சொல்ல முடியாது. நான் வெளிப்படையாக பதிவு செய்கிறேன்.”

“எங்களுக்காக நீங்க செயல்படல. கம்பெனி காரர்களுக்காகவும், பணம் வச்சிருக்கிறவனுக்காகவும் செயல்படுறீங்க அப்படின்னா, வெகு ஜன மக்கள் எதற்காக இவர்களுக்கு மரியாதை தரவேண்டும். எங்களுக்கு நீங்க நீதி வழங்கல. யார்ட்ட பணம் இருக்குது. யார் அரசியல்வாதி. யாரு செல்வாக்கு மிகுந்தவன். யாரு செல்வச் செழிப்புள்ளவன். இவர்களுக்கான நீதியைத்தான் நீங்கள் வழங்குகிறீர்கள்.”

You are called upon to explain as to why you should not be held guilty of scandalizing the judiciary by making the aforesaid statements in public domain.”

2.The matter was again passed over to 02.15 P.M to enable the contemnor to put forth his explanation.”

C

“This contempt petition was listed again at 02.15 P.M after the charges were framed at 01.00 P.M. The contemnor sought two weeks time to give his explanation. We indicated to him that his request will definitely be accepted on condition that he should not give interviews or make fun of the Court with reference to the present proceedings. We reminded him about the principle of “sub judice”. The contemnor asserted defiantly that he had given interviews during the last one week about the present proceedings and that even during lunch time, he gave an interview regarding the morning proceedings. He emphatically stated that he would not give any undertaking and that he would exercise his right to comment on this contempt proceedings.

2.In response to a specific question from the court, he admitted having made all the statements referred to in the charges. In response to another question, he admitted that he is aware that a suo motu criminal contempt case was registered against him following allegations made by him against Hon'ble Mr.Justice C.T.Selvam. He further

admitted that he continued to make statements even after such registration of contempt case and notwithstanding its pendency.

3.The contemnor had admitted his having made the offending statements ; he has not expressed any remorse or regret. Yet, in order to give him sufficient opportunity and to comply with the principles of natural justice, the case stands adjourned to 15.09.2022 at 10.30 A.M. "

7.Today, the contemnor appeared in person and submitted his affidavit in response to the contempt notice along with a typed set of papers. He contended that these proceedings are bereft of jurisdiction. Relying on Rule 8 of the Contempt of Court Rules, High Court, Madras, he argued that since the matter had not been forwarded to the Advocate General in the first instance, the present proceedings are not maintainable. He claimed to be deeply concerned with the under-representation of the suppressed classes and the over-representation of brahmins in higher judiciary. He took us through the report of the National Commission for Scheduled Castes on reservation in judiciary and pointed out that his article referred to in the charges is a mere echo of the very same views. He emphasized that his

comments have been taken out of context. He reiterated that he has respect for judiciary and that he only wants the system to be rid of some of the evils plaguing it. He asserted that if his interviews and articles are considered as a whole, then it would be evident that his intention was only to demand improvement in the system and not anything else. He also reminded this Court that several eminent persons have spoken on similar lines. He placed particular reliance on the decision of the Hon'ble Supreme Court reported in **(1988) 3 SCC 167 (P.N.Duda vs. P.Shiv Shanker)**. While taking us through the entire judgment, he remarked that his words sound comparatively milder to what were spoken by Shri.Shiv Shanker who was the then Law Minister and also a former Judge of the Andhra Pradesh High Court. He then took us through the recent statement made by Shri.Kapil Sibal and pointed out that the learned Attorney General of India declined to give consent for initiating contempt proceedings. He submitted that the current Law Minister as well as Justice Kurien Joseph have spoken about corruption in higher judiciary. He ended by stating that he is entitled to highlight public causes and that he should not be prevented from doing so.

8. Shri. A.L. Somayaji, the learned Senior Counsel representing the Registry pointed out that under Article 215 of the Constitution of India, the High Court has inherent power to punish for contempt of itself and that this constitutional power cannot be trammelled by the statutory procedures. He submitted that the contemnor without directly answering the charges was trying to deflect the attention of the Court. The charges pertain to scandalizing the judiciary. Instead of expressing his regret for having done so and without offering to take them down from public domain, the contemnor justified his utterances by taking shelter behind issues of social justice. His language is contumacious. His remarks are general and sweeping. His comments have the definite tendency to destroy public confidence in the institution of judiciary. They cannot be termed as fair criticism. The learned Senior Counsel took us through various reported decisions and submitted that applying the principles and parameters set out therein, one can easily come to the conclusion that the contemnor is clearly guilty of criminal contempt.

9. We have considered the entire materials on record and the submissions made by the learned Senior Counsel as well as the contemnor. Section 15 of the Act enables the High Court to take action on its own

motion. When such suo motu action is taken and when Article 215 of the Constitution is invoked, there is no requirement to obtain the consent of the Advocate General. This objection of the contemnor cannot hold in view of the order passed by the Hon'ble Chief Justice authorising this Bench to deal with the contempt proceedings.

10. It is to be noted that the contemnor admitted having made all the charged statements. It does not require a forensic mind to conclude that they are ex-facie scandalous. They denigrate and deride the institution of judiciary. The legal maxim "*res ipsa loquitor*" (the thing speaks for itself) can be analogically applied. His statement that the entire higher judiciary is riddled with corruption (the words are that of the contemnor himself as they were uttered in English) was the subject matter of the show cause notice. The contemnor would be well within his rights to highlight specific instances of corruption. Of course, they must be backed by materials. He cannot tar the entire institution with a single brush. That would be crossing the lakshman rekha by a long shot. It is not as if the said remark accidentally tumbled out of his mouth. It was not a slip of the tongue. As the contemnor himself asserted, he has been in the field for almost 13 years. He

knows what it means to utter a particular remark. That he really meant what he said is borne out by the fact that in his subsequent interviews also he maintained the very same stand. One of the charges is that the contemnor stated that only one or two judges of the Madras High Court are honest while others are not so. Even before this Court, he did not plead any mitigating circumstance. He had also stated that the Personal Security Officers attached to the individual Judges are acting as conduits and facilitate procuring of favorable judgments. The expressions such as "setting" have a nasty connotation in common parlance. On more than one occasion, he proclaimed that he stood by what he said. It is criminal contempt of the highest degree to portray the entire institution of higher judiciary as corrupt. The contemnor by proclaiming in the public domain that all Judges are corrupt and dishonest is clearly guilty of criminal contempt.

11. The contemnor had alleged that some District Judges appoint good looking widows and utilize their services. He directly means that they are used for sexual gratification. During the course of proceedings, the contemnor named one judicial officer and claimed that he was dismissed for the said misconduct. Though no material has been placed before us as to

whether the dismissal was linked to any sexual misconduct, we are of the clear view that the contemnor could have at best named the said officer in his interview and referred to the materials in support of his allegation. He could not have used the general expression "some District Judges having weakness for women". It is the use of general and sweeping expressions that is offensive and falls foul of law. On the other hand, making specific allegations based on prima facie evidence and in good faith would definitely fall within the ambit of the right to freedom of speech and expression.

12. The contemnor has not spared even the Hon'ble Apex Court and its Hon'ble Judges. He has asserted that three Hon'ble Judges who had earlier served in the Madras High Court are treating this Court as their ancestral property and backyard. We must remark here that the expressions used by the contemnor in Tamil when translated lose much of their nasty flavour. During the course of the submissions in the open court as well as in his written submissions also, he reiterated that the three Hon'ble Judges named by him are continuing to interfere. The contemnor would however want us to see his remarks in the context in which the article was written. According to him, he made those statements while highlighting the over-representation

of brahmins in judiciary. We reject the said defence. The Hon'ble Supreme Court is the ultimate judicial institution of the country. Its judgments constitute the law of the land. The contribution of the Apex Court is unparalleled. All its Judges are entitled to the highest respect. Remarks impinging on their dignity cannot be casually made. The contemnor has made such remarks on them as Judges and not as individuals. Even a few days ago, the conferment of additional perquisites on the Hon'ble Judges of the Supreme Court was characterized by the contemnor as "bribery".

13.The Contempt of Courts Act, 1971 is not a consolidating piece of legislation. Section 22 of the Act states that the provisions of the Act shall be in addition to, and not in derogation of the provisions of any other law relating to contempt of Courts. Article 215 of the Constitution of India declares that every High Court shall be a Court of record and shall have all the powers of such a Court including the power to punish for contempt of itself. In his "Constitutional Law of India" the eminent jurist Shri.H.M.Seervai while commenting on Article 129 writes thus :

"The Sup.Ct. was constituted a Court of Record and

was to have all the powers of such a court including the power to punish for contempt : (Art.129). A Court of Record has been defined as

"A Court whereof the acts and judicial proceedings are enrolled for a perpetual memory and testimony, and which has power to fine and imprison for contempt of its authority."

Entry 77.List I, Sch. 7 of our Constitution provides for

"Constitution, organization, jurisdiction and powers of the Sup.Ct. (including contempt of such Court), and the fees taken therein; persons entitled to practice before the Sup.Ct."

The legislative power of Parliament thus extends to providing for the contempt of the Sup.Ct., but as the power to punish for contempt is conferred by Art.129, no ordinary law enacted under entry 77 can take away that power. We have seen that contempt of court is not defined in the General Clauses Act, or in the Constitution. It is submitted that the words "contempt of court" are words of art, and their meaning is well settled by judicial decisions in England and India. Again the other jurisdiction and powers conferred on the Sup.Ct by the Constitution cannot be taken away or affected by a law enacted under entry 77, List I."

Since Article 215 pertaining to High Courts is similarly worded, the aforesaid comments of the learned author are equally applicable.

14.It is necessary to undertake a brief and quick survey of the authorities. The entire defence of the contemnor is anchored on the judgment of the Hon'ble Supreme Court reported in **(1988) 3 SCC 167 (P.N.Duda v. P.Shiv Shanker)**. In the said case, a petition was filed for punishing the then Law Minister for having made contumacious remarks in the course of his speech. The Attorney General did not grant consent. The Hon'ble Supreme Court also felt that there was no need to initiate suo motu proceedings. The said decision cannot be cited as an authority for the proposition that statements scandalizing the judiciary should be ignored. It is true that Justice V.R.Krishna Iyer in **S.Mulgaokar : In Re (1978) 3 SCC 339** had opined against invocation of contempt jurisdiction except in extreme cases. But the recent line of authorities is otherwise. We may add that the earlier precedents by larger Benches were also otherwise.

15.In **Arundhati Roy : In Re (2002) 3 SCC 343**, the Hon'ble Supreme Court held that all citizens cannot be permitted to comment upon the conduct of the courts in the name of fair criticism which, if not checked, would destroy the institution itself. Litigant losing in the court would be the

first impute motives to the judges and the institution in the name of fair criticism which cannot be allowed for preserving the public faith in an important pillar of democratic set up i.e., judiciary. In ***Dr.D.C.Saxena v. Hon'ble the CJI (1996) 5 SCC 216***, it was held that faith in the administration of justice is one of the pillars on which democratic institution functions and sustains. In ***S.K.Sundaram : In Re (2001) 2 SCC 171***, it was held that vilification of the high personage of the Chief Justice of India would undermine the majesty of the court and dignity of the court.

16.A three Judges Bench of the Hon'ble Supreme Court in the decision reported in ***(2021) 1 SCC 745 (In Re : Prasant Bhushan and anr)***, has finally settled the legal position leaving us in no manner of doubt. It held that the power of the court to initiate contempt is not in any manner limited by the provisions of the Contempt of Courts Act, 1971. It was held as follows :

“18.From the perusal of various judgments of this Court, including those of the Constitution Benches, it could be seen, that the source of power of this Court for proceeding for an action of contempt is Under Article 129. It has further been held, that power of this Court to initiate contempt is not in any manner limited by the provisions of the Contempt of Courts Act, 1971. It has been held, that the Court is vested with the constitutional powers to deal with the contempt and Section 15 is not the source

of the power to issue notice for contempt. It only provides the procedure in which such contempt is to be initiated. It has been held, that insofar as suo motu petitions are concerned, the Court can very well initiate the proceedings suo motu on the basis of information received by it. The only requirement is that the procedure as prescribed in the judgment of P.N. Duda (*supra*) has to be followed. In the present case, the same has undoubtedly been followed. It is also equally settled, that as far as the suo motu petitions are concerned, there is no requirement for taking consent of anybody, including the learned Attorney General because the Court is exercising its inherent powers to issue notice for contempt. It is equally well settled, that once the Court takes cognizance, the matter is purely between the Court and the contemnor. The only requirement is that, the procedure followed is required to be just and fair and in accordance with the principles of natural justice. In the present case, the notice issued to the alleged contemnors clearly mentions the tweets on the basis of which the Court is proceeding suo motu. The alleged contemnor No. 1 has also clearly understood the basis on which the Court is proceeding against him as is evident from the elaborate affidavit-in-reply filed by him.

19. Before we advert to the facts of the present case, let us examine the legal position as is enunciated in the various judgments of this Court.

20. In the case of Brahma Prakash Sharma (*supra*), the Constitution Bench observed thus:

It admits of no dispute that the summary jurisdiction exercised by superior courts in punishing contempt of their authority exists for the purpose of preventing interference with the course of justice and for maintaining the authority of law as is administered in the courts. It would be only repeating what has been said so often by various Judges that the object of contempt proceedings is not to afford protection to Judges personally from imputations to which they may be exposed as individuals; it is intended to be a protection to the public whose interests would be very much

affected if by the act or conduct of any party, the authority of the court is lowered and the sense of confidence which people have in the administration of justice by it is weakened.

21. It could thus be seen, that the Constitution Bench has held, that the summary jurisdiction exercised by superior courts in punishing contempt of their authority exists for the purpose of preventing interference with the course of justice and for maintaining the authority of law as is administered in the courts; that the object of contempt proceedings is not to afford protection to judges personally from imputations to which they may be exposed as individuals. It has been held, that it is intended to be a protection to the public whose interests would be very much affected if by the act or conduct of any party, the authority of the court is lowered and the sense of confidence which people have in the administration of justice by it is weakened. The Constitution Bench further observed:

There are indeed innumerable ways by which attempts can be made to hinder or obstruct the due administration of justice in courts. One type of such interference is found in cases where there is an act or publication which "amounts to scandalising the court itself" an expression which is familiar to English lawyers since the days of Lord Hardwicke [Vide *In re Read and Huggonson*, (1742) 2 Atk. 469, 471]. This scandalising might manifest itself in various ways but, in substance, it is an attack on individual Judges or the court as a whole with or without reference to particular cases casting unwarranted and defamatory aspersions upon the character or ability of the Judges. Such conduct is punished as contempt for this reason that it tends to create distrust in the popular mind and impair confidence of people in the courts which are of prime importance to the litigants in the protection of their rights and liberties.

22. The Constitution Bench thus holds, that a publication which attacks on individual judges or the court as a whole with or without reference to particular case, casting unwarranted and defamatory aspersions upon the character or ability of the judges,

would come within the term of scandalizing the Court. It is held, that such a conduct tends to create distrust in the popular mind and impair the confidence of the people in the courts, which are of prime importance to the litigants in the protection of their rights and liberties. It has been held, that it is not necessary to prove affirmatively, that there has been an actual interference with the administration of justice by reason of such defamatory statement and it is enough if it is likely, or tends in any way, to interfere with the proper administration of justice.

23. In the case of *In re Hira Lal Dixit and two Ors.* MANU/SC/0036/1954 : (1955) 1 SCR 677, the Constitution Bench was considering a leaflet distributed in the court premises printed and published by the said Hira Lal Dixit. He was the applicant in one of the writ petitions which had been filed in the Supreme Court challenging the validity of U.P. Road Transport Act, 1951. The leaflet though contained a graphic account of the harassment and indignity said to have been meted out to the writer by the State Officers and the then State Minister of Transport in connection with the cancellation and eventual restoration of his license in respect of a passenger bus, also contained the following passage:

The public has full and firm faith in the Supreme Court, but sources that are in the know say that the Government acts with partiality in the matter of appointment of those Hon'ble Judges as Ambassadors, Governors, High Commissioners, etc., who give judgments against Government but this has so far not made any difference in the firmness and justice of the Hon'ble Judges".

It will be relevant to refer to the following observation of the Constitution Bench in the said case:

Learned Counsel for the Respondent, Hira Lal Dixit, maintained that the passage in question was perfectly innocuous and only expressed a laudatory sentiment towards the Court and that such flattery could not possibly have the slightest effect on the minds of the Judges of this august tribunal. We do not think flattery was

the sole or even the main object with which this passage was written or with which it was published at the time when the hearing of the appeals was in progress. It no doubt begins with a declaration of public faith in this Court but this is immediately followed by other words connected with the earlier words by the significant conjunction "but". The words that follow are to the effect that sources that are in the know say that the Government acts with partiality in the matter of appointment of those Judges as Ambassadors, Governors, High Commissioners, etc., who give judgments against the Government. The plain meaning of these words is that the Judges who decide against the Government do not get these high appointments. The necessary implication of these words is that the Judges who decide in favour of the Government are rewarded by the Government with these appointments. The attitude of the Government is thus depicted surely with a purpose and that purpose cannot but be to raise in the minds of the reader a feeling that the Government, by holding out high hopes of future employment, encourages the Judges to give decisions in its favour. This insinuation is made manifest by the words that follow, namely, "this has so far not made any difference in the firmness and justice of the Hon'ble Judges". The linking up of these words with the preceding words by the conjunction "but" brings into relief the real significance and true meaning of the earlier words. The passage read as a whole clearly amounts to this: "Government disfavours Judges who give decisions against it but favours those Judges with high appointments who decide in its favour: that although this is calculated to tempt Judges to give judgments in favour of the Government it has so far not made any difference in the firmness and justice of the Judges". The words "so far" are significant. What, we ask, was the purpose of writing this passage and what was the object of the distribution of the leaflet in the Court premises at a time when the Court was in the midst of hearing the appeals? Surely, there was hidden in the offending passage a warning that although the Judges have "so far" remained firm and resisted the temptation of deciding cases in favour of Government in expectation of getting high appointments, nevertheless, if they decide in favour of the Government on this occasion

knowledgeable people will know that they had succumbed to the temptation and had given judgment in favour of the Government in expectation of future reward in the shape of high appointments of the kind mentioned in the passage. The object of writing this paragraph and particularly of publishing it at the time it was actually done was quite clearly to affect the minds of the Judges and to deflect them from the strict performance of their duties. The offending passage and the time and place of its publication certainly tended to hinder or obstruct the due administration of justice and is a contempt of Court.

A perusal of the aforesaid observation of the Constitution Bench would reveal, that though the said passage/paragraph begins with a statement, that 'the public has full and firm faith in the Supreme Court...' and ends with, 'but this has so far not made any difference in the firmness and justice of the Hon'ble Judges', the Court found, that if the statement in the said passage/paragraph was read in entirety and the timing and the manner in which it was published, it was clear, that it was done to affect the minds of the judges and to deflect them from the strict performance of their duties. The Court came to the conclusion, that the offending passage and the time and place of its publication certainly tended to hinder or obstruct the due administration of justice and was a contempt of Court.

While holding him guilty and rejecting his qualified apology, the Constitution Bench observed thus:

It is well established, as was said by this Court in *Brahma Prakash Sharma and Ors. v. The State of Uttar Pradesh* (supra), that it is not necessary that there should in fact be an actual interference with the course of administration of justice but that it is enough if the offending publication is likely or if it tends in any way to interfere with the proper administration of law. Such insinuations as are implicit in the passage in question are derogatory to the dignity of the Court and are calculated to undermine the confidence of the people in the integrity of the Judges. Whether the passage is read as fulsome flattery of the Judges of this Court

or is read as containing the insinuations mentioned above or the rest of the leaflet which contains an attack on a party to the pending proceedings is taken separately it is equally contemptuous of the Court in that the object of writing it and the time and place of its

publication were, or were calculated, to deflect the Court from performing its strict duty, either by flattery or by a veiled threat or warning or by creating prejudice in its mind against the State. We are, therefore, clearly of opinion and we hold that the Respondent Hira Lal Dixit by writing the leaflet and in particular the passage in question and by publishing it at the time and place he did has committed a gross contempt of this Court and the qualified apology contained in his affidavit and repeated by him through his counsel cannot be taken as sufficient amends for his misconduct.

A perusal of the aforesaid paragraph would show, that this Court reiterating the law as laid down in *Brahma Prakash Sharma* (supra) held, that it is not necessary that there should in fact be an actual interference with the course of administration of justice but that it is enough if the offending publication is likely or if it tends in any way to interfere with the proper administration of law. Such insinuations as are implicit in the passage in question are derogatory to the dignity of the Court and are calculated to undermine the confidence of the people in the integrity of the Judges. It is further held, that whether the passage is read as fulsome flattery of the Judges of this Court or is read as containing the insinuations or the rest of the leaflet which contains an attack on a party to the pending proceedings is taken separately, it is equally contemptuous of the Court inasmuch as, the object of writing it and the time and place of its publication were calculated to deflect the Court from performing its strict duty, either by flattery or by a veiled threat or warning or by creating prejudice in its mind against the State.

24. This Court in *E.M. Sankaran Namboodripad v. T. Narayanan Nambiar* MANU/SC/0071/1970 : (1970) 2 SCC 325 was considering the appeal by the Appellant therein, who was a former Chief Minister, against his conviction and sentence by the Kerala High

Court for contempt of court. The said Appellant had said in the press conference that the judges are guided and dominated by class hatred, class interests and class prejudices and where the evidence is balanced between a well dressed pot-bellied rich man and a poor-ill-dressed and illiterate person, the judge instinctively favours the former. He had further stated that the election of judges would be a better arrangement. There were certain other statements made by him in the press conference. Chief Justice Hidayatullah observed thus:

6. The law of contempt stems from the right of the courts to punish by imprisonment or fines persons guilty of words or acts which either obstruct or tend to obstruct the administration of justice. This right is exercised in India by all courts when contempt is committed in *facie curiae* and by the superior courts on their own behalf or on behalf of courts subordinate to them even if committed outside the courts. Formerly, it was regarded as inherent in the powers of a court of record and now by the Constitution of India, it is a part of the powers of the Supreme Court and the High Courts. There are many kinds of contempts. The chief forms of contempt are insult to Judges, attacks upon them, comment on pending proceedings with a tendency to prejudice fair trial, obstruction to officers of courts, witnesses or the parties, abusing the process of the court, breach of duty by officers connected with the court and scandalising the Judges or the courts. The last form occurs, generally speaking, when the conduct of a person tends to bring the authority and administration of the law into disrespect or disregard. In this conduct are included all acts which bring the court into disrepute or disrespect or which offend its dignity, affront its majesty or challenge its authority. Such contempt may be committed in respect of a Single Judge or a single court but may, in certain circumstances, be committed in respect of the whole of the judiciary or judicial system. The question is whether in the circumstances of this case the offence was committed.

25. C.J. Hidayatullah observed that, when the conduct of a person tends to bring the authority and administration of the law into

disrespect or disregard, the same would amount to scandalising the Court. This conduct includes all acts which bring the court into disrepute or disrespect or which offend its dignity, affront its majesty or challenge its authority. Upholding the conviction, this Court observed thus:

34. On the other hand, we cannot ignore the occasion (a press conference), the belief of the people in his word as a Chief Minister and the ready ear which many in his party and outside would give to him. The mischief that his words would cause need not be assessed to find him guilty. The law punishes not only acts which do in fact interfere with the courts and administration of justice but also those which have that tendency, that is to say, are likely to produce a particular result. Judged from the angle of courts and administration of justice, there is not a semblance of doubt in our minds that the Appellants his guilty of contempt of court.....

26. In the case of C.K. Daphtary and Ors. v. O.P. Gupta and Ors. MANU/SC/0065/1971 : (1971) 1 SCC 626 this Court was considering a motion made Under Article 129 of the Constitution by the President of the Bar Association and some other Advocates. By the said motion, the Petitioners therein had brought to the notice of this Court the pamphlet printed and published by the Respondent No. 1 therein, wherein scurrilous aspersions were made against the judges of this Court. It will be relevant to refer to the following observations of this Court:

We are unable to agree with him that a scurrilous attack on a Judge in respect of a judgment or past conduct has no adverse effect on the due administration of justice. This sort of attack in a country like ours has the inevitable effect of undermining the confidence of the public in the Judiciary. If confidence in the Judiciary goes, the due administration of justice definitely suffers.

27. It could thus be seen, that it has been clearly held by the Constitution Bench, that a scurrilous attack on a judge in respect of a judgment or past conduct has an adverse effect on the due

administration of justice. The Constitution Bench has unambiguously held, that this sort of attack in a country like ours has the inevitable effect of undermining the confidence of the public in the Judiciary and if the confidence in the Judiciary goes, the due administration of justice definitely suffers. In the said case, after holding the contemnor O.P. Gupta guilty for contempt, this Court refused to accept the apology tendered by him finding that the apology coupled with fresh abuses can hardly be taken note of. However, taking a lenient view, this Court sentenced him to suffer simple imprisonment for two months.

28. In the case of Baradakanta Mishra (*supra*), a disgruntled judicial officer aggrieved by the adverse orders of the High Court on the administrative side made vilificatory allegations in a purported appeal to the Governor. Considering the contention of the Appellant, that the allegations made against the judges pertained to the acts of the judge in administrative capacity and not acting in judicial capacity, the Constitution Bench observed thus:

43. We have not been referred to any comprehensive definition of the expression "administration of justice". But historically, and in the minds of the people, administration of justice is exclusively associated with the Courts of justice constitutionally established. Such Courts have been established throughout the land by several statutes. The Presiding Judge of a Court embodies in himself the Court, and when engaged in the task of administering justice is assisted by a complement of clerks and ministerial officers whose duty it is to protect and maintain the records, prepare the writs, serve the processes etc. The acts in which they are engaged are acts in aid of administration of justice by the Presiding Judge. The power of appointment of clerks and ministerial officers involves administrative control by the Presiding Judge over them and though such control is described as administrative to distinguish it from the duties of a judge sitting in the seat of justice, such control is exercised by the Judge as a judge in the course of judicial administration. Judicial administration is an integrated function of the Judge and cannot suffer any dissection so far as

maintenance of high standards of rectitude in judicial administration is concerned. The whole set up of a court is for the purpose of administration of justice, and the control which the Judge exercises over his assistants has also the object of maintaining the purity of administration of justice. These observations apply to all courts of justice in the land whether they are regarded as superior or inferior courts of justice.

44. Courts of justice have, in accordance with their constitution, to perform multifarious functions for due administration of Justice. Any lapse from the strict standards of rectitude in performing these functions is bound to affect administration of justice which is a term of wider import than mere adjudication of causes from the seat of justice.

45. In a country which has a hierarchy of Courts one above the other, it is usual to find that the one which is above is entrusted with disciplinary control over the one below it. Such control is devised with a view to ensure that the lower Court functions properly in its judicial administration. A Judge can foul judicial administration by misdemeanours while engaged in the exercise of the functions of a judge. It is therefore, as important for the superior Court, to be vigilant about the conduct and behaviour of the Subordinate Judge as a judge,

as it is to administer the law, because both functions are essential for administration of justice. The Judge of the superior Court in whom this disciplinary control is vested functions as much as a judge in such matters as when he hears and disposes of cases before him. The procedures may be different. The place where he sits may be different. But the powers are exercised in both instances in due course of judicial administration. If superior Courts neglect to discipline subordinate Courts, they will fail in an essential function of judicial administration and bring the whole administration of justice into contempt and disrepute. The mere function of adjudication between parties is not the whole of administration of justice for any court. It is important to remember that disciplinary control is vested in the Court and not in a judge as a private individual. Control, therefore, is a function as

conducive to proper administration of justice as laying down the law or doing justice between the parties.

46. What is commonly described as an administrative function has been, when vested in the High Court, consistently regarded by the statutes as a function in the administration of justice. Take for example the Letters Patent for the High Court of Calcutta, Bombay and Madras. Clause 8 thereof authorises and empowers the Chief Justice from time to time as occasion may require "to appoint so many and such clerks and other ministerial officers it shall be found necessary for the administration of justice and the due execution of all the powers and authorities granted and committed to the said High Court by these Letters Patent". It is obvious that this authority of the Chief Justice to appoint clerks and ministerial officers for the administration of justice implies an authority to control them in the interest of administration of justice. This controlling function which is commonly described as an administrative function is designed with the primary object of securing administration of justice. Therefore, when the Chief Justice appoints ministerial officers and assumes disciplinary control over them, that is a function which though described as administrative is really in the course of administration of justice. Similarly Section 9 of the High Courts Act, 1861 while conferring on the High Courts several types of jurisdictions and powers says that all such jurisdictions and powers are "for and in relation to the administration of justice in the Presidency for which it is established". Section 106 of the Government of India Act, 1915 similarly shows that the several jurisdictions of the High Court and all their powers and authority are "in relation to the administration of justice including power to appoint clerks and other ministerial officers of the Court". Section 223 of the Government of India Act, 1935 preserves the jurisdictions of the existing High Courts and the respective powers of the Judges thereof in relation to the administration of justice in the Court. Section 224 of that Act declares that the High Court shall have superintendence over all courts in India for the time being subject to its appellate jurisdiction and this superintendence, it is now settled, extends both to administrative and judicial functions of the subordinate

Courts. When we come to our Constitution we find that whereas Articles 225 and 227 preserve and to some extent extend these powers in relation to administration of justice, Article 235 vests in the High Court the control over District Courts and courts subordinate thereto. In the State of West Bengal v. Nripendra Nath Bagchi [MANU/SC/0310/1965 : AIR 1966 SC 447 : (1966) 1 SCR 771 : (1968) 1 Lab LJ 270] this Court has pointed out that control Under Article 235 is control over the conduct and discipline of the Judges. That is a function which, as we have already seen, is undoubtedly connected with administration of justice. The disciplinary control over the misdemeanours of the subordinate judiciary in their judicial administration is a function which the High Court must exercise in the interest of administration of justice. It is a function which is essential for the administration of justice in the wide connotation it has received and, therefore, when the High Court functions in a disciplinary capacity, it only does so in furtherance of administration of justice.

47. We thus reach the conclusion that the courts of justice in a State from the highest to the lowest are by their constitution entrusted with functions directly connected with the administration of justice, and it is the expectation and confidence of all those who have or are likely to have business therein that the courts perform all their functions on a high level of rectitude without fear or favour, affection or ill-will.

29. It could thus be seen, that the Constitution Bench holds, that the judges apart from adjudication of causes from the seat of justice are also required to discharge various functions including the disciplinary control. It has been held, that the judge of the superior Court in whom the disciplinary control is vested functions as much as a Judge in such matters, as when he hears and disposes of cases before him, though the procedures may be different or the place where he sits may be different. It has been held, that in both the cases, the powers are exercised in due course of judicial administration. It has been held, that if superior Courts neglect to discipline subordinate courts, they will fail in an essential function of judicial administration and bring the whole

administration of justice into contempt and disrepute. It has been held, that mere function of adjudication between parties is not the whole of administration of justice for any court.

30. Quoting the opinion of Wilmut C.J. in the case of *Rex v. Almon*², the Constitution Bench observed thus:

Further explaining what he meant by the words "authority of the Court", he observed "the word 'authority' is frequently used to express both the right of declaring the law, which is properly called jurisdiction, and of enforcing obedience to it, in which sense it is equivalent to the word power: but by the word 'authority', I do not mean that coercive power of the Judges, but the deference and respect which is paid to them and their acts, from an opinion of their justice and integrity".

31. The Constitution Bench therefore approves the opinion of Wilmut C.J., that by the word 'authority', it is not meant as coercive power of the Judges, but the deference and respect which is paid to them and their acts, from an opinion of their justice and integrity.

34. The Constitution Bench came to the conclusion, that a vilificatory criticism of a Judge functioning as a Judge even in purely administrative or non-adjudicatory matters amounts to 'criminal contempt'.

36. Shri Dave has strongly relied on the concurring opinion of Krishna Iyer, J. in *Baradakanta Mishra* (supra) in the following paragraph

88. Even so, if Judges have frailties -- after all they are human -- they need to be corrected by independent criticism. If the judiciary has serious shortcomings which demand systemic correction through socially-oriented reform initiated through constructive criticism, the contempt power should not be an interdict. All this, far from undermining the confidence of the public in Courts, enhances it and, in the last analysis, cannot be

repressed by indiscriminate resort to contempt power. Even bodies like the Law Commission or the Law Institute and researchers, legal and sociological, may run "contempt" risks because their professional work sometimes involves unpleasant criticism of judges, judicial processes and the system itself and thus hover perilously around the periphery of the law if widely construed. Creative legal journalism and activist statesmanship for judicial reform cannot be jeopardised by an undefined apprehension of contempt action.

38. Shri Dave has strongly relied on the judgment of this Court in *Re: S. Mulgaokar* (supra). It will be relevant to refer to the following observations in the judgment of Beg, C.J.

16. The judiciary cannot be immune from criticism. But, when that criticism is based on obvious distortion or gross mis-statement and made in a manner which seems designed to lower respect for the judiciary and destroy public confidence in it, it cannot be ignored. I am not one of those who think that an action for contempt of court, which is discretionary, should be frequently or lightly taken. But, at the same time, I do not think that we should abstain from using this weapon even when its use is needed to correct standards of behaviour in a grossly and repeatedly erring quarter. It may be better in many cases for the judiciary to adopt a magnanimously charitable attitude even when utterly uncharitable and unfair criticism of its operations is made out of bona fide concern for improvement. But, when there appears some scheme and design to bring about results which must damage confidence in our judicial system and demoralize Judges of the highest Court by making malicious attacks, anyone interested in maintaining high standards of fearless, impartial, and unbending justice will feel perturbed. I sincerely hope that my own undisguised perturbation at what has been taking place recently is unnecessary. One may be able to live in a world of yogic detachment when unjustified abuses are hurled at one's self personally, but, when the question is of injury to an institution, such as the highest Court of justice in the land, one cannot overlook its effects upon national honour and prestige in the

comity of nations. Indeed, it becomes a matter deserving consideration of all serious-minded people who are interested in seeing that democracy does not flounder or fail in our country. If fearless and impartial courts of justice are the bulwark of a healthy democracy, confidence in them cannot be permitted to be impaired by malicious attacks upon them. However, as we have not proceeded further in this case, I do not think that it would be fair to characterize anything written or said in the Indian Express as really malicious or ill-intentioned and I do not do so. We have recorded no decision on that although the possible constructions on what was written there have been indicated above.

52. It could thus be seen, that it has been held by this Court, that hostile criticism of judges as judges or judiciary would amount to scandalizing the Court. It has been held, that any personal attack upon a judge in connection with the office he holds is dealt with under law of libel or slander. Yet defamatory publication concerning the judge as a judge brings the court or judges into contempt, a serious impediment to justice and an inroad on the majesty of justice. This Court further observed, that any caricature of a judge calculated to lower the dignity of the court would destroy, undermine or tend to undermine public confidence in the administration of justice or the majesty of justice. It has been held, that imputing partiality, corruption, bias, improper motives to a judge is scandalisation of the court and would be contempt of the court. It has been held, that the gravamen of the offence is that of lowering his dignity or authority or an affront to the majesty of justice. This Court held, that Section 2(c) of the Act defines 'criminal contempt' in wider articulation. It has been held, that a tendency to scandalise the Court or tendency to lower the authority of the court or tendency to interfere with or tendency to obstruct the administration of justice in any manner or tendency to challenge the authority or majesty of justice, would be a criminal contempt.

56. This Court reiterated the position, that fair criticism of the conduct of a judge, the institution of the judiciary and its functioning may not amount to contempt, if it is made in good faith and in public interest. For ascertaining the good faith and the

public interest, the courts have to see all the surrounding circumstances including the person responsible for comments, his knowledge in the field regarding which the comments are made and the intended purpose sought to be achieved.”

In the aforesaid decision, all the earlier precedents including P.N.Duda vs. Shiv Shanker as well as the opinion of Justice V.R.Krishna Iyer in S.Mulgaokar were considered.

17. When Shri.E.M.S.Namboodiripad attributed class motives to the institution of judiciary, the three Judges Bench of the Hon'ble Supreme Court in **AIR 1970 SC 2015** found them to be contumacious. They held that the words were uttered in a press conference. The Chief Minister had the ready ear which many in his party and outside would give to him. The Apex Court held that the likely effect of his words must be seen and they have clearly the effect of lowering the prestige of the judges and courts in the eyes of the people. One of the charges against the contemnor is that he stated that the Judges are only for the rich, monied, the influential and the powerful. The contemnor is not an unknown individual. We take judicial notice of the fact that he is a well known YouTuber. He is very active in the social media. His interviews are watched by lakhs of viewers. In the comments section of his

interviews, Judges and Courts are portrayed in the most savage terms. We do not want to soil this judgment by making a reference to them. It is not an exaggeration to say that the contemnor has the ready ear of thousands of persons in the social media. His words have the effect of lowering the dignity and prestige of this institution.

18.We wish to deal with three more aspects. The first is whether we ought to have provided the contemnor with legal assistance. When an offer was made on the very first day, the contemnor boldly stated that he would argue the case in person. We in fact offered that we would even secure the services of any counsel of his choice at court's expense. This offer was not availed by him. We must place on record that the contemnor presented his case well. After Shri.A.L.Somayaji completed his submissions, the contemnor responded to them point-wise. We are satisfied that interest of justice has not suffered because the contemnor was not represented by a counsel.

19.The other aspect is whether the contemnor was given sufficient opportunity. We must clarify that when the matter was taken up today, the

contemnor did not seek an adjournment. After filing his affidavit in response to the contempt notice, he straightaway commenced his arguments. He was allowed to have his full say. After the Senior Counsel made his submissions, he sought the permission of the court to offer his reply. It was permitted and the contemnor availed the said opportunity. This is not a case where the charge against the contemnor is to be proved by adducing evidence. The statements and writings of the contemnor himself form the subject matter of the charges. The contemnor owned them up in the very first hearing. He affirmed that he stood by what he stated. However, he took time only to explain the context in which they were made. Today, the contemnor submitted that he made the said statements in the context of voicing his concerns regarding under-representation of the Scheduled Castes and the over-representation of the brahmins in the judiciary and for bringing about positive changes in the system. As already held, that would not amount to a mitigating circumstance at all.

20. The third aspect is whether Justice G.R. Swaminathan who initiated the proceedings could have been a part of the Bench. As already pointed out Justice G.R. Swaminathan who took note of a tweet of the contemnor directed

registration of suo motu contempt proceedings against the contemnor. It was the Hon'ble Chief Justice who constituted this Bench. When the Hon'ble Chief Justice as the Master of the Roster had directed that this Bench should deal with the case of criminal contempt against the contemnor herein, it is the bounden duty of this Bench to do so. Otherwise, it will amount to abdication of judicial duty. The contemnor appeared before this Court on 01.09.2022, 08.09.2022 and again today. He never submitted any petition for recusal. That apart, the charges framed against him do not pertain to Justice G.R.Swaminathan in his individual capacity. It is therefore incorrect to suggest that one of us is being a Judge of his own cause. Section 14 of the Contempt of Courts Act, 1971 sets out the procedure where contempt is committed in the face of the Supreme Court or a High Court. Sub-section (2) of Section 14 is as follows :

“Notwithstanding anything contained in sub-section (1), where a person charged with contempt under that sub-section applies, whether orally or in writing, to have the charge against him tried by some Judge other than the Judge or Judges in whose presence or hearing the offence is alleged to have been committed, and the Court is of opinion that it is practicable to do so and that in the interests of proper administration of justice the application should be allowed, it shall cause the matter to be

placed, together with a statement of the facts of the case, before the Chief Justice for such directions as he may think fit to issue as respects the trial thereof.”

Thus, even when the contempt is committed in the presence of a Judge concerned he can still hear the matter if the contempt case is assigned to him or her by the Hon'ble Chief Justice. Section 15 of the Act deals with cognizance of criminal contempt in other cases. There is no corresponding provision in Section 15 or Section 17 akin to sub-section (2) of Section 14. One of the earliest cases concerning the law on contempt is ***Surendranath Banerjea vs. The Chief Justice and Judges of the High Court of Bengal (1882) 10 Indian Appeals 171.*** The Privy Council dismissed the appeal from the High Court of Bengal. A five Judges Bench comprising Garth, C.J., Cunningham, McDonnell, Norris, JJ and Mitter, J. found the appellant guilty and sentenced him. Justice Mitter alone dissented as regards sentence. The appellant therein had published a contumacious article concerning a judicial order passed by Justice Norris. Justice Norris was part of the Bench which heard the contempt proceedings. This judgment was approvingly referred to by the Hon'ble Apex Court in Arundhati Roy's case.

21.The conduct of the contemnor deserves to be noted. Nowhere he expressed his regret or remorse. He did not offer any apology at all. On the other hand, he asserted that he was justified in making the charged statements. A reading of the charged statements would lead anyone to the conclusion that they are likely to lower the prestige and dignity of courts and judges. We, therefore, hold that the contemnor is guilty of criminal contempt.

22.Next comes the question of sentence. We would have closed the proceedings if the contemnor had realized his mistake and sincerely apologized. Far from doing so, the contemnor stuck to his position. In fact, his conduct during the last few weeks would constitute acts of contempt on their own. We consciously refrain from referring to them. The contemnor is a suspended employee of the State Government. He is receiving subsistence allowance for the last thirteen years. He is governed by the Conduct Rules. Yet, he has been attacking all the three organs of the State in a vicious manner. He is already facing criminal contempt proceedings. Yet, he has made the offending statements. The contemnor has reiterated his resolve to continue his attack on judiciary. He has gone to the extent of stating that he can be sentenced only to a maximum of six months and that after coming

out, he will focus all his attention exclusively on judges and judiciary. Justice V.R.Krishna Iyer stated that Justice fails when Judges quail. We do not propose to quail. There are occasions when Judges have to be firm and stern. Shrugging off such provocations by stating that we possess broad shoulders would be seen as a sign of weakness. The contemnor has shown himself to be an unrepentant character. Bearing in mind the principles set out by the Hon'ble Division Bench in the decision reported in **(2016) 2 CTC 113 (W.Peter Ramesh Kumar)**, we sentence the contemnor to six months simple imprisonment. He shall be taken to custody forthwith and lodged in Central Prison, Madurai.

23.The fifth respondent is directed to ensure that the offending interviews and article are taken down forthwith. The learned Assistant Solicitor General of India for the Madurai Bench is directed to communicate this order for compliance. Issue notice to R2 to R4 returnable by 14.10.2022.

(G.R.S, J.) & (B.P, J.)
15.09.2022

skm

To

1.The Superintendent of Prison,
 Central Prison, Madurai.

2.Mr.Vinay Prakash, Grievance Officer,
Twitter Inc., 8th Floor, The Estate,
121, Dickenson Road, Bangalore – 560042.

3.Head of Facebook for India,
Office @ 4th Floor, Building 14,
Opus Towers, Mindspace, Cyberabad,
APIIC SW Unit Layout, Madhapur, Hyderabad-500081

4.Resident Grievance Officer for YouTube
Google LLC – India Liaison Office
Unit No.26, The Executive Center,
Level 8, DLF Centre, Sansad Marg,
Connaught Place, New Delhi – 110001.

5.The Secretary to Government,
Ministry of Electronics and Information Technology (MeitY),
Government of India, Eletronics Niketan, 6, CGO Complex,
Lodhi Road, New Delhi-110003.

G.R.SWAMINATHAN, J.
and
B.PUGALENDHI, J.

skm

SUO MOTU CONT P(MD)No.1124 of 2022

15.09.2022