

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

CRL.CCC.Nos. 15/2019 & 01/2020 (SUG-MOTU)

BETWEEN:

The Registrar General,
High Court of Karnataka,
Bengaluru.

.. COMPLAINANT

AND:

Sri K.V.Subramanya & ors.

.. ACCUSED

MEMO

It is submitted that, though the instant contempt proceedings are strictly between the Court and the alleged contemnors, the following suggestions are made by the Advocate General, as an amicus, in order to ensure that incidents of similar nature do not repeat themselves, and also to address issues relating to media coverage of court proceedings. The suggestions are made having regard to the observations made by this Hon'ble Court on the last date of hearing, and are without prejudice to the submissions to be made on merits, in the event this Hon'ble Court is to proceed further with the trial of the matter. It is also clarified that the following submissions do not suggest that the alleged contempt proceedings are liable to be purged in a casual manner.

The law relating to media coverage of court proceedings is broadly guided by the following judgments of the Hon'ble Supreme Court of India:

- 1) Naresh Shridhar Mirajkar Vs. State of Maharashtra, AIR 1967 SC 1;
- 2) Sahara India Real Estate Corporation Ltd. Vs. SEBI, (2012) 10 SCC 603; and
- 3) R.K. Anand Vs. Delhi High Court, (2009) 8 SCC 106

The principles emanating from the above judgments are as follows:

- a. Court has inherent power to restrain press from reporting where administration of justice so demands. See Sahara at para 32;
- b. Such restrictions do not violate the fundamental right of free speech under Article 19(1)(a). See Sahara at para 42;

The Hon'ble Supreme Court has further held in Arundhati Roy, in RE, (2002) 2 SCC 343 as follows:

" The law of contempt has been enacted to secure public respect and confidence in the judicial process. If such confidence is shaken or broken, the confidence of the common man in the institution of judiciary and democratic setup is likely to be eroded which, if not checked, is sure to be disastrous for the society itself."

It goes without saying that matters relating to reporting of proceedings both inside the Court and outside the Court are of immense public importance. Reporting of legal proceedings sometimes tend to interfere with the free and fair administration of justice. Moreover, unlike the other pillars of the State, the Hon'ble Judges of the judiciary normally stay aloof and lead private lives, which results in them not being able to defend themselves against attacks by the media or the public. It would be apposite in this regard to refer to the "Restatement of Values of Judicial Life (As Adopted by the Full Bench of the Supreme Court on 7th May 1997)," which, inter alia, prescribes that "a Judge should practise a degree of aloofness."

It is in this background that the Court must adopt reasonable safeguards in the matter of media coverage of court proceedings and reports relating to the functioning of the judiciary, for which the following suggestions are put forth for the kind consideration of this Hon'ble Court:

- a. Each of the television and print media houses that have correspondents covering legal proceedings, both at the High Court as well as the Trial Courts, must ensure that the correspondents are well-trained in reporting on legal proceedings and must preferably have a basic legal education.

- b. The designated court reporters must be registered with the Registrar of the High Court;
- c. Each of the reporters must at all times in Court wear an identifiable badge to be issued after due registration with the Registrar of the High Court, which would describe his name and the media house he represents, along with a photograph;
- d. The court reporters must be governed by a self-imposed code of ethics relating to reporting of court proceedings, which would set out broad guidelines that would govern the various aspects of legal reporting;
- e. As a matter of self-regulation, the media must exercise caution and restraint while reporting on everyday court proceedings, since observations are often made in the Courts that are tentative in nature and do not form the final opinion of the Court. Reporters must show restraint while reporting such observations since the wrong message is often portrayed to the public that the Court has already formed an opinion on a case that is sub judice. This causes great prejudice both to the parties and to the administration of justice;
- f. As regards reporting on judgments, the judges themselves can aid the process by certifying whether any judgment pronounced by them can be made available to and reported in the media or not;
- g. While reporting on ongoing criminal cases, both at the trial and appellate levels, extra precautions must be taken to ensure that any reports on such cases are not speculative, as they would adversely affect the rights of the accused (including the fundamental right of presumption of innocence) and the prosecution, as well as the fair administration of justice. Reports on such cases must be based only on authenticated court records, while ensuring that extra judicial statements are not published;

h. In cases where there are allegations that any reporter has overstepped his brief, in order to ensure that free, fair, and impartial disciplinary proceedings are conducted, this Hon'ble Court may consider such matters being referred to a retired Supreme Court/High Court Judge, who will be the enquiring authority. It is submitted that, if the High Court so directs, the Government would be willing to issue necessary orders in this regard.

BENGALURU
DATED: 24.01.2020

(VIKRAM HUILGOL)
HIGH COURT GOVT.PLEADER