

Roshan Lal Ahuja, In Re : Contemnor

Contempt Petition No. 289 of 1992

(M.N. Venkatachaliah, S.C. Agarwal, Dr. A.S. Anand JJ)

26.11.1992

JUDGMENT

ANAND, J. -

1. Permissiveness of the judicial system which enabled the contemnor to file innumerable petitions claiming the same relief arising out of the same cause of action undeterred by its refusal, on various occasions by this Court, coupled with the indulgence and sympathy shown by this Court, appears to have emboldened the respondent-contemnor to cast unfounded and unwarranted aspersions and make scurrilous and indecent attacks against this Court and its Judges in wild, intemperate and even abusive language. Narration of facts to point out the extent to which the contemnor has abused the process of the Court and how indulgence and sympathy shown by this Court has been 'exploited' by him is not only desirable but necessary to appreciate how and why contempt proceedings have been initiated against him.

2. Shri Roshan Lal Ahuja (hereinafter referred to as the 'contemnor') was appointed as a Draftsman Grade II in the pay scale of Rs. 205-7-240-8-280 in 1964 with the Defence Research and Development Organisation, Ministry of Defence, Government of India. On June 28, 1970, he was reduced in rank to the post of Draftsman Grade III in the scale of Rs. 150-5-175-6-205-EB-7-240. The contemnor filed Writ Petition No. 194 of 1970 in the Delhi High Court challenging his reduction in rank. On August 16, 1974, the writ petition was dismissed by a learned Single Judge. A letters patent appeal against the said judgment was also dismissed by the Division Bench on December 3, 1974. Special leave petition was preferred in this Court which also failed. The contemnor then sought a review of the order in the special leave petition on two different occasions and both the petitions were dismissed. Though the matter should have ended here, the contemnor filed yet another Writ Petition No. 32 of 1977 under Article 32 of the Constitution once again putting in issue his reduction in rank from Draftsman Grade II to Draftsman Grade III. That writ petition was, however subsequently withdrawn. It transpires that the contemnor was convicted by the Sessions Judge for an offence of attempting to commit murder by shooting at his wife. The conviction was confirmed by the High Court. A special leave petition against his conviction and sentence was filed in this Court and the same was dismissed. However, some observations were made while dismissing the special leave petition in the criminal case, which according to the contemnor had absolved him of any moral turpitude in the matter. Consequent upon his conviction, the contemnor, after notice, was dismissed from service. He filed Writ Petition No. 4462 of 1978 and various interim applications in the said writ petition putting in issue once again his reduction in rank and loss of monetary benefits. He later on amended the writ petition with a view to challenge the order of dismissal also. In the said Writ Petition No. 4462 of 1978, rule nisi was issued. Various interim orders also came to be made. One of the interim orders in the writ petition directed the Government to consider the question of entitlement of the contemnor to arrears of salary and other benefits and by yet another interim order his reinstatement was ordered with the stipulation that he be so reinstated but only as a fresh entrant. That order reads thus :

"Defence Ministry will expedite consideration and as far as possible absorb this small draftsman back into service subject to such conditions as it seeks to impose. The appointment will be a de novo appointment."

In obedience to the interim order (supra) the contemner was reinstated in service during the pendency of the writ petition. He, however, filed another writ petition in the Delhi High Court for the benefits to which he claimed to be entitled consequent on his reinstatement. That writ petition was, at the request of the contemner, transferred to this Court and heard along with Writ Petition No. 4462 of 1978. Chinnappa Reddy, J. constituting the Bench with Ranganath Misra, J. (as His Lordship then was) dismissed Writ Petition No. 4462 of 1978 on merits on November 20, 1986 (Ed. : Roshan Lal Ahuja v. S. C. Jain, (1987) 1 SCC 48 : (1987) 2 ATC 203). With regard to his grievance against reduction in rank and arrears of salary etc., the Bench observed : (SCC p. 50, para 2)

"We do not think that any interference is called for by us at the instance of the petitioner. As mentioned by us the order reducing him in rank was questioned by him repeatedly before the present writ petition was filed and on every occasion he lost. We do not see any justification for permitting him to challenge the order once again in the present writ petition. In view of the dismissal of the earlier writ petitions we cannot also entertain his claims for arrears of salary and other benefits."

3. The Bench also found that the order of dismissal of the contemner from service on the ground that he had been convicted of a criminal offence which had been made after notice to him did not suffer from any infirmity. The Bench negated the plea of the contemner, who was appearing in person, that in view of the observations of this Court at the time of the disposal of the special leave petition, in the criminal case, absolving him of moral turpitude, he could not have been dismissed from service. The Bench observed : (SCC pp. 50-51, para 2)

"It is not possible for us to accept this contention. All that the Court said was that it may be that there was no moral turpitude and that may be taken into account for other purposes but so far as the criminal case was concerned the conviction and sentence were correct. We are not prepared to read the observations of the Court as absolving the petitioner of all moral turpitude. We are unable to hold that the order dismissing the petitioner from service was illegal or improper. The petitioner has filed innumerable petitions, for amendment of the writ petition, for inspection of documents, for directions and so on. We do not consider it necessary to refer to any of these applications. He also filed a writ petition in the Delhi High Court for the benefits to which he claimed to be entitled consequent on his reinstatement. This writ petition is also before us having been transferred to this Court. We do not see any merit in it. The writ petition, the transferred case and the several civil miscellaneous petitions are dismissed."

The matter did not rest there with the dismissal, on merits, of Writ Petition No. 4462 of 1978. The contemner filed yet another Writ Petition No. 946 of 1988 raising identical points and seeking similar relief based on the same cause of action and the pleas. That writ petition was heard by a Division Bench comprising Chief Justice of India, Venkatachaliah, and Ahmadi, JJ. Before the Bench maintainability of the writ petition was seriously questioned by the respondents. It was asserted on behalf of the respondents that the judgment of this Court dated November 20, 1986 in Writ Petition 4462 of 1978 and the connected matters had finally disposed of the contemner's claims

and a fresh proceeding in the teeth of that judgment was not maintainable. This objection, however, was not discussed by the Bench but two of the learned Judges constituting the Bench, namely, Chief Justice of India and Venkatachaliah, J. vide order dated March 7, 1991 (Ed. : Roshan Lal Ahuja v. Union of India, (1991) 2 SCC 317), found that no direction for payment of salary for any specific period, as claimed, could be made in favour of the contemner but the Bench then went on to say : (SCC p. 318, para 4)

"We, however, feel that the petitioner's grievance would be adequately met if a quantified sum is paid to him. We had suggested to Mr. Mahajan for the Union of India to indicate the amount when the matter was heard but he ultimately left it to us. Taking an overall picture available from the records and the submissions that have been made at the bar we fix such sum at Rs. 30,000 (thirty thousand) net and direct the Union of India to pay the same to the petitioner within eight weeks hence. The necessity to make an order of this type has arisen on account of the fact that the observations made by the three Judge judgment, referred to above, had not been given effect to when the writ petition of 1978 was disposed of. This must be taken as the final order in this proceeding and the Registry would not be justified to entertain any fresh application of the Petitioner. Criminal M.P. No. 3564 of 1989 is also disposed of."

A separate dissenting judgment was delivered by Ahmadi, J. on April 29, 1991 (Ed. : Printed as appendix to this judgment (*infra*). The office copy of the majority judgment wrongly indicated the same to be signed by Ahmadi, J. as well.) The learned Judge found substance in the objection to the maintainability of the writ petition and traced the history of the litigation culminating in dismissal of Writ Petition No. 4462 of 1978 on merits by its order dated November 20, 1986. The learned Judge observed : (*infra*, Appendix to this case)

"This Court after taking note of innumerable petitions filed by the petitioner refused to interfere with the order of dismissal nor did it see any reason or justification for grant of any monetary benefits. Yet the petitioner has filed the present writ petition. It deserves to be dismissed on the above-stated facts. To grant any relief would only encourage multiplicity of proceedings by such litigants. I would, therefore, dismiss the petition."

In accordance with the directions contained in the majority judgment, the contemner received without any demur, the sum of Rs. 30,000, thereby accepting the finality of the adjudication. But that was not to be and even though the majority judgment in Writ Petition No. 946 of 1986 had directed in unequivocal terms that the said order dated March 7, 1991, should be taken as the final order in these proceedings and the Registry would not be justified to entertain any fresh application of the contemner, it did not have the desired effect and on October 4, 1991, yet another writ petition bearing No. CC-15534 of 1992, was filed with the prayer to restore Writ Petition No. 946 of 1988 and Crl. Misc. Petition No. 3564 of 1989 in Crl. Review Petition Nos. 337-38 of 1985 and grant relief which had been earlier refused to him, after due consideration and reasoned judgments of this Court in Writ Petition Nos. 4462 of 1978 and 946 of 1988. This was followed by an application for directions dated December 10, 1991. The above narration of facts shows how the contemner has abused the process of this Court and exploited the indulgence shown to him. On the one hand he received the benefits of the judgment in Writ Petition No. 946 of 1988 by receiving Rs. 30,000 and on the other hand he sought to have that judgment also reopened through another writ petition couched in highly objectionable language.

4. The contemner also addressed a representation, dated November 12, 1991 to the President of India, copies of the representation were sent to all the Judges of the Supreme Court and "other persons, authorities, if any" as well as to the Press.

5. It is not necessary to reproduce the unwarranted attacks against this Court and its Judges or the aspersions cast on the integrity and fairness of the Judges of this Court as contained either in the memorandum of the writ petition or the representation addressed to the President of India. To demonstrate the extent of liberty with which the contemner has permitted himself to scandalise this Court and cast aspersions in intemperate and even abusive language against the Judges of the Court it would suffice to notice what the petitioner has said while formulating, what he considers to be important and substantial questions of law, in the memorandum of the writ petition. At page 2 of the memorandum, sub-paragraphs V and VI, the petitioner has said thus :

"V. Will not this be a case of an open discrimination, injustice and unfairness to the petitioner-in-person and favourism (sic) to the Respondent/UOI by this highest Court of the land while pronouncing deliberate ill and erroneous judgments in CWP No. 4462/78 on November 20, 1986 and subsequent Writ Petition No. 946 of 1988 on March 7, 1991 (April 29, 1991) with Cr.M.P. No. 3564 of 1989 in Cr.R.P. No. 337 and 338 of 1985 of the petitioner and limine order of dismissal dated September 25, 1991 in RP 782 of 1991 ?

VI. Will not this be a case of judicial dishonesty, conspiracy and fraud committed by the Hon'ble Judges through the judgments pronounced in Writ Petition Nos. 4462 of 1978 and 946 of 1988 with Cr.M.P. No. 3564 of 1989 in Cr.R.P. Nos. 337 and 338 of 1985.... ?"

6. In the representation to the President of India, apart from other unfounded and uncalled for aspersions which have the tendency to scandalise this Court in relation to its judicial functions, the petitioner in the very opening paragraph has said :

"That the Petitioner was a servant with the Defence Research and Development Organisation, Ministry of Defence, Government of India, New Delhi, has been heavily damaged by the Union of India and subsequently by the Supreme Court of India by its deliberate, fraudulent, conspired and wilfully pronounced wrong judgments against all the existed (sic) provisions of law...."

7. It was on going through the memorandum of the Writ Petition (CC-15534 of 1992) and the representation dated November 12, 1991 addressed to the President of India, that this Court was constrained to initiate proceedings for criminal contempt against him vide order dated March 31, 1992. That order reads thus :

"On going through the memorandum of writ petition and the representation dated November 12, 1991 addressed to the President of India, we find that the petitioner, Shri Roshan Lal Ahuja has permitted himself the liberty of making scurrilous and indecent attacks against this Court and its Judges in wild, intemperate and abusive language which, prima facie, tend to scandalise the Court in relation to judicial matters and to interfere with the administration of justice. The said representation dated November 12, 1991 addressed by the petitioner to the President of India indicates that the copies thereof were sent to all the Judges of the Supreme Court,

'other persons, authorities, if any' and to the Press.

We asked the petitioner whether, at least at this stage, he realises the seriousness of the matter and of the serious consequences it may entail for him and whether he would even at this stage relent and express regret and withdraw these objectionable statements. The petitioner is argumentative and does not show any inclination towards what might perhaps otherwise avoid for him the consequences of the initiation of proceedings for criminal contempt of court.

We are, accordingly, constrained to initiate proceedings for criminal contempt against Shri Roshan Lal Ahuja. Issue notice in the prescribed format annexing thereto the copy of the writ petition containing the objectionable statements and a copy of the representation dated November 12, 1991 made by him to the President of India which also similarly contains such statements.

The notice shall be served on him at 2.00 p.m. today and Shri Roshan Lal Ahuja who is present in Court is directed to be present at 2.00 p.m. for receiving the notice. His explanation shall be filed on April 24, 1992. Shri Roshan Lal Ahuja is directed to be present in the Court on that day."

8. On April 24, 1992, the contemner appeared and endeavoured to say that he regretted the allegations which he had permitted himself to make in the offending documents and prayed for time to file an affidavit containing unqualified apology. The Court granted him time till May 5, 1992, which was extended further. Eventually, the contemner filed a reply to the notice for initiating contempt proceedings against him dated March 31, 1992. After expressing his regret and withdrawing all the objectionable statements in the petition as well as in the letter addressed to the President of India "as desired and observed by Your Lordships", the contemner went on to give an explanation in his reply to the notice. The reply was supported by an affidavit in which the contemner *inter alia* averred :

"The deponent has brought on record of this Hon'ble Court and the Hon'ble President of India his conscientious feelings which this Hon'ble Court considered unreasonable in the deep eyes of law for which the dependent has really regretted as above."

On August 12, 1992, the Bench, after perusal of the reply and the affidavit observed that it did not sound "sincere and does not make manifest a realisation on the part of the contemner of the gravity of his offence". The Bench being of the view that the case may require a deterrent action and taking note of the fact that the contemner was appearing in person, requested Mr. G. B. Pai, learned senior counsel to assist in the matter. This in fact was also the request made by the contemner. The learned Attorney General was also directed to remain present on August 19, 1992 and assist the Court. An affidavit of unconditional apology was thereafter filed on August 20, 1992. The matter, however, did not rest there as the subsequent events show. Before the apology could be considered by this Court, the contemner, circulated a "note for directors". Apart from other things, the implication of this note is that the contemner does not stand by the earlier apology dated August 20, 1992. He does not recognise Mr. G. B. Pai's position as *amicus curiae*. He asserts in the note that he is innocent and that "the rules are technical". He objected to the presence of the Attorney General by saying that "presence of Union of India in contempt has no *locus standi*". It is also stated in the note that "petitioner is made to apology". He also stated that petitioner is entitled to a defence counsel but "all are businessmen". It is also submitted in the note that :

"Dignity of the Court may not be maintained by punishing innocent petitioner who has been scrapped (sic) by the Union of India and its corrupt officials through the hands of this highest Court of the land and mistakes of the Court."

9. The contemner, on November 3, 1992, appearing in person before the Court admitted the authorship and circulation of the note for directions. He was apprised of the seriousness of the withdrawal of the unconditional apology and in the making of the allegations in the memorandum of the writ petition and the representation to the President of India. An opportunity was granted to the contemner to point out any extenuating or mitigating circumstance or state anything further in his defence before the Court gives its verdict. The contemner submitted that his offence was only technical and placing reliance on a judgment of this Court in *S. P. Sawhney v. Life Insurance Corporation of India* ((1991) 2 SCC 318 : 1991 SCC (L & S) 480 : (1991) 16 ATC 486) sought indulgence of the Court to drop the contempt proceedings against him. However, the contemner neither exhibited remorse nor showed any repentance or contrition on his part. He, on the other hand, adopted an attitude of defiance.

10. The facts are tell-tale and not in dispute. That the memorandum of writ petition and the representation to the President of India contain scurrilous and indecent attacks on this Court as well on the Judges of this Court in intemperate and abusive language is not denied. The contemner has permitted himself the liberty of using language in the offending documents which not only has the effect of scandalising and lowering the authority of the Court in relation to judicial matters but also has the effect of substantially interfering with and obstructing the administration of justice. The unfounded and unwarranted aspersions on the impartiality and ability of the Judges of this Court to render justice has the tendency to undermine the authority of the Court and create a distrust in the public mind as to the capacity of Judges of this Court to mete out even-handed justice. The image and personality of the apex court is an integrated one. The passages in the memorandum of the writ petition and the letter addressed to the President of India attack the integrity and fairness of the Judges. The remarks made by the contemner are disparaging in character and derogatory to the dignity of the Court and besides scandalising the Court in relation to judicial matters have the tendency to shake the confidence of the public in the apex court.

11. The tendency of maligning the reputation of judicial officers by disgruntled elements who fail to secure an order which they desire is on the increase and it is high time that serious note is taken of the same. No latitude can be given to a litigant to browbeat the court. Merely because a party chooses to appear in person, it does not give him a licence to indulge in making such aspersions as have the tendency to scandalise the court in relation to judicial matters.

12. Ordinarily, courts of law do not initiate proceedings to commit a person for contempt of court where there is mere technical contempt or where the contemner satisfies the court that he was truly repentant for his action. Judgments of the court are open to criticism. Judges and courts are not unduly sensitive or touchy to fair and reasonable criticism of their judgments. Fair comments, even if, outspoken, but made without any malice or attempting to impair the administration of justice and made in good faith in proper language do not attract any punishment for contempt of court. Lord Denning in *Reg. v. Commissioner of Police of the Metropolis, ex parte Blackburn* ((1968) 2 WLR 1204) made some pertinent observations in this regard. In the words of the Master of Rolls :

"Those who comment can deal faithfully with all that is done in a court of justice. They can say that we are mistaken, and our decisions erroneous, whether they are subject to appeal or not. All we would ask is that those who criticise us will

remember that, from the nature of our office, we cannot reply to their criticism. We cannot enter into public controversy. Still less into political controversy."

However, when from the criticism a deliberate, motivated and calculated attempt is discernible to bring down the image of the judiciary in the estimation of the public or to impair the administration of justice or tend to bring the administration of justice into disrepute the courts must better themselves to uphold their dignity and the majesty of law. No litigant can be permitted to overstep the limits of fair, bona fide and reasonable criticism of a judgment and bring the courts generally in disrepute or attribute motives to the Judges rendering the judgment. Perversity, calculated to undermine the judicial system and the prestige of the court, cannot be permitted for otherwise the very foundation of the judicial system is bound to be undermined and weakened and that would be bad not only for the preservation of rule of law but also for the independence of judiciary. Liberty of free expression is not to be confused with a licence to make unfounded, unwarranted and irresponsible aspersions against the Judges or the courts in relation to judicial matters. No system of justice can tolerate such an unbridled licence. Of course "Justice is not a cloistered virtue; she must be allowed to suffer the scrutiny and respectful, even though outspoken, comments of ordinary men", but the members of the public have to abstain from imputing improper motives to those taking part in the administration of justice and exercise their right of free criticism without malice or in any way attempting to impair the administration of justice and refrain from making any comment which tends to scandalise the court in relation to judicial matters.

13. The contemner in the present case let alone showing any remorse or regret has adopted an arrogant and contemptuous attitude. His conduct in circulating the 'note for directions' adds insult to injury. Of course, the dignity of the court is not so brittle as to be shattered by a stone thrown by a mad man, but, when the court finds that the contemner has been reckless, persistent and guilty of undermining the dignity of the court and his action is, motivated, deliberate and designed, the law of contempt of court must be activated.

14. The contemner after having tendered the unqualified apology hastened to retrace it and in the 'note for directions' asserted as if he had been forced to apologise. The contemner has, thus, shown that he has no regrets for his action. In an attempt to escape the punishment, the contemner placed reliance on the judgment in S. P. Sawhney case ((1991) 2 SCC 318 : 1991 SCC (L & S) 480 : (1991) 16 ATC 483). Having abused the process of this Court, as already noticed, and after taking full advantage of the indulgence shown by the Court and receiving Rs. 30,000 from the Union of India, the contemner appears to think that he can still get away by submitting that since in S. P. Sawhney case ((1991) 2 SCC 318 : 1991 SCC (L & S) 480 : (1991) 16 ATC 483) even after it had been found that S. P. Sawhney had cast aspersions on the court amounting to its contempt, thereby justifying initiation of contempt of court proceedings this Court considering the advanced age and physical condition of the contemner as well as his obsessions with his claim dropped the contempt proceedings and did not proceed further. The facts are entirely different in this case and this is not a case where soft justice is called for. The contemner herein was apprised of the seriousness of the allegations on occasions more than one. He was given number of opportunities to express his regret and remorse. Even a senior advocate Mr. G. B. Pai was requested by the Court to act as amicus curiae to assist the contemner. The contemner chose not to express any sincere and voluntary regret. He aggravated his offence by circulating the 'note for directions' which has the effect of nullifying the apology already tendered besides not recognising the position of Mr. G. B. Pai, Advocate as amicus curiae. Even in the note for directions the contemner has persisted in making unwarranted aspersions against this Court. The contemner before us is neither of advanced age nor did we find anything wrong with his physical condition unlike the facts noticed in Sawhney case ((1991) 2 SCC

318 : 1991 SCC (L & S) 480 : (1991) 16 ATC 483). On the other hand we are satisfied, having regard to the facts and circumstances of the case, that he has been deliberately, consistently, persistently and repeatedly making statements which are disparaging in character and derogatory to the dignity of this Court. His attitude is defiant. He has while trying to browbeat the Court also attempted to scandalise it in relation to judicial matters. It is not a case in which the procedure adopted in Sawhney case ((1991) 2 SCC 318 : 1991 SCC (L & S) 480 : (1991) 16 ATC 483) is required to be followed.

15. The aspersions and allegations made by the contemner in the offending documents, including the 'note for directions' undoubtedly have the effect of scandalising the Court in relation to its judicial functioning and undermining its dignity. They are an affront to the majesty of law. He has permitted himself the liberty of casting aspersions, wholly unjustified and uncalled for, on the integrity and fairness of the Judges of this Court in the discharge of their judicial functions. He has, thereby, attempted to interfere with the administration of justice. The contemner appears to be addicted to using contemptuous language so as to browbeat the Court. We find, in the facts and circumstances of the case, the contemner guilty of having committed a gross criminal contempt of this Court.

16. If a person committing such gross contempt of court were to get the impression that he will get off lightly it would be a most unfortunate state of affairs. Sympathy in such a case would be totally misplaced - mercy has no meaning. His action calls for deterrent punishment so that it also serves as an example to others and there is no repetition of such a contempt by any other person.

17. While orders were reserved, after hearing the parties in this contempt petition, the contemner has addressed another communication dated November 18, 1992 along with an annexure titled "Honesty is the worst policy" dated February 18, 1989. We have carefully gone through the contents and the tenor of the communication dated November 18, 1992 and find that it is no way different than the earlier representation and the memorandum of writ petition or the note for directions. The communication is consistent with the persistent defiant attitude of the contemner. The use of the expressions in this communication like "Our courts only prefer and relies to hear the Advocates, the businessmen in the courts who made the courts defunct in this case of the petitioner.... When the Hon'ble Judges closed their eyes and ears then what this small petitioner-in-person, an ordinary powerless citizen, can do except to write and cry for justice...." are in tune with the earlier contemptuous writings of the contemner. We need not reproduce other expressions, which are equally objectionable and couched in intemperate language. We are satisfied that the criticism by the contemner in this latest communication also is motivated and a calculated attempt to bring down the image of the judiciary in the estimation of the public and it also tends to bring the administration of justice into disrepute. The said communication merits no further discussion as instead of providing any extenuating circumstance, it bristles with the defiant and objectionable attitude of the contemner aimed at browbeating the Court.

18. We, accordingly, having found the contemner guilty of having committed gross criminal contempt of this Court, sentence him to suffer simple imprisonment for a period of four months and to pay a fine of Rs. 1000 (one thousand). In case of default in the payment of fine, he shall further undergo simple imprisonment for a period of 15 days.

</html