

MANU/KA/0701/2020

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## IN THE HIGH COURT OF KARNATAKA AT BENGALURU

Crl. CCC Nos. 1 of 2020 and 15 OF 2019

Decided On: 28.01.2020

Appellants: **High Court of Karnataka**  
**Vs.**

Respondent: **G.N. Shivakumar and Ors.**

### Hon'ble Judges/Coram:

*Abhay Shreeniwas Oka, C.J. and Hemant Chandangoudar, J.*

### Counsels:

*For Appellant/Petitioner/Plaintiff: Prabhuling K. Navadgi, Advocate General and Vikram Huilgol, HCGP*

*For Respondents/Defendant: H. Shantibushan, Advocate, S. Vijayashankar, Senior Counsel for Rajeswar P.N., H.R. Narayana Rao, Arun Shyam M., Advocate and Arun Kumar K., Senior Counsel for M.V. Sundaraman, Advocate*

## JUDGMENT

### Abhay Shreeniwas Oka, C.J.

**1.** Notices were issued to the contemnors/accused who have appeared and filed their responses on oath. As all of them have filed their responses on oath and as we are proceeding to dispose of the contempt petitions, we are granting exemption to all the accused from their personal presence in the Court.

**2.** It all began by a publication of a news item as a headline on the front page of the daily newspaper 'Deccan Herald' dated 16th December 2019. During the course of hearing, pursuant to the query made by us, the learned Senior Counsel representing the accused (the news editor, publisher and the correspondent) in Crl. CCC No. 15/2019 stated that the approximate daily circulation of the said newspaper in the capital city is about 2.2 lakhs.

**3.** With a view to understand the controversy, we must note what was precisely stated in the offending news item on the basis of which the suo motu contempt proceedings were ordered to be initiated on the basis of the order of the First Court dated 16th December 2019. Though at the first blush, it may appear that the news item intends to report the action taken by this Court on the administrative side against the Judicial Officers who lack integrity, but as we refer to the contents of the news item, it becomes apparent that apart from being contemptuous, the news item shows the High Court administration in a very poor light.

**4.** What is stated in the news item will have to be summarized. The author of the news item is the third accused in Crl. CCC No. 15/2019. The news item was published under the title "Rs. 9 crores seized in raid on Judge" and "High Court Vigilance wing cracks down on 'corrupt judges'". The news item is described as "DH Exclusive". The news item specifically records that it is written by the third accused.

**5.** Firstly, the news item reports that the Vigilance wing of the Karnataka High Court seized a sum of Rs. 9 crores from the residence of a City Civil Court (Bengaluru) Judge in a crackdown on judicial corruption. The second part of the news item records that a highly placed source in the State Judiciary told the Deccan Herald that the raid was conducted after the Karnataka High Court issued notices to forty eight Judges of the Trial Courts in the State in the wake of the allegations of non-performance and corruption charges.

**6.** The third part says that the Vigilance wing will submit a detailed report on the raid to the Chief Justice of the High Court on Monday. The further part records that the notices to forty eight Judges were issued during the last three months and the authorities summoned all the forty eight Judges for questioning along with the documentary evidence and the Judges were asked to reply to the charges or to quit from the service.

**7.** The further part records that the Vigilance wing's raid on the Judge's residence began three days ago and the Judicial Officers seized Rs. 9 crores from one Judge. It further reports that a source said that action may be initiated against other corrupt Judges also. The next part records the alleged statement made by the President of the Advocates' Association of Bengaluru. The further part records that there is a rumour that the Chief Justice may be transferred to Allahabad High Court due to crusade against graft. It also refers to a letter written by the Executive Member of the Advocates' Association of Bengaluru to the Registrar General referring to the rumours. Lastly, there is a specific allegation that more than twenty Judges have taken voluntary retirement in the last forty five days, but the reasons were not clear.

**8.** The material placed on record in CrI. CCC No. 1/2020 will show that the news item published in Deccan Herald had a cascading effect and the scrolls of the news item were shown on at least three television channels (the accused in CrI. CCC No. 1/2020) allegedly on the basis of the news item published in Deccan Herald regarding seizure of cash of Rs. 9 crores from the residence of a City Civil Court (Bengaluru) Judge. The television channel of the first accused in CrI. CCC No. 1/2020 showed a video of the currency notes being counted which will make the viewers believe that in fact, a raid was conducted by the High Court Vigilance Cell at the residence of a Judge and cash of Rs. 9 crores was really found at his residence which was seized by the High Court Vigilance Cell. It is in this background that suo motu contempt proceedings for committing criminal contempt under the Contempt of Courts Act, 1971 (for short 'the said Act of 1971') were initiated against the accused in both the contempt petitions.

**9.** At the outset, we may note that all the accused have expressed a regret and tendered an unconditional apology by filing affidavits and now, all of them have come out with some remedial measures with the object of ensuring that such news items are not published in the newspaper or telecasted on the television channels without making verification. Some of them offered to pay a substantial amount by way of costs to the State Government so that the State Government can use the amount for providing necessary infrastructure to the Judiciary in the State.

**10.** The first aspect which we will have to consider is the nature and the extent of contemptuous conduct on the part of the accused. As the affidavits have been filed tendering an unconditional apology, the Court will have to also consider whether truly, a remorse has been shown by the accused and consequently, whether the apology tendered by them is really bona fide. The third issue is if the apology

deserves to be accepted what should be the quantum of costs, if any, which can be made payable by the accused.

**11.** Now again coming to the news item published by Deccan Herald, it is mentioned therein that the Vigilance wing of the Karnataka High Court seized a sum of Rs. 9 crores from the residence of a City Civil Court (Bengaluru) Judge. Now it is accepted by all that no such thing had ever happened. Thus, without any basis and without any confirmation, a scandalous news is published by Deccan Herald which suggests that cash amount of Rs. 9 crores was found from the residence of a City Civil Court (Bengaluru) Judge during a raid conducted by Vigilance wing of Karnataka High Court and that the amount is seized by the Vigilance wing. Thus, it is suggested that a Judge of the City Civil Court, Bengaluru had a cash amount of Rs. 9 crores at his residence. Going by the affidavits on record, it is accepted that before reporting and publication of the news item, no confirmation was taken by the third accused in CrI. CCC No. 15/2019 or by any other accused in both the petitions either from the High Court Administration or from the Vigilance wing of the High Court. The publication of the false news item that a Judge of the City Civil Court in the city was having a huge cash of Rs. 9 crores which is seized by the Vigilance wing amounts to scandalizing the Court. The news item was published recklessly without even seeking confirmation for the news from the administrative side of the High Court. The publication was also as a headline on the first page of the newspaper which is having a circulation of 2.2 lakhs in the capital city.

**12.** The news item further records that a highly placed source in the State Judiciary told Deccan Herald that the raid was conducted after the Karnataka High Court issued notices to forty eight Judges of the Trial Court in the State in the wake of the allegations of non-performance and corruption charges. Though in the affidavits which are filed on record on behalf of Deccan Herald there is a reference to an anonymous source, the accused have avoided to state which was this highly placed source in the State Judiciary. When the newspaper reports that the fact of issuing notices to forty eight Judges was disclosed by the highly placed source in the State Judiciary, the said source cannot be anonymous. Per se, the news item which reports that notices were issued to forty eight Judges may not be contemptuous but, the further part of the news item records that forty eight Judges were summoned (presumably by the Chief Justice) for questioning along with documentary evidence. This news item suggests that the High Court on the administrative side, has not only ventured to issue notices to forty eight Judges, but summoned them before the High Court along with documentary evidence. The allegation is that there are forty eight Judges who are corrupt or of questionable integrity and the High Court procured their personal presence and that they were told to either explain or quit from service.

**13.** Then, the news item in Deccan Herald again goes back to the raid on the residence of a Judicial Officer by recording that the Vigilance wing will submit a detailed report on the said raid to the Chief Justice on Monday preferably, on 16th December 2019. Thereafter, it is stated that the Vigilance wing's raid on the Judge's residence began three days ago and the Judicial Officers seized Rs. 9 crores from one Judge and action may be initiated against other Judges. This suggests that the raid continued for three days at the residence of one Judicial Officer when a sum of Rs. 9 crores was seized and there is a likelihood of similar raids being conducted. This again shows the Judiciary in a very poor light and suggests that there may be more officers whose premises are to be raided. Thus, the news item tried to project that there are other officers in Judiciary who may be possessing such cash. Moreover, the news item depicts that the Vigilance Branch of this Court is usurping the police power

by conducting a raid on the residence of a Judicial Officer. This again is nothing but scandalizing the institution of Judiciary.

**14.** The allegation that notices were issued to forty eight Judges and their personal presence was procured presumably before the Chief Justice shows the institution of High Court in a very poor light and it suggests that the High Court administration is bypassing all the laws and the Judges who were summoned were asked to reply to the charges or quit from the service. Even the last part of the news item records that more than twenty Judges have taken voluntary retirement in the last forty five days but, the reasons are not clear. This again is a very serious allegation against the institution of Judiciary which suggests that during a short span of forty five days, more than twenty Judges have taken voluntary retirement thereby deserting the Judiciary. Thus, it is an attempt to show that a very high handed action is being initiated by the High Court administration which has virtually resulted in more than twenty Judges deserting the Judiciary by opting for voluntary retirement. These imputations in the news item tend to scandalize the institution of Judiciary. The same tend to lower the image of the Judiciary.

**15.** There is one more relevant factor which needs consideration. Deccan Herald has a circulation of 2.2 lakhs in the capital city. The newspapers are read in the morning. If such news item is read by more than 2 lakh people, definitely they will carry an impression that there is something seriously wrong with the Karnataka State Judiciary and therefore, the High Court Vigilance Cell has conducted one raid for three days and a similar action is likely to be taken against "other corrupt Judges too". The effect of publication of such an article which is read by a large number of citizens is also a relevant factor for coming to the conclusion that such a news item tends to scandalize the Court.

**16.** Now we come to CrI. CCC No. 1/2020 which involves three television channels. All the affidavits which the accused have filed disclose that based on the news item published by Deccan Herald, the channels started showing scrolls of the news item. The scrolls were not shown once. They were shown repeatedly on the screen. Moreover, the channel run by the first accused (B-TV News Channel) went one step ahead and showed a video clip of the currency notes being counted only with an intention of creating confidence in the mind of viewers that their news item about the recovery and seizure of a cash of Rs. 9 crores in a raid on the residence of a Judge in the City Civil Court in the City is correct.

**17.** The gist of the news item published in Deccan Herald, appeared in the form of a scroll and the video clip of the cash being counted must have been seen by the litigants, the family members of Judicial Officers, their close relatives and their family friends. As a result, the litigants and lawyers are bound to look upon every Judge of the City Civil Court with suspicion. The Judicial Officers have no protection from such allegations. The rule of self constraint requires the Judicial Officers not to respond to this scandalous allegations in the leading newspaper having a circulation of more than two lakhs and the television channels. This news item, scrolls and video clip must have resulted in the litigants as well as friends, relatives and the family members of the Judges of the City Civil Court looking very suspiciously at the Judges of the said Court, when very confidently, the news item says that the Vigilance wing of the High Court conducted a raid and seized a cash of Rs. 9 crores from the residence of a Judge. Therefore, the news item, the scrolls and the video clip shown not only tend to scandalize the institution of Judiciary, but also tend to lower the image of the Judiciary in the minds of the litigants and the citizens in general.

**18.** Therefore, we have no manner of doubt that the impugned acts of the contemnors in both the petitions show that they have indulged in committing a criminal contempt which is covered by clause (c) of Section 3 of the said Act of 1971.

**19.** Before we proceed further to deal with the statement of objections/affidavits filed on record, we are tempted to quote what the Apex Court has observed in paragraph 10 in the case of PREM SURANA vs. ADDITIONAL MUNSIFF & JUDICIAL MAGISTRATE, AND ANOTHER MANU/SC/0693/2002 : (2002) 6 SCC 722. Paragraph 10 reads thus:

*"The issue arises as to whether the Judges should be hypersensitive in the matter of discharging judicial functions-true the Judges should not be hypersensitive but that does not mean and imply that they ought to maintain angelic silence also. Immaterial it is as to the person but it is the seat of justice which needs protection: it is the image of the judicial system which needs protection. Nobody can be permitted to tarnish the image of the temple of justice. The majesty of the court shall have to be maintained and there ought not to be any compromise or leniency in that regard."*

(underline supplied)

There are further relevant observations in the same decision which are in paragraphs 13 and 14 which read thus:

*"The introduction of the Contempt of Courts Act, 1971 in the statute-book has been for the purposes of securing a feeling of confidence of the people in general for due and proper administration of justice in the country. Undoubtedly, a very powerful weapon rests in the hands of the law courts through the statute, and it is also true that the law courts must exercise the same with due care and caution and for larger interest. Contemptuous conduct and obstruction to the majesty of law is the basic reasoning for which the law-makers thought it prudent to engraft in the statute-book this particular legislation.*

*On the state of the facts, as noticed above, can the Court maintain silence and permit the situation go unheeded? The answer again cannot be in the affirmative. Our justice delivery system would be in a swamp if this conduct of an advocate slapping a Judge in open court goes unnoticed and unpunished."*

(underline supplied)

**20.** The question posed by the Apex Court in paragraph 14 is also before us. After noticing that the contemptuous acts which tarnished the image of the Judiciary in the State and of the institution of High Court of the State whether this Court can maintain silence and permit the situation to go unheeded.

**21.** It is true that Judges should not be hypersensitive in the matters of contempt. But as held by the Apex Court, in every case, they need not maintain silence. If such scandalous and frivolous news items are published which are contemptuous and which tarnish the image of Judiciary, the judicial system definitely needs a protection. The judicial system on its own cannot go before the world and state that what is mentioned is blatantly false. There are always self imposed constraints on the Judicial Officers and the Judges of this Court. However, no one can be allowed to take undue advantage of the self imposed constraints.

**22.** The role of Judges is very peculiar. While performing their duty, they are under an obligation to protect the citizens from injustice and to protect their rights under the law. But when it comes to such frivolous allegations against the Judiciary and the Judges, they can hardly protect themselves even when such false allegations are blatantly made against the Judicial Officers or the Judiciary in general. At the same time, we must note here that ultimately if any magnanimity and mercy is to be shown, it should be by those who are occupying the high constitutional office like the Judges of the High Court and therefore, notwithstanding the scandalous and contemptuous attacks, there are cases which can be found in the Law Reports that the High Courts, even after noticing the serious acts of contempt, took a lenient view. Only in a very few cases, the Courts have been compelled to take a view that silence cannot be maintained and the situation cannot go unheeded.

**23.** In many cases, the Constitutional Courts end up in showing leniency. The reason is that the Courts are reluctant to uphold its dignity by exercising the contempt jurisdiction as held in one of leading decisions to which we are referring in this judgment. As we are dictating this order, we find that this is going to be one more case when we as Judges of the Constitutional Court who have vast powers under Article 215 of the Constitution of India and under the said Act of 1971, after saying that we cannot be silent spectators after noticing serious acts of contempt, are going to take a lenient view in the matter.

**24.** Coming to Crl. CCC No. 15/2019, we must note here that a lot of material has been placed on record in the form of a compact disc of the news item and the statements of the police officers attached to the Vigilance wing of the High Court, which in so many words record that no such raid has been conducted by the Vigilance Cell.

**25.** Now, we come to the statements of objections/affidavits filed on record by various accused in the first petition. The first affidavit filed in this contempt petition is by the first accused, the Senior News Editor. He stated that he has to curate the list of probable stories which go on the first page. He claims that he had reviewed the offending article along with Deputy Editor and the Editor. He did not doubt the veracity of the facts stated therein. Thus, he also did not insist on verification of correctness of the news though he was aware about the sensitive nature of news. In paragraph 5, he has stated that on the day the news item was published, he heard that this Court has denied the story published in the newspaper and thereafter, he summoned the third accused and placed him under suspension. According to him, the retraction of the article was published on the website of the newspaper as late as at 16:26 p.m. on the same day which was published in the next day's front page of Deccan Herald at the same place where on the earlier date, the offending news item was published. A letter of apology was addressed on 17th December 2019 to this Court. That was done after this Court by the order dated 16th December 2019 directed suo motu action under the said Act of 1971. He has tendered an unconditional apology for the false contents, inappropriate language and unintended imputations against the majesty of the Judiciary in the said article.

**26.** We have perused the retraction of the article published on the website as well as in the printed version. The retraction is in respect of two out of the three major allegations. The first one is regarding the raid on the residence of a Judicial Officer and the second one is about the alleged notices issued to the Judicial Officers but, conveniently, there is no reference to the other false imputation in the article that more than twenty Judges have opted for voluntary retirement in the last forty five

days. While accepting the other two allegations as incorrect, we do not know why there is no reference in the retraction to the third allegation which equally tends to scandalize the Judiciary.

**27.** The second accused who is the publisher of the newspaper has also filed a similar affidavit as the first accused tendering an unconditional apology. The third accused in his first affidavit dated 20th December 2019 has firstly pleaded his credentials in paragraph 2. In paragraph 3, he has reiterated that he printed the offending article on the basis of credible and reliable information from a highly placed source. However, he has not disclosed to the highly placed source in the State Judiciary referred in the article for the reasons best known to him. He has accepted that he did not seek corroboration from other sources and the office of this Court. He has pleaded that as he is a very senior journalist, the newspaper has considerable trust and faith on his journalistic abilities. There is a second affidavit filed by him in which he has stated that the informant, as referred in the retraction statement, was an anonymous informant as the information was provided by him on the condition of anonymity.

**28.** We must note here that even the first accused, the Senior News Editor who had reviewed the article did not take basic and elementary care of telling the third accused to get confirmation about the contents of the article from the Registry before printing the same. The third accused has also not stated why he did not even attempt to seek confirmation from the Registry. The third accused has chosen not to offer any explanation for this omission. He has not come clean by disclosing the sources.

**29.** Perhaps, after realizing that mere apology was not enough, another affidavit was filed by the first accused in paragraph 2, it is stated by him that the entire process of publication of the news item has been revamped. Several things are stated such as, devising in house training program for all the legal correspondents and that training is made mandatory to all the legal correspondents. Certain guidelines have been laid down for day to day functioning. While we are on this, we must note here that the third accused who had published an article of a very serious nature on the functioning of the Court and the disciplinary matters has no elementary knowledge of law or legal procedures. Obviously, the media persons who want to write on the legal system should have basic knowledge of law. The Vigilance Cell of the High Court is not a Police Department which has a power to raid the houses of Judicial Officers. The third accused lacked this basic knowledge. Secondly, as far as the disciplinary matters of the Judicial Officers are concerned, they are governed by a set of rules and the Chief Justice of the High Court cannot procure the presence of Judicial Officers before him and that also, in a very large number at his whims and fancies. If a Judicial Officer is to be thrown out of the service, a full fledged inquiry is required to be conducted which should a matter of elementary knowledge of law for any legal correspondent. The only other way by which a Judicial Officer goes out of the service is by way of a compulsory retirement as the High Court has power to compulsory retire a Judicial Officer after the Judicial Officer completes fifty years of age on the ground that he has become a deadwood. It is true that in the recent past, the High Court has taken action by exercising the power of compulsory retirement against few Judicial Officers. But, perhaps, there was no intention on the part of the third accused to write a truthful version of what has really happened. He wanted a sensational story to be published on the first page containing false allegations.

**30.** We must note here that there is a memo filed in this Court by the learned High Court Government Pleader which incorporates the suggestions of the learned

Advocate General. He has suggested reasonable safeguards in the matter of media coverage of the Court proceedings and relating to the functioning of the judiciary. Some of the said suggestions are made for the benefit of even the administrative side of the High Court. The well formulated suggestions will have to be considered on the administrative side as well.

**31.** We must note here that the learned Senior Counsel representing the accused in Crl. CCC No. 15/2019 has accepted the oral suggestion made by the learned Advocate General that the third accused who is already placed under suspension will be subjected to a disciplinary inquiry by appointing a senior retired Judicial Officer as an Inquiry Officer.

**32.** As the newspaper having such a large circulation of more than 2 lakhs published such a scandalous news item, the damage was already done. Though the learned Senior Counsel did not accept the stand of the accused in the other contempt petition (Crl. CCC No. 1/2020) that they have solely relied upon the report in Deccan Herald, it appears to us that the cascading effect of the news item published in Deccan Herald was in the form of a wide publicity given to it by atleast three television channels. When we expressed that irreparable harm has been already caused which cannot be undone by an action of showing remorse or tendering an unconditional apology, the learned Senior Counsel, on instructions, stated that the publishers are willing to pay donation/costs of Rs. 30,00,000/- to the State Government so that the amount can be utilised for providing judicial infrastructure. Apart from tendering an apology and suspending the third accused and also agreeing to conduct impartial disciplinary inquiry against him by appointing a retired Judicial Officer as the Inquiry Officer, an attempt has been made by the accused to set their house in order by evolving the guidelines and by stating that a rigorous training will be given to the legal correspondents.

**33.** The learned Advocate General was at pains to point out that all the acts complained are of very serious in nature and have a long standing effect. On the basis of the material on record, we were also of the view that the publication of the article may not be innocuous or inadvertent. Therefore, we must ask a question to ourselves whether the contempt has been purged. As far as purging of the contempt is concerned, we may rely upon what is held by the Apex Court in the case of PRAVIN C. SHAH vs. K.A. MOHD. ALI AND ANOTHER MANU/SC/0622/2001 : (2001) 8 SC 650 and in particular, what is held in paragraphs 24 and 27. Paragraphs 24 and 27 read thus:

*"Purging is a process by which an undesirable element is expelled either from one's own self or from a society. It is a cleaning process. Purge is a word which acquired implications first is theological connotations. In the case of a sin, purging of such sin is made through the expression of sincere remorse coupled with doing the penance required. In the case of a guilt, purging means to get himself cleared of the guilt. The concept of purgatory was evolved from the word "purge", which is a state of suffering after this life in which those souls, who depart this life with their deadly sins, are purified and rendered fit to enter into heaven where nothing defiled enters (vide Words and Phrases, Permanent Edn., Vol. 35-A, p. 307). In Black's Law Dictionary the word "purge" is given the following meaning: "To cleanse; to clear. To clear or exonerate from some charge or imputation of guilt, or from a contempt." It is preposterous to suggest that if the convicted person undergoes punishment or if he tenders the fine amount imposed on him the*



*purge would be completed.*

.....

*We cannot therefore approve the view that merely undergoing the penalty imposed on a contemnor is sufficient to complete the process of purging himself of the contempt, particularly in a case where the contemnor is convicted of criminal contempt. The danger is giving accord to the said view of the learned Single Judge in the aforesaid decision is that if a contemnor is sentenced to a fine he can immediately pay it and continue to commit contempt in the same court, and then again pay the fine and persist with his contemptuous conduct. There must be something more to be done to get oneself purged of the contempt when it is a case of criminal contempt."*

(underline supplied)

**34.** Though, strictly, it cannot be said that the contempt has been purged, we must be guided by the principles laid down by the Apex Court in its leading decision in the case of IN RE S. MULGAOKAR MANU/SC/0067/1977 : (1978) 3 SCC 339. We are guided by an erudite opinion by Krishna Iyer J. which summarizes the entire law of contempt and which attempts to lay down comprehensive principles. We are tempted to quote what Krishna Iyer J. has said in paragraph 27. The said paragraph reads thus:

"The first rule in this branch of contempt power is a wise economy of use by the Court of this branch of its jurisdiction. The Court will act with seriousness and severity where justice is jeopardized by a gross and/or unfounded attack on the Judges, where the attack is calculated to obstruct or destroy the judicial process. The Court is willing to ignore, by a majestic liberalism, trifling and venial offences the dogs may bark, the caravan will pass. The Court will not be prompted to act as a result of an easy irritability. Much rather, it shall take a notice look at the conspectus of features and be guided by a constellation of constitutional and other considerations when it chooses to use, or desist from using, its power of contempt."

**35.** Though the first part of what is said in paragraph 27 which forms part of the first rule may not apply, this is a case where this Court has acted with seriousness as justice is jeopardized by gross and/or unfounded attack on the Judiciary. However, as observed by Krishna Iyer J., considering the limited remorse shown by the accused and other assurances given by them, we are tempted to show what his Lordship describes as "majestic liberalism". In the same erudite exposition, in paragraph 40, the Apex Court has referred to a well known decision in the case of REGINA vs. METROPOLITAN POLICE COMMISSIONER EX. P BLACKBURN (1968) 2 WLR 1204 by saying that this judgment is based on a very valuable and remarkably fresh approach to the question of criticism of the Courts in intemperate language. Krishna Iyer J. has quoted the opinion of Lord Denning which reads thus:

*"This is the first case, so far as I know, where this Court has been called on to consider an allegation of contempt against itself. It is a jurisdiction which undoubtedly belongs to us but which we will most sparingly exercise: more particularly as we ourselves have an interest in the matter.*

*Let me say at once that we will never use this jurisdiction as a means to uphold our own dignity. That must rest on surer foundations. Nor will we use*

it to suppress those who speak against us We do not fear criticism, nor do we resent it. For these is something far more important at stake. It is no less than freedom of speech itself.

It is the right of every man, in Parliament or out of it, in the Press or over the broadcast, to make fair comment, even outspoken comment, on matters of public interest. Those who comment can deal unfaithfully 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 criticize us will remember that, from the nature of our office, we cannot reply to their criticisms. We cannot enter into public controversy. Still less into political. We must rely on our conduct itself to be its own vindication.

Exposed as we are to the winds of criticism, nothing which is said by this person or that, will deter us from doing what we believe is right; nor, I would add, from saying what the occasion required, provided that it is pertinent to the matter in hand. Silence is not an option when things are ill done."

(underline supplied)

**36.** We will be guided by the said principles though Lord Denning also says that silence is not an option when the things are ill done. That is why as far as the accused in these contempt petitions are concerned, we have decided to accept the apology as bona fide considering the assurances which are given by the learned Senior Counsel representing the accused.

**37.** In CrI. CCC No. 1/2020, the first accused is Sri G.N. Shivakumar, Owner and Chief Editor of B-TV NewsChannel. The first accused has filed an affidavit in which, he has disclosed that his correct name is G.M. Kumar s/o. Gangadarappa. But he has accepted that he is the first accused and therefore, the technicality of incorrect name being mentioned in the cause title in the suo motu petition does not remain. He has accepted that B-TV News Channel had telecasted the news on the basis of the news item published in Deccan Herald. He has stated that he believed the news so published in Deccan Herald was true as it is a reputed newspaper. He has also accepted that the news telecast on his channel was with regard to seizure of Rs. 9 crores in a raid on a Judge. In paragraph 4 of the said affidavit, he has stated that the news regarding seizure of Rs. 9 crores was not based on true facts.

**38.** After the said affidavit was filed, when we made a query to the learned counsel appearing for the first accused regarding the clip shown on the channel of notes being counted along with the scroll of the news item, an additional affidavit containing an unconditional apology was tendered by the first accused. Now, the stand taken is that it was not a video-clip of the currency allegedly found at the residence of the Judge. However, it is contended that it was a file clip or a file shot. He has stated that the Human Resources Department issued a notice to the Chief Editor and Senior Broadcast Engineer with regard to the said visuals and the Chief Editor has assured that henceforth such news will not be telecasted without verification. However, the affidavit is silent about the further concrete action taken against the Senior Broadcast Engineer such as initiation of disciplinary inquiry. Page 23 of the said affidavit indicates that one Sri Preetham Kumar C.P., Assistant Editor has been suspended. It appears that a notice of suspension was issued even to the Senior Broadcast Engineer against which, he has made a representation.

**39.** As we have observed earlier, perhaps, the act of the television channel run by the

first accused is a case of aggravated criminal conduct. Not only that without verification, the scroll was shown repeatedly regarding the seizure of Rs. 9 crores cash from a Judge's residence, but even the video-clip of counting of notes was shown so that the viewers will believe that what is being scrolled is true. In this era, video-clips which are shown on television channels and scrolls are not only seen, but are widely circulated through various social media platforms. Perhaps, the first accused has not realized what kind of damage has been done by his act to the Judicial Officers in the State, their respective families, friends and especially, the families of the Judges of the City Civil Court in the City. Many of the Judges have school and college going children and due to the advent of social media, this clip of scrolls may have reached their friends. The damage caused by the first accused by its contemptuous acts is irreparable. Now, we will have to decide whether the apology tendered by the accused is bona fide and true remorse has been shown. We will come to this question a little later.

**40.** As far as the second to fourth accused are concerned, the affidavits filed by them show that there is a true remorse shown by them. Most importantly, the second to fourth accused have not only come out with their apology, but they have also tendered the affidavits of apology of their Senior Reporter, Input Coordinator and Output-Editor who have played a role in the display of the offending scroll. More importantly, Annexure-R13 to the affidavit dated 22nd January 2020 of the fourth accused is a copy of the guidelines framed by the channel which will be followed before broadcasting any news against the judiciary failing which, serious action will be taken for violating the same. The learned Advocate General, after perusing the said guidelines, has stated that the guidelines are very exhaustive and most of his suggestions have been incorporated therein.

**41.** One more reason why we say that remorse was shown by the accused is that the learned Senior Counsel representing them has at the outset stated before the Court that a total cost amount of Rs. 15,00,000/- will be paid by them as per the directions which may be issued by this Court. We may note here that the clip of notes being counted is shown only by the channel run by the first accused and not by the channels run by the second to fourth as well as fifth and sixth accused. Subsequently, the first accused has virtually adopted the guidelines framed by the second to fourth accused and even the fifth and sixth accused have done so.

**42.** As far as the fifth and sixth accused are concerned, though apology is tendered by them, it is not clear what action the said accused have taken against the members of the staff who are actually responsible for telecasting the offending news. In the affidavit of apology filed by the sixth accused on 27th January 2020, it is pleaded that TV5 Kannada News Channel is a two year old start-up channel, the connectivity of the channel is about 25% to 30% of the viewers in the market and the channel is running into losses. Apart from adopting similar guidelines which are adopted by the second to fourth accused, nothing is stated about the action taken against the staff members who are actually responsible for telecasting the offending news in the form of scroll.

**43.** At this stage, the learned counsel appearing for the fifth and sixth accused assures the Court that the fifth and sixth accused will take disciplinary action against those who are responsible for telecasting the scroll on the channel. In fact, a categorical statement ought to have been made in the affidavits of apology filed the fifth and sixth accused. The learned counsel appearing for the fifth and sixth accused stated that the fifth and sixth respondents are willing to pay total costs of Rs.

6,00,000/-.

**44.** As noted above, the apology tendered by the second to fourth accused is worthy of acceptance.

**45.** At this stage, the learned counsel appearing for the first accused states that the first accused is willing to pay costs quantified at Rs. 10,00,000/-. We have already held that the criminal contempt committed by the first accused is of aggravated nature and irreparable damage has been caused by the contemptuous acts of the first accused.

**46.** As we had disclosed earlier, we have decided to show mercy and leniency by accepting the unconditional apology of the accused. However, the first accused will have to be saddled with exemplary costs. In fact, ideally, the amount of costs payable by the first accused must be much more than what is paid by Deccan Herald, but the stand of the first accused is that he believed that the news item published in Deccan Herald is true and correct as it is a reputed newspaper. We, therefore, propose to saddle the first accused with costs quantified at Rs. 20,00,000/-.

**47.** Now coming to the costs payable by the fifth and sixth accused, the learned counsel appearing for the fifth and sixth accused invited our attention to the affidavit filed by the sixth accused on 27th January 2020 and pointed out that the channel is only a two year old start-up channel and TRP of the channel is very low. He, therefore, stated that the fifth and sixth accused will pay costs quantified at Rs. 8,00,000/-. Only in view of what is stated in paragraph 4 of the affidavit dated 27th January 2020 that we are accepting the said statement made by the learned counsel appearing for the fifth and sixth accused.

**48.** For the reasons which we have set out above, we have come to the conclusion that by accepting the unconditional apology and other assurances given by the contemnors/accused in both the petitions, the contempt proceedings need to be dropped.

**49.** We hope and trust that this order will be a lesson and warning to those who indulge in making scandalous attacks on the judiciary and the Judicial Officers, knowing fully well that due to the self imposed rule of restraint, neither the Judiciary as an Institution nor Judicial Officers can respond to such scandalous publications. After holding that the accused are guilty of criminal contempt, we are following the law laid down by the Apex Court by ignoring the gross act of criminal contempt by adopting "majestic liberalism". We reiterate that it is only the higher constitutional functionaries like the Judges of Constitutional Courts who are expected to show mercy and magnanimity.

**50.** Before we close this order, we reiterate what we have stated earlier. Considering the fact that these cases were of commission of a very serious/aggravated contempt, the silence was not surely the option before us. Therefore, we are sure that the act of showing leniency and mercy will not be treated as our weakness.

**51.** The learned High Court Government Pleader pointed out that as indicated by the Court, the amount of costs will have to be utilized for giving infrastructure to the Judiciary/Judicial Officers. He pointed out that a large number of Judicial Officers have been provided with official quarters at National Games Village and even the Public Works Department has reported that huge repairs are necessary to the judicial quarters. He pointed out that an estimate of about Rs. 9.3 crores for carrying out the

repairs has been approved by the Public Works Department. He suggested that to avoid all technical difficulties which may be faced by the State Government in transferring the amount of costs for meeting this expenditure, it will be appropriate if the amount of costs is directed to be deposited with the Registrar General of this Court. It will be in the fitness of things if this suggestion is accepted inasmuch as a lot of damage has been caused due to the impugned acts of the accused to the Judicial Officers in the State.

**52.** We, therefore, pass the following order:

In CrI. CCC No. 15/2019

(i) We accept the unconditional apology tendered by the accused in view of the assurance given by the learned Senior Counsel representing the accused that a disciplinary inquiry against the third accused will be conducted by appointing a retired senior Judicial Officer as the Inquiry Officer and that the accused will pay costs of Rs. 30,00,000/-. By accepting the apology, subject to compliance with the above assurances, we drop the contempt proceedings initiated against the accused;

(ii) We direct the accused to deposit the amount of costs of Rs. 30,00,000/- with the Registrar General of this Court within a period of eight weeks from the date on which a copy of this order is available on the website of this Court. The amount shall be deposited either by an Account Payee Cheque or by way of direct transfer to the account of the Registrar General after taking necessary account details from the office of the Registrar General;

In CrI. CCC No. 1/2020

(iii) We accept the unconditional apology tendered by the second to fourth accused as well as their assurance to follow the guidelines which are placed on record and to pay costs of Rs. 15,00,000/-. By accepting the apology and the assurances, we drop the contempt proceedings initiated against the second to fourth accused;

(iv) The second to fourth accused shall deposit the costs quantified at Rs. 15,00,000/- with the Registrar General of this Court within eight weeks from the date on which a copy of this order is available on the website of this Court. The amount shall be deposited either by an Account Payee Cheque or by way of direct transfer to the account of the Registrar General after taking necessary account details from the office of the Registrar General;

(v) We accept the unconditional apology tendered by the fifth and sixth accused and the assurance given by them to follow the guidelines and to pay costs quantified at of Rs. 8,00,000/-. By accepting the unconditional apology, subject to the condition of compliance with the above assurances, we drop the contempt proceedings against the fifth and sixth accused;

(vi) We direct the fifth and sixth accused to deposit the costs quantified at Rs. 8,00,000/- within the Registrar General of this

Court within eight weeks from the date on which a copy of this order is available on the website of this Court. The amount shall be deposited either by an Account Payee Cheque or by way direct transfer to the account of the Registrar General after taking necessary account details from the office of the Registrar General;

(vii) At this stage, the learned counsel appearing for the first accused prays that a leniency be shown as the financial condition of the television channel is very bad. We must note here that we have been extremely lenient in accepting the apology tendered by the first accused. Therefore, we cannot accept the plea to reduce the costs proposed to be imposed quantified at Rs. 20,00,000/-. However, we propose to give a longer time to the accused to deposit the amount of costs;

(viii) We accept the unconditional apology tendered by the first accused and the assurance to follow the guidelines which have been placed on record. By accepting the apology, we direct that the contempt proceedings against the first accused be dropped subject to the condition of deposit of the amount of costs of Rs. 20,00,000/- in the following manner:

(a) A sum of Rs. 10,00,000/- shall be deposited with the Registrar General within a period of eight weeks from the date on which a copy of this order is available on the website of this Court; and

(b) The balance amount of Rs. 10,00,000/- shall be deposited with the Registrar General of this Court within a period of sixteen weeks from the date on which a copy of this order is available on the website of this Court.

(ix) The costs shall be deposited either by an Account Payee Cheque or by way of direct transfer to the account of the Registrar General after taking necessary account details from the office of the Registrar General;

(x) We must record our appreciation for the assistance rendered to the Court by the learned Advocate General as well as the learned High Court Government Pleader;

(xi) The petitions stand disposed of;

(xii) The pending interlocutory applications do not survive and are accordingly disposed of.

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