

HONOURABLE SRI JUSTICE P.NAVEEN RAO

HON'BLE SMT JUSTICE M.G. PRIYADARSINI

CONTEMPT CASE NO.1034 OF 2021

Date: 29.04.2022

Between:

Veldanda Srilatha, w/o. V.Jwala Prakash Rao,
Aged about 40 years, Occu: Service,
r/o.H.No.4-7-10/8P, New Raghavendra Nagar,
Nacharam, Hyderabad.

.....Petitioner/Petitioner/
respondent

and

Gundumalla Anantha Reddy, s/o. Bheem Reddy,
Aged about 62 years, occu: Agriculture,
r/o. Narayanapet village and mandal,
Mahabubnagar district and another.

.....Respondents/
Respondents 1 and 4
in AS No.260 of 2017

This Court made the following:

**HONOURABLE SRI JUSTICE P.NAVEEN RAO
AND
HON'BLE SMT JUSTICE M.G.PRIYADARSINI**

CONTEMPT CASE NO. 1034 OF 2021

ORAL ORDER: (Per Hon'ble Sri Justice P Naveen Rao)

This Contempt case is filed alleging violation of the directions issued by this Court in I.A.No.1 of 2019 in A.S.No.260 of 2017 dated 1.8.2019.

2. Briefly noted the facts are as under:

3. A.S.No.260 of 2017 is filed by the respondents and three others challenging the judgment and decree in O.S.No.101 of 2014 dated 21.12.2016 on the file of the District Judge, Mahaboobnagar. The petitioner is the sole respondent. In ASMP No.673 of 2017, the Division Bench of this Court by order dated 3.4.2017 stayed passing of final decree. This order is made absolute. While so, alleging that the appellants sold some of the suit schedule properties in spite of decree granted to her by the trial Court and trying to alienate some more, she filed I.A.No.1 of 2019 praying to grant injunction against the respondents not to alienate suit schedule properties. When the I.A., came up for consideration, on behalf of respondents/ appellants, learned counsel sought time to file counter. Taking due note of the fact

that the appellants were resorting to sell suit schedule properties, the Division Bench passed following order on 1.8.2019:

“Sri N Ashok Kumar, learned counsel for the respondents/appellants, seeks time to file a counter.

However, as we find that the appellants have been executing sale deeds in relation to the property in Sy.No.156 of Pallabuzurg village, Narayanpet mandal, Mahaboobnagar Narayanpet district, which falls in item no.1 of the suit schedule property in relation to which preliminary decree was already passed, there shall be an injunction restraining the respondents/appellants from executing any further documents in relation to the land in the afore stated survey number, pending further orders. Post on 16.08.2019”

4. In this contempt case, petitioner alleges that in violation of the decree granted by the trial Court and interim orders of this court, the respondents have sold 177 sq yards in survey no.156 on 14.8.2019 vide document no. 9835 of 2019 registered in Sub Registrar Office, Narayanpet. Contending that by said action respondents have deliberately and wilfully violated the orders of this Court and thus committed contempt of this Court, prayed to punish them.

5. Once an order is passed by the Court, the order must be complied/observed in true letter and spirit.

6. Section 2(b) of the Contempt of Courts Act, 1971 defines ‘civil contempt’ to mean wilful disobedience of any judgment, decree, direction, order, writ or other process of a court or wilful breach of an undertaking given to a Court.

7. Constitutional Courts have laid down principles on when to exercise contempt jurisdiction.

7.1. Disobedience of an order of court, whether prohibitive or mandatory, whether made *ex parte* or upon hearing both parties, or interim or perpetual, amounts to contempt if it is calculated or tends to interfere with the administration of justice, or brings it into disrespect or disregard (**Jagarmudi Chandramouli v. K.Appa Rao**¹). The power, to punish for contempt, is exercised to prevent perversion of the course of justice. (**Kapildeo Prasad Sah v. State of Bihar**²).

7.2. Any interference with the course of justice is an affront to the majesty of law and the conduct of interference is punishable as contempt of court. Public interest demands that there should be no interference with the judicial process, and the effect of the judicial decision should not be pre-empted or circumvented. (**Reliance Petrochemicals Ltd. v. Proprietors of Indian Express Newspapers Bombay (P) Ltd.**,³).

7.3. If a party, who is fully in the know of the judgment/order of the Court, is conscious and aware of the consequences and implications of the order of the Court, acts in violation thereof, it must be held that disobedience is wilful. To establish contempt of court, it is sufficient to

¹ 1967(1) An.W.R.129

² (1999) 7 SCC 569

³ (1988) 4 SCC 592

prove that the conduct was wilful, and that the contemnor knew of all the facts which made it a breach of the undertaking.

7.4. The following conditions must be satisfied before a person can be held to have committed civil contempt: (i) there must be a judgment, decree, direction, order, writ or other process of a court ; (ii) there must be disobedience to such judgment, decree, direction, order, writ or other process of a court; and (iii) such disobedience of the judgment, decree, direction, order, writ or other process of a court must be wilful. [**Patel Rajnikant Dhulabhai** (supra)].

7.5. It behoves *the court to act with as great circumspection* as possible, making all allowances for errors of judgment. It is only when a clear case of contumacious conduct, not explainable otherwise, arises that the contemnor must be punished. Punishment under the law of contempt is called for *when the lapse is deliberate* and in disregard of one's duty and in defiance of authority. Contempt proceedings are quasi-criminal in nature, and the standard of proof is the same as in other criminal cases. The alleged contemnor is entitled to the protection of all safeguards/ rights, including benefit of doubt. **Kanwar Singh Saini v. High Court of Delhi**⁴.

8. The sanctity to judicial proceedings is paramount to a society governed by law. Otherwise, the very edifice of democracy

⁴(2012) 4 SCC 307

breaks and anarchy rains. The Contempt of Courts Act is intended to correct a person deviating the norm and trying to breach the law/assuming law on to himself. It intends to secure confidence of the people in the administration of justice by disciplining those erring in disobeying the orders of the Court/undertaking given to court.

9. To hold a person guilty of civil contempt 'wilful disobedience' is an indispensable requirement. Whether the conduct of contemnor is deliberate and wilful can be considered by assessing the material on record and attendant circumstances.

9.1. In **Kalyaneshwari v. Union of India and others**⁵, Supreme Court held as under:

11. *Black's Law Dictionary* (8th Edn., 1999) defines "contempt" as, "conduct that defies the authority or dignity of a court or legislature". It also adds that "because such conduct interferes with the administration of justice, it is punishable".

12. This special jurisdiction has to be unquestionably invoked when the offending acts are intentional by the contemnor at the cost of eroding the system of administration of justice which practise is necessarily required to be deprecated at the very initial stage.

(13) to (22) xxxxxxxx

23. It is a settled principle of law that contempt is a matter primarily between the court and the contemnor. The court has to take into consideration the behaviour of the contemnor, the attendant circumstances and their impact upon the justice delivery system. ***If the conduct of the contemnor is such that it hampers the justice delivery system as well as lowers the dignity of the courts, then the courts are expected to take somewhat stringent view to prevent further institutional damage and to protect the faith of the public in the justice delivery system.***

(emphasis supplied)

⁵ (2012) 12 SCC 599

9.2. It is emphasised that there can be no laxity, as otherwise orders of court would be the subject of mockery (**Anil Ratan Sarkar v. Hirak Ghosh**⁶; **Patel Rajnikant Dhulabhai v. Patel Chandrakant Dhulabhai**⁷). Disobedience of orders of the Court strikes at the very root of the rule of law on which the judicial system rests.

10. At this stage, the observations made by the Division Bench of this Court in C.C.No.1974 of 2016 are apt to be noted. The Division Bench extensively reviewed the law on the jurisdiction of writ Court in contempt of Court proceedings. The observations made there in and reasons assigned in support of the decision would apply to the facts of this case. Division Bench observed:

“If a party who is fully in the know of the order of the Court, or is conscious and aware of the consequences and implications of the undertaking furnished by him to the Court, ignores it or acts in violation thereof, it must be held that disobedience is wilful. It may not be possible to prove the actual intention behind the act or omission. A Court can approach the question only objectively, and it may presume the intention from the act done as every man is presumed to intend the probable consequence of his act. (**N.S. Kanwar-1995 Cri.L.J 1261 P&H HC DB**). To establish contempt of court, it is sufficient to prove that the conduct was wilful and that the contemnor knew of all the facts which made it a breach of the order. It is not necessary to prove that he appreciated that it did breach the order. (**St. Helen’s Ltd. v. Transport & General Workers’ Union; Adam Phones Ltd v. Goldschmidt-1994 4 All ER 486**).

While the jurisdiction exercised in cases of contempt is quasi-criminal in nature and the court must be satisfied, on the material before it, that contempt of court was in fact committed, such satisfaction may be derived from the circumstances of the case. (**Ram Autar Shukla v. Arvind Shukla-1995 Supp (2) SCC 130; Bank of India v. Vijay Transport- (2000) 8 SCC 512**). For the purposes of judging 'civil contempt', intention or *mens rea* is not relevant. The question is only whether the breach was on account of wilful disobedience i.e, whether it was not casual or accidental and unintentional. (**V.C. Govindaswami Mudali v. B.Subba Reddy- 1986 (2) ALT 131**).

⁶ 2002(4) SCC 21

⁷ (2008) 14 SCC 561

11. Guided by the above principles, the submission of learned counsel for respondents that violation was not deliberate and willful is considered.

12. Photocopy of the sale deed dated 13.8.2019 is filed in the contempt case paper book from pages 51 to 63. The property covered by said sale deed is part of the properties mentioned in the suit schedule. This transaction is in violation of the orders of this Court dated 3.4.2017 and 1.8.2019.

13. Counter-affidavit is filed on behalf of both respondents deposed by the second respondent. Paragraphs 6 to 8 of the affidavit read as under:

“6. I humbly submit that I am not aware of the interim order passed by the Hon'ble Court on 01.08.2019 as I was not present on the day. Since I am in urgent need of money to meet my financial necessities, I executed a Sale Deed on 14.08.2019 for 177.77 Sq. Yds., in Sy.No.156 to a third party. This is occurred due to ignorance of interim order passed by this Hon'ble Court. the interim order passed by the Hon'ble Court is intimated to the Sub-Registrar by the Petitioner on 20.08.2019. Thereafter, the entire property are kept in disputed list. I respectfully submit that our family suffered a lot financially for the last several years due to various problems. My elder brother Sri Chakradhar Reddy died recently due to long illness and my younger brother is also suffering with Cancer and undergoing treatment in a private hospital at Hyderabad. As a matter of fact, I am not aware of the restrain order passed by this Hon'ble Court in IA No.1/2019 which was came to my notice after 20.08.2019. Thus my alienation is not intentional, deliberate or wilfull. To show my bonafidy, I requested and persuaded the purchaser of the property to cancel the sale deed by mutual consent and expressed my desire to pay back the amount of sale consideration and registration charges, without success.

7. I submit that Sy.No.156 is an extent of more than Ac.9-00 Gts. As per the judgemnt & Decree, the petitioner is entitle only for 1/6th of the property in Sy.No.156, thus no prejudice is caused to her as her 1/6th share is only to the extent of Ac.1-25 Gts., out of ac.9-00 Gts.

8. I humbly submit that I expressed my un-conditional apology to this Hon'ble Court for the action done by me which is neither intentional,

deliberate or wilfull, but was occurred due to the facts stated above for which this Hon'ble Court may pleased to close the Contempt Case.

14. The respondents do not deny that the property sold on 13.8.2019 is part of the suit schedule land on which decree is granted to the petitioner. They only try to contend that they were not aware of the interim order dated 13.8.2019. This is a blatant lie and do not show any remorse of what they have done. Firstly, the property is covered by the preliminary decree of the trial court and in terms thereof petitioner is entitled to 1/6th share. Contrary to the judgment and decree, it could not have been sold. This decree is not stayed by this Court. Secondly, the order dated 13.8.2019 was passed in the presence of the counsel appearing for them. Therefore, they can not plead ignorance. Thus, the sale transaction undertaken by them is clearly in violation of the orders of this Court. In the facts of this case, it is also safe to assume that the violation is deliberate and willful.

15. In the facts of this case, as noted above, whether offering apology is *bona fide* to purge the petitioner from contempt is next considered.

16. Section 12(1) of the Contempt of Courts Act, and the explanation thereto, enables the Court to remit the punishment awarded for committing contempt of court on an apology being made to the satisfaction of the Court. While an apology should not be rejected if the accused makes it *bona fides*, a conduct which abuses, and makes a

mockery of, the judicial process of the Court must be dealt with iron hand (**Bal Kishan Giri v. State of U.P.**,⁸). An apology can neither be a defence nor a justification for an act which tantamount to contempt of Court. An apology can be accepted in cases where the conduct, for which the apology is given, is such that it can be “ignored without compromising the dignity of the court”, or it is intended to be evidence of real contrition. It should be sincere. Apology cannot be accepted in case it is hollow, there is no remorse, no regret, no repentance, or if it is only a device to escape the rigour of the law. Such an apology is merely a “paper apology”. [**Bal Kishan Giri** (supra)].

17.1. In **Bal Kishan Giri** (supra), Supreme Court held as under:

“16. Sub-section (1) of Section 12 of the Act and the Explanation attached thereto enables the court to remit the punishment awarded for committing the contempt of court on an apology being made to the satisfaction of the court. However, an apology should not be rejected merely on the ground that it is qualified or tendered at a belated stage if the accused makes it *bona fide*. A conduct which abuses and makes a mockery of the judicial process of the court is to be dealt with iron hands and no person can tinker with it to prevent, prejudice, obstruct or interfere with the administration of justice. There can be cases where the wisdom of rendering an apology dawns upon only at a later stage. Undoubtedly, an apology cannot be a defence, a justification, or an appropriate punishment for an act which tantamounts to contempt of court. An apology can be accepted in case where the conduct for which the apology is given is such that it can be “ignored without compromising the dignity of the court”, or it is intended to be the evidence of real contrition. It should be sincere. Apology cannot be accepted in case it is hollow; there is no remorse; no regret; no repentance, or if it is only a device to escape the rigour of the law. Such an apology can merely be termed as “paper apology”.

⁸(2014) 7 SCC 280

17.2. In **Gupta, T.C. v. Bimal Kumar Dutta and others**⁹,

Supreme Court held as under:

“10. A contempt action being in the nature of quasi-criminal proceeding the degree of satisfaction that must be reached by the court to hold a person guilty of commission of contempt would be akin to what is required to prove a criminal charge, namely, proof beyond reasonable doubt. The order of the court in respect of which violation is alleged must, therefore, be clear, unambiguous and unequivocal and defiance thereof must be apparent on the very face of the action with which a contemnor is charged. An interpretation of the terms of court's order in respect of which disobedience is alleged would not be appropriate while dealing with a charge of contempt.

11. In an earlier part of the present order, we have noticed the unqualified and unconditional apology tendered by the appellant before the High Court in the event his explanations were to be found unacceptable. The Explanation to Section 12 of the Contempt of Courts Act, 1971, makes it clear that an apology tendered by a contemnor should not be rejected merely on the ground that it is qualified or conditional so long it is made bona fide. In his reply, the appellant, after offering his explanations, had tendered his unconditional and unqualified apology in the event the explanations did not commend for acceptance of the High Court.

12. In the decision rendered in *O.P. Sharma v. High Court of P&H* [(2011) 6 SCC 86 : (2011) 3 SCC (Civ) 218 : (2011) 2 SCC (Cri) 821 : (2011) 2 SCC (L&S) 11] , this Court has already held that in view of the Explanation to Section 12 of the Contempt of Courts Act an apology ought not to be rejected only on the ground that it is qualified so long as it is made bona fide. In the present case there is nothing on record to suggest that the unqualified and unconditional apology tendered by the appellant in his reply before the High Court was actuated by reasons that are not bona fide.”

17.3. On this issue the Division Bench in CC No. 1974 of 2016

reviewed entire case law. Division Bench observed as under:

“The next question which necessitates examination is whether the apology tendered by the respondent-contemnor merits acceptance. It is no doubt true that the respondent-contemnor has sought pardon, and has tendered his unconditional apology. Section 12(1) of the Contempt of Courts Act, and the Explanation thereto, enables the Court to remit the punishment awarded for committing contempt of court on an apology being made to the satisfaction of the Court. While an apology should not be rejected if the accused makes it *bona fide* a conduct which abuses, and makes a mockery of, the judicial process of the Court must be dealt with an iron hand. (**Bal Kishan Giri v. State of U.P., -(2014) 7 SCC 280**). An apology can neither be a defence nor a justification for an act which tantamounts to contempt of court. An apology can be accepted in cases where the conduct, for which the apology is given, is such that it can be “ignored without compromising the dignity of the court”, or it is intended to be evidence of real contrition. It should be sincere. Apology cannot be accepted in case it is hollow, there is no remorse, no regret, no repentance, or if it is only a device to escape the rigour of the law. Such an apology is merely a “paper apology”. (**Bal Kishan Giri**).

⁹ (2014) 14 SCC 446

An apology tendered is not to be accepted as a matter of course, and the court is competent to reject the apology and impose the punishment recording reasons therefor. (**Bal Kishan Giri**). If the apology is found to be without real contrition and remorse, and to have been tendered merely as a weapon of defence, the court may refuse to accept it. If the apology is offered at the time when the contemnor finds that the court is going to impose punishment, it ceases to be an apology and becomes an act of a cringing coward. (**Bal Kishan Giri; Debabrata Bandhopadhyaya v. State of W.B.; Mulk Raj v. State of Punjab- AIR 1972 SC1197, Hailakandi Bar Assn. v. State of Assam-AIR 1996 SC 1925, C. Elumalai v. A.G.L. Irudayaraj-AIR 1009 SC 2214 and Ranveer Yadav v. State of Bihar-(2010)11 SCC 493**). A mere statement of apology by the contemnor before the court would hardly amount to his purging himself of contempt. The Court must be satisfied of the genuineness of the apology. If the court is so satisfied, and on this basis accepts the apology as genuine, it should pass an order holding that the contemnor has purged himself of contempt. (**Pravin C. Shah v. K.A. Mohd. Ali-(2001) 8 SCC 650**).

.....

An apology is not intended to operate as a universal panacea. (**M.Y. Shareef v. Judges of Nagpur High Court- AIR 1995 SC 19; Pravin C. Shah; T.N. Godavarman Thirumulpad (102) v. Ashok Khot(2006) 5 SCC 1**). It is not a weapon of defence forged to purge the guilty of the offence, but is intended to be evidence of real contrition, the consciousness of a wrong done, of an injury inflicted, and the earnest desire to make such reparation as lies in the wrongdoer's power. (**Delhi Development Authority v. Skipper Construction-(1995) 5 SCC 507**). Only then is it of any avail in a court of justice. Unless that is done, not only is the tendered apology robbed of all grace but it also ceases to be a full and frank admission of a wrong done, which it is intended to be. (**Hiren Bose, Re-AIR 1969 Cal 1; Patel Rajnikant Dhulabhai-(2008) 14 SCC 561**). The apology tendered by the contemnor, to be accepted by the Court, should be a product of remorse. (**M.C. Mehta v. Union of India- (2003) 5 SCC 376**). Public interest demands that when a person has interfered with the judicial process, the judicial decision should not be pre-empted or circumvented merely by a conditional or an unconditional apology. While it is open to the Court, in an appropriate case, to accept an unconditional apology based on the factual position, dropping the proceeding of contumacious acts deliberately done, after accepting the apology offered, would be a premium for the flagrant abuse of the judicial process. (**Ram Autar Shukla- 1995 Supp (2) SCC 130**).

In **L.D. Jaikwal v. State of U.P- (1984) 3 SCC 405.**, the Supreme Court observed:-

".....We are sorry to say we cannot subscribe to the "slap—say sorry—and forget" school of thought in administration of contempt jurisprudence. Saying "sorry" does not make the person taking the slap smart less upon the said hypocritical word being uttered. Apology shall not be paper apology and expression of sorrow should come from the heart and not from the pen. For it is one thing to "say" sorry—it is another to "feel" sorry....."

(emphasis supplied).

18. In the facts of this case also, it is seen that apology offered is not sincere and *bona fide*. It is clear from facts on record that it is made only to escape the consequence of deliberate and willful disobedience of the order of the Court. Contemnors did not accept their mistake and expressed apology at the first opportunity offered to them.

The conduct of contemnors as noted above cannot be ignored while considering their apology. Thus, it does not amount to full and frank admission of wrong done. It is a paper apology made without any sincerity, it is hallowed. As noted by Division Bench, the observations of Supreme Court in **Ram Autar Shukla** (cited supra) dropping the proceedings of contumacious act deliberately done after accepting apology offered would be a permission for flagrant abuse of judicial process. Observations of Supreme Court in **L.D.Jaikwal, 'slap- say sorry-forget cannot be accepted'** aptly apply to this case. Thus, apology offered by contemnors is rejected.

19. By their conduct respondent-contemnors have interfered with the administration of justice, made mockery of the order of this Court. Wilfully and deliberately they have sold the suit schedule property in utter violation of the orders of this Court. It is intended to frustrate the judgment and decree rendered by the trial Court and orders of this Court and deprive the petitioner the fruits of her success. It is an affront to the majesty of law. Such flagrant violation must be dealt with sternly. It is unfortunate that the petitioner has to initiate contempt proceedings against her father and brother. The Court has not seen any remorse in their behaviour.

20. Considering the gravity of their offence, Contemnors are held guilty of contempt, their apology is rejected and is imposed sentence of imprisonment with fine. Having regard to age and health,

first respondent-contemnor shall be detained in civil prison for a period of fifteen days and shall in addition pay a fine of ₹ 2,000/- (Rupees two thousand only) within four weeks from today. The second respondent-contemnor shall be detained in civil prison for a period of thirty days and shall in addition pay a fine of ₹ 2,000/- (Rupees two thousand only) within four weeks from today.

21. As required under Rule 32(1) of the Contempt of Court Rules, 1980, the respondent-contemnors shall be entitled to subsistence allowance, during the period of detention in civil prison. The subsistence allowance for the respondent-contemnors is fixed at ₹ 500/- per day each. The petitioner shall deposit the amount for the period of detention of contemnors. The petitioner is entitled to recover this amount from the respondents during the final decree proceedings.

22. The Contempt Case is, accordingly, disposed of.

23. After pronouncement of the order, learned counsel appearing for respondents/contemnors requested to suspend the sentence to avail the remedy of appeal.

24. In view thereof, the order of sentence is suspended till 30.6.2022.

JUSTICE P.NAVEEN RAO

JUSTICE M.G.PRIYADARSINI

Date: 29.04.2022

Tvk/kkm

HONOURABLE SRI JUSTICE P.NAVEEN RAO

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