

IN THE HIGH COURT OF KERALA AT ERNAKULAM  
PRESENT  
THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR  
&  
THE HONOURABLE MRS. JUSTICE C.S. SUDHA

Thursday, the 8<sup>th</sup> day of June 2023 / 18th Jyaishta, 1945  
CONT.CASE.(CRL.) NO. 1 OF 2023(S)

SUO MOTU

CONTEMPT CASE (CRIMINAL) UNDER SECTION 2(C) OF THE  
CONTEMPT OF COURTS ACT, 1971 READ WITH RULE 7 OF THE  
CONTEMPT OF COURT (HIGH COURT OF KERALA) RULES

RESPONDENT:

SRI.K.M.SHAJAHAN, AGED 61 YEARS,  
RESIDING AT BHAVANA, TC 96/2256, MEDICAL COLLEGE P.O.,  
THIRUVANANTHAPURAM - 695 011.

SRI.V MANU, SENIOR GOVERNMENT PLEADER

BY K.M.SHAJAHAN(Party-In-Person)

This Contempt of case (criminal) having come up for orders on  
08.06.2023, the court on the same day passed the following:

P.T.O.

**P.B.SURESH KUMAR & C.S.SUDHA, JJ.**

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**Contempt Case (Crl) No.1 of 2023**  
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**Dated this the 8<sup>th</sup> day of June, 2023.**

**ORDER**

**P.B.Suresh Kumar, J.**

Pursuant to the notice in Form No.1 appended to the Contempt of Courts (High Court of Kerala) Rules (the Rules), the respondent has filed his reply and appeared before us on 05.06.2023 for the hearing provided for under Rule 14 of the Rules. Even though the respondent did not tender an unconditional apology after admitting that he has committed the contempt initially, as it was found by him in the course of the hearing that the arguments advanced by him are not acceptable to the court, he expressed willingness to tender an unconditional apology in writing and sought time for the same. Having regard to the grave imputations made by the respondent in the objectionable video streamed by him against three Judges of this Court in general and one Judge in

particular, even though it was doubtful whether this proceedings could be closed accepting an unconditional apology, we permitted the respondent to file an unconditional apology. Accordingly, the matter was adjourned for the said purpose to 06.06.2023.

2. On 06.06.2023, the respondent did not appear in court. Even though we were obliged under law to initiate coercive action against the respondent for securing his presence in this court for taking the above proceedings to its logical end, after expressing our displeasure to the casual approach made by the respondent in conducting this proceedings, we adjourned the proceedings to this date.

3. Today, when this matter was taken up, the Registry has placed before us an affidavit filed by the respondent on 06.06.2023. Paragraphs 5 to 7 of the affidavit read thus:

“5. It is further submitted that I appeared before this Hon'ble Court on 05/06/2023 and presented my arguments. During the proceedings, the Hon'ble Court was pleased to point out to me that citizens have the right to criticize judicial orders and judgments but such rights have to be exercised within the limits of fair criticism. The Hon'ble Court was

pleased to point out 'two spaces' in my video presentation as detailed on page 11 of Annexure A -Translation of the Youtube video uploaded by me on 30/01/2023 wherein I have alluded that the judge received money from the controversial advocate. The Hon'ble Court was also pleased to point out my comment on page 12 of Annexure A-Translation that I have used the words "*it is to be doubted whether the said judge is also involved in the controversy*". The Hon'ble Court informed me that the two spaces 'alluding' to the involvement of the judge in the controversy crosses the limits of fair criticism and hence amounts to contempt of court.

6. It is submitted that I have admitted before the Hon'ble Court that those 'two spaces' in the video did exceed the bench mark of fair criticism; and respectfully submitted that the intention of doing the video has to be viewed in its totality and *in toto* the video intends to expose a patently erroneous judicial order issued by a judge of this Hon'ble Court. The said order resulted in the abrupt end of an ongoing investigation resulting in negation of justice to the victim of gruesome offence and setting at large the perpetrator of the accused alleged to have committed the heinous crime. The intention behind the uploading of the video was drawing attention of the society to a patently erroneous judicial act. The watchful eyes of the citizens towards the administration and judiciary always help these pillars of the state to discharge their functions error free with utmost commitment.

7. It is submitted that the expressions at the above 'two spaces' have exceeded the bench mark of fair criticism and I tender my unconditional apology for the same. The subsequent words "*it is to be doubted whether the said judge is also involved in the controversy*" clearly expressed what I

meant was a doubt about the involvement of a judge in the controversy.”

The unconditional apology provided for under Rule 14(a) of the Rules is an unconditional apology of the respondent after admitting that he has committed contempt of court. In the affidavit, he does not admit that he has committed contempt of court. Instead, what is stated by him in the affidavit is that this Court has informed him that his conduct would amount to contempt of court and that he has also admitted before this Court that he has exceeded the bench mark limit of fair criticism in his video at two places and attempted to justify his conduct in streaming the video pointing out that the same was intended to expose a patently erroneous judicial order. We are unable to accept this affidavit as an affidavit in accordance with Rule 14(a) of the Rules.

4. When this Court informed the respondent that we are proceeding with the matter further, the respondent submitted that he is prepared to file an unconditional apology expressing regret for the grave imputations made by him against the Judges of this Court, in any manner whatsoever. On

a query from the Court, the respondent has also submitted that in addition, he is prepared to stream a video in the very same Youtube channel, withdrawing the imputations made against the Judges and expressing regret for having streamed the objectionable video.

5. In the light of the said developments, we are of the view that in order to consider the further course of action in this proceedings, the respondent can be permitted to file an unconditional apology, expressing regret for having streamed the objectionable video, after admitting that he has committed contempt of court, in tune with the provision contained in Rule 14(a) of the Rules. In addition, he shall stream a video in the very same Youtube channel expressing regret for having streamed the objectionable video, after admitting that he has committed the contempt, in tune with the provision contained in Rule 14(a) of the Rules.

List this matter on 15.06.2023, on which day the respondent shall be present in court. In the meanwhile, the respondent shall file the unconditional apology agreed to be filed. He shall also furnish, before the next posting date, the

particulars of the link of the video agreed to be streamed in his Youtube channel together with a copy of the same in an electronic device.

**Sd/-**

**P.B.SURESH KUMAR, JUDGE**

**Sd/-**

**C.S.SUDHA, JUDGE**

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