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**(1997) 11 AP CK 0032**  
**In the Andhra Pradesh High Court**  
**Case No : C.C. No. 89 of 1997**

Advocate General, Andhra Pradesh, Hyderabad

APPELLANT

Vs

S.N.A. Nazareth

RESPONDENT

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**Date of Decision :** 07-11-1997

**Acts Referred:**

Contempt of Courts Act, 1971 — Section 10, 11, 12, 2, 6

**Citation :** (1998) 3 ALD 595 : (1998) 2 ALT 500

**Hon'ble Judges :** Y. Bhaskar Rao, J; V. Rajgopala Reddy, J

**Bench :** Division Bench

**Advocate :** A.G, for the Appellant; Mr. S.N.A. Nazareth, for the Respondent

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## Judgement

Y. Bhaskar Rao, J.—This Contempt case is taken on file on the basis of the contempt petition filed by the Advocate General, Andhra Pradesh, Hyderabad to punish the respondent for contempt of Court under Sections 10 - 12 of the Contempt of Courts Act read with Section 2(c) of the Act. It is complained that the respondent contemner wrote a representation to the Hon'ble Chief Justice of Andhra Pradesh High Court which was received in this Court on 14-5-1996 stating that the then Chief Judge, City Civil Court, Hyderabad got his (contemner's) property demolished acting without jurisdiction and taking law in his own hands.

2. In the representation, the respondent stated that he is the owner of the property situate at Kotla Akbhar Jah, Hyderabad bearing No.22-7-364/1 adjacent to the premises of the City Civil Court, Hyderabad and he was having a small structure in the said place. It is complained that on 13-5-1996 the men chief Judge, City Civil Court ordered demolition of the structures, fencing and roofs of the respondent through Court's labour illegally. The demolition caused loss to the respondent to the tune of Rs.17,000/-, The respondent stated further that the Chief Judge ought not to have committed such an unlawful act, without jurisdiction, violating his own earlier order of letter of non-interference with his property. He further stated that the arbitrary act of the learned Chief Judge not

only constituted me offence of defaming him in the eyes of public and causing demolition of his personal private property causing damage to the extent of Rs.17,000/- but also infringed his fundamental right.

3. The respondent contemner also issued a notice dated 5-8-1996 to the Chief Justice of Andhra Pradesh High Court. It is stated in the said notice that the learned Judge while he was Chief Judge of City Civil Court, Hyderabad nursing prevented grudge against him during his appearance in a proceeding before him when he (respondent) placed an order of High Court passed in his favour in C.R.P.No.1825 of 1989 he got annoyed and dishonoured the said order and when he insisted him to honour the order of the High Court he threw it away from the bench and thus committed contempt. Therefore, for taking revenge upon the respondent, he got demolished his personal property through his staff and the Chief Justice was called upon to take immediate steps within seven days to compensate the loss either from the High Court or from the salary of the learned Judge, failing which he reserves his right to knock the doors of higher authorities even upto the Hon"ble President of India as the demolition was made while he was on official duty as a Chief Judge.

4. The respondent contemner also addressed a letter to the Chief Justice of India in which it is stated that neither the Ex-Chief Judge nor the Chief Justice of A.P. High Court has any respect for rule of law and for their respective capacity. He requested to take immediately steps to pay compensation within seven days and failure of which shall be presumed that all the authorities have no regard to preserve the dignity of rule of law and the prestige of judiciary.

5. The respondent contemner also sent a letter to the Hon"ble President of India stating that the Chief Judge, City Civil Court, Hyderabad who is now elevated as Additional Judge of Andhra Pradesh High Court, got demolished the wall and caused damage to his property and he has issued notice to the Chief Judge of City Civil Court and also sent a notice to the Chief Justice of Andhra Pradesh High Court and both of them have acknowledged the receipt of notice. He further stated that he is deprived of justice even though he sent the complaint and if justice is denied to him he reserves his right to take initiative on the floor of Lok Sabha and Rajya Sabha through his sources. It is further stated that expecting expeditious remedy to compensate his claim which caused through unlawful act of a Judicial Officer of higher rank by way of practising revenge upon him by demolishing his private personal property, observing the code of conduct of the judiciary.

6. The contemner appeared before us and he filed affidavit dated 13-8-1997 stating therein that he is in possession of the property situate adjacent to the premises of City Civil Court, Hyderabad and he has got licence from the Municipal Corporation of Hyderabad which was valid upto 1997 which has been renewed upto 1998. The Police Commissioner also issued licence to him. In para No.3 of the affidavit, it is stated that the Chief Judge, City Civil Court, Hyderabad ignoring all licences and permission and the previous Chief Judge's non-

interference letter ordered to demolish the shed on 13-5-1996 through P.W.D. employees, who were on duty for the management of City Civil Court's building, causing damage as estimated to Rs.34,000/- and the debris and roof sheets were removed from the spot. It is stated that aggrieved by the demolition and damages he filed a complaint to the Hon"ble Chief Justice of High Court and claimed half damages from the learned Chief Judge and half from the P.W.D. as both were responsible to cause demolition and when the Hon"ble Chief Justice did not reply to his complaint he wrote to the higher authorities seeking relief. It is further stated that as per Section 6 of the Contempt of Courts Act, statement made by a person does not amount to contempt of Court when it is made in good faith. Though he tried to meet the Chief Justice of Andhra Pradesh High Court he was not able to get interview and so he could not explain the facts to the Chief Justice. In the meanwhile the Chief Judge of City Civil Court was elevated as Additional Judge of Andhra Pradesh High Court and without providing him any opportunity and without hearing him, the contempt proceedings are initiated. He further stated that he is aged 77 years having no stamina, that his wife is suffering with kidney ailment and that he stopped practice and started legal consultations work to eke out livelihood and to earn for treatment of his wife suffering from kidney ailments. He further stated that when the contempt case is posted for admission, for the sake of his wife's treatment he has no other alternative (except) to tender unconditional apology by withdrawing his remarks as his presence at home is essential for care and treatment of his wife. He requested that his apology may be accepted by directing the authorities concerned to refrain from causing obstruction to re-erection of demolished shed so as to continue his office on his private personal property bearing Municipal Corporation No.22-7-364/1 outside the premises of the City Civil Court, Hyderabad.

7. The respondent contemner filed another affidavit dated 20-8-1997 in which he stated that he voluntarily withdraws the remarks made against the judiciary in his complaint. He further stated that he most humbly tender his unconditional apology before us with utmost Honour and Respect to the judiciary and he prays it may please be accepted.

8. The respondent also filed another affidavit dated 26-8-1997 which reads as follows :

"I repent for my remarks against Judicial Officers in my complaint and voluntarily withdraw. Further, I most humbly tender my unconditional apology before the Hon"ble Lordship with utmost Honour and Respect to the Judiciary which may please be accepted."

This Court after receipt of complaint of the petitioner called for remarks from the Chief Judge, City Civil Court and he sent his reply to this Court in which he has stated that the allegation that he ordered demolition of structures belonging to the respondent through Court's labourers is utterly false and no such orders were issued by him to anybody nor is there any necessity for him to do so

relating to a property said to be situated outside the Court premises. He further stated that on 12-5-1996, which was a public holiday being Sunday, the respondent high-handedly tried to take steps to grab the pavement adjoining the compound wall of the City Civil Court premises just in between the two main entrances to the Court premises for the purpose of raising some temporary sheds and in that process tried to meddle with the compound wall of the Court premises and that the Court Guards are said to have objected for the same as such activity will be causing damage to the Court compound wall besides being a permanent source of obstruction and nuisance to the traffic flowing into the Court premises. He was out of station from 9-5-1996 to 12-5-1996 as he was availing the first half of the summer vacation and he came to know about these facts when he attended the Court on 13-5-1996 after returning from leave. So there is no truth in the allegations made in the complaint petition which: appears to be motivated.

9. We directed the Advocate-General to file a copy of the plaint in the suit in O.S.No.6351/96 on the file of the II Assistant Judge, City Civil Court, Hyderabad filed by the contemner against the Chief Engineer, P.W.D. (Roads and Buildings) in which he narrated how he became the owner of the property. In the suit he claimed damages against the Chief Engineer, Public Works Department (roads and Buildings) Hyderabad stating that the defendant has no right whatsoever to claim the property and the act of demolition caused damage to a tune of Rs. 17,000/- to the respondent. The demolition effected on 13-5-1996 without any notice to the respondent is illegal. The respondent further stated in the plaint that the defendant not only demolished the structures, but also removed the debris and taken away pan shop stall and telephone booth stall of the handicap tenants causing further wrongful loss to the plaintiff (respondent in contempt petition) and his tenants.

10. The facts stated supra show that the contemner issued notice to the Chief Judge of City Civil Court, Hyderabad claiming damages stating that he acted without jurisdiction and committed unlawful act. He also issued a notice to the Chief Justice of Andhra Pradesh High Court, Hyderabad making allegations against the Chief Judge, Civil Court, Hyderabad. The respondent also wrote to the Chief Justice of Supreme Court and the President of India with the same allegations.

11. The question is whether the allegations made by the respondent contemner in the abovesaid letters addressed to the Chief Judge, City Civil Court, Hyderabad, the Chief Justice of Andhra Pradesh High Court, the Chief Justice of Supreme Court and the President of India will amount to contempt of Court or not ?

12. The respondent made an allegation that his property was demolished at the behest of the Chief Judge, City Civil Court, Hyderabad and so he sent representation to the Chief Justice of Andhra Pradesh High Court, Chief Justice of India and President of India claiming compensation of Rs.17,000/-. It was stated

by the Chief Judge in his reply that he has not passed any order nor authorised anybody to demolish the wall of the respondent. He was out of station from 9-5-1996 to 12-5-1996. He came to the Court on 13-5-1996 and he came to know about it only on 13-5-1996. He has denied that the demolition was made at his behest. In the civil suit filed by the respondent-contemner, entire allegations are made against the defendant in that suit i.e., the Chief Engineer, Public Works Department, Roads and Buildings and there is no whisper that demolition was made at the instance of the Court or the then Chief Judge of the City Civil Court, Hyderabad.

13. The above facts clearly show that the demolition was not made at the instance of the Chief Judge, City Civil Court, Hyderabad nor in pursuance of any order passed by him.

14. What is meant by "civil contempt" and "criminal contempt" has been defined in Section 2 of the Contempt of Courts Act, 1971 (hereinafter referred to as "the Act") and it reads :

"2(a) "Contempt of Court" means civil contempt and criminal contempt;

(b) "civil contempt" means wilful disobedience to any judgment, decree, direction, order, writ or other process of a Court or wilful breach of an undertaking given to a Court;

(c) "criminal contempt" means the publication whether by words, spoken or written or by signs, or by visible representation or otherwise of any matter or the doing of any other act whatsoever which-

(i) scandalises or tends to scandalise or lowers or tends to lower the authority of any Court ; or

(ii) prejudices, or interferes or tends to interfere with the due course of any judicial proceeding; or

(iii) interferes or tends to interfere with, or obstructs or tends to obstruct the administration of justice in any other manner."

On a reading of sub-section (c) of Section 2 of the Act, it is evident that publication of any matter, oral or written, or the doing of any act which scandalises or lowers or prejudices the due course of any judicial proceeding or interferes or obstructs the administration of justice in any other manner would amount to criminal contempt. Now, let us turn to the case law on the subject. The Supreme Court and various High Courts have examined number of cases where allegations are made against Judicial Officers scandalising the authority of the Courts and interfering with the administration of justice, while in some cases criticising judgments and the Judicial Officers.

15. In *Aswini Kumar Ghose and Another Vs. Arabinda Bose and Another*, where a newspaper articles, while criticising a Supreme Court decision not merely preached the Courts of law the sermon of divine detachment from extraneous

considerations, such as politics and policies but also proceeded to attribute improper motives to the Judges, it was held that the articles not only a transgressed the limits of fair and bona fide criticism but had a clear tendency to affect the dignity and prestige of the Court and therefore amounted to gross contempt of Court.

16. In *The State of Bihar Vs. Gorakh Prasad Srivastava*, a party to an appeal pending before High Court addressed a letter to Home Minister making serious allegations in regard to the character and integrity of the District Judge and the Judge of the High Court. He alleged that District Judge had allowed the appeal on being influenced from above and on being bribed by the party concerned and the Judge of the High Court in pursuance of pact between him and the District Judge dismissed all appeal arising out of judgments passed by the District Judge. In that case it was held by Patna High Court that the allegations made amount to scandalising the Court and the Judges and as such constitute a gross contempt of Court and the plea that it was a confidential communication or that the opposite party did not intend any action to be taken on the letter or that he wrote it in a troubled state of mind is frivolous and irrelevant and having regard to the wild and reckless nature of the aspersions made the Court would take a serious view of the case and decline to accept the apology tendered and to accept it would encourage persons to cast aspersions and make false allegations against Judicial Officers and Judges of the High Court.

17. In *State Vs. Nityananda Mohapatra*, it was held that when a cause is pending and during its pendency, any criticism is made of the case, however fair or bona fide, that does not save one from contempt; it is only the fair and bona fide criticism of a case after the case has been over, which is permissible, but where the contempt is one for scandalising the Judge it is immaterial whether the attack on the Judge is with reference to cause about to be tried, or actually under trial or recently adjudged; the test is whether its tendency is to poison the fountain of justice to create distrust and to destroy the confidence of the people in the Courts and in such circumstances it amounts to contempt of the Court.

18. In *State of Orissa v, R.N. Patra*, 1976 CrLJ 440 the contemner addressed a letter to the Chief Justice of Supreme Court about conduct of District Judge and suggesting that High Court will not be able to make proper enquiry into his action by reason of relationship of the District Judge with the Chief Justice of High Court. It was held that suggestion that the High Court would not be in a position to make a proper enquiry is highly motivated, mala fide and contemptuous and such a statement tends to scandalize and lower the authority of the Court and interferes with the administration of justice within the meaning of Section 2(c)(i) and (iii) of the Act and that contemner is clearly guilty of contempt of High Court.

19. In *Rachapudi Subba Rao Vs. Advocate General, Andhra Pradesh*, the appellant filed O.S.No.101 of 1973 in the Court of Subordinate Judge, Vijayawada against five persons for declaration of his title and for injunction in respect of a building. The first defendant in the said suit filed O.S.No.275 of 1992

against the appellant for possession of the same building and for recovery of damages for use and occupation. The Subordinate Judge's Court passed common judgment in respect of those two suits, dismissed the appellant's suit and decreed the suit of the first defendant. The decree holder filed execution petition against appellant and the appellant filed an application for stay of the execution and when they were pending before execution Court the appellant issued a notice to the Subordinate Judge who decided the suit against the appellant. The appellant stated in the notice the following allegations :

"3. In the said judgment your Honour created new facts by making third version without evidence as detailed below.

4. Your Honour has intentionally with bad faith and maliciously disallowed the existing oral and documentary evidence with a view to help the plaintiff in O.S.275/72 causing damage and injury to me.

5. Your Honour has maintained different standards in the same judgment with regards to Exs.B9 xxxxx Ex.B12 in para 25.

6. Your Honour has maintained different standards even with regard to self-serving statements.

16. Your Honour has side-tracked the binding direct decisions of the High Courts and the Supreme Court disordering the contents of the said decisions."

After receiving the notice the Subordinate Judge sent it to the High Court for necessary action. The High Court requested the Advocate-General to initiate contempt proceedings and so the contempt petition was filed. In the said case it was held by the Supreme Court as follows :

"We agree with the High Court that the tone, temper and contents of the notice, particularly of the passage extracted earlier, which impute malice, partiality and dishonesty to the Subordinate Judge in the judicial adjudication of the aforesaid suits against the appellant, constitute a deliberate attempt to scandalise the Judge, to terribly embarrass him and to lower the authority of the Office and the Court. The act and conduct of the appellant in issuing this notice therefore, fell squarely within the sub-clauses (i) and (ii) of the definition of "Criminal Contempt" given in Section 2(c) of the Act"

20. In L.D. Jaikwal Vs. State of U.P., where the Advocate scandalized Special Judge, before whom he appeared in corruption case and found guilty and sentenced of criminal contempt by the High Court, the Supreme Court declined to interfere merely because Advocate tendered his apology.

21. In M.B. Sanghi, Adv. Vs. High Court of Punjab and Haryana and others, , the Supreme Court held as follows :

"Where the contemner, a practising lawyer, on Judge's declining to grant ad interim injunction had made an attack on the Judge which was disparaging in character and derogatory to Judge's dignity and would vitally shake the

confidence of the public in him and the aspersions made by the contemner had the effect of scandalizing the Court in such a way as to create distrust in the people's mind and impair confidence of the people in Court, the contemner was guilty of having committed the contempt of Court u/s 2(c) and his apology deserved to be rejected when the same did not show real contriteness and contempt proceedings were initiated against him earlier also and with regard to apology in proceedings for contempt of Court it is well settled that an apology is not a weapon of defence to purge the guilty of their offence nor is it intended to operate as a universal panacea, but it is intended to be evidence of real contriteness."

22. In *Dr. D.C. Saxena, Contemnor Vs. Hon'ble the Chief Justice of India*, it was held by the Supreme Court that scandalising Court or Judge, undermining or tending to undermine people's confidence in administration of justice and bringing or tending to bring the Court into disrepute or disrespect tantamount to criminal contempt and punishment for the contempt intended to prevent undue interference with the administration of justice and scrupulous attack on a Judge questioning his authority would amount to contempt.

23. In *Lalit Mohan Das Vs. Advocate-General, Orissa*, when the appellant made imputations of partiality and unfairness against the Munsif in open Court, the Supreme Court observed that scandalising the Court in such manner is really polluting the very fountain of justice and such conduct of the appellant was not a matter between a member of the Bar and a member of judicial service, but it brought into disrepute the whole administration of justice and it was held to be highly reprehension.

24. From the above decisions it is clear that making allegations against a judicial officer and attributing motives to his conduct would amount to criminal contempt as the same scandalises or tends to scandalise or lowers or tends to lower the authority of the Court. Further, it will undermine the imputations made against judicial officer by member of the Bar to intimidate or terrorise him also amounts to contempt of Court. The aim of the Contempt of Courts Act is to prevent the desperate attitude of the persons to undermine the authority of the Court and to maintain public faith and confidence in the Courts.

25. The allegations made in the letters addressed to the Chief Judge, City Civil Court, Chief Justice of Andhra Pradesh High Court, the Chief Justice of India and President of India specifically state that the Chief Judge of City Civil Court has got the premises of the respondent demolished through Court's labour whereas in the plaint in the suit filed by the respondent-contemner in City Civil Court, the respondent himself has stated that the Public Works Department personnel made demolition. Thus, according to his own case in the civil suit, the demolition was not made by the Chief Judge nor at his instance and the said allegation is false and motivated. Further in the letter written to the Chief Justice of Andhra Pradesh High Court it is stated that when the respondent placed the order passed by the High Court in C.R.P.No.1825 of 1989 in favour of the respondent, the

Chief Justice of City Civil Court, got annoyed and threw the papers away from the Bench with perverted grudge and he got demolished his premises causing loss of Rs. 17,000/-. This allegation is made regarding judicial conduct of the Judge while deciding case in which contemner appeared as an Advocate. When the case was decided no complaint was made prior to the present incident. Now the allegation is made regarding the conduct of the Judicial Officer and the same will amount to interfering the Judge acted with perverted motive and got demolished the premises of the respondent, which is a false allegation, amounts to scandalizing and lowering the authority and majesty of the Court. Therefore, the imputations made by the contemner in his representation sent to the Chief Justice of this Court amounts to "Criminal Contempt.""

26. The second question that has to be considered is whether the contemptuous imputations with reference to the administrative acts of the Judicial Officer do come within the definition of criminal contempt as defined u/s 2(c) of the Act.

27. For the decision of the above question the decision in Shri Baradakanta Mishra Vs. The Registrar of Orissa High Court and Another, is apposite to be referred here. In that case, the plea of the contemner was that his allegations as to improper and illegal control do not amount to contempt within the meaning of Section 2(c) of the Act- Elucidating this aspect, Justice Palekar observed :

"We have not been referred to any comprehensive definition of the expression "administration of justice". But historically and in the minds of the people administration of justice is exclusively associated with the Courts of Justice, constitutionally established. Such Courts have been established throughout the land by several statutes. The presiding Judge of a Court embodies in himself the Court and when engaged in the task of administering justice is assisted by a complement of clerks and ministerial officers whose duty it is to protect and maintain the records, prepare the writs, serve the process etc. The acts in which they are engaged are acts in aid of administration of justice by the presiding Judge. The power of appointment of clerks and ministerial officers invokes administrative control by the presiding Judge over them and though such control is described as administrative to distinguish it from the duties of a Judge sitting in the seat of justice, such control is exercised by the Judge as a Judge in the course of judicial administration. Judicial administration is an integrated function of the Judge and cannot suffer any dissection so far as maintenance of high standards of rectitude in judicial administration is concerned. The whole set-up of a Court is for the purpose of administration of justice and control which the Judge exercises over his assistants has also the object of maintaining the purity of administration of justice.

These observations apply to all Courts of justice in the land whether they are regarded as superior or inferior Courts of justice."

28. From the above said decision, it can be culled out that the Judges, who head the institution, discharge their administrative control to aid the judicial

administration. Therefore, judicial administration is an integrated function of the Judge and cannot suffer from any dissection so far as maintenance of high standards of rectitude are concerned. Coming to the present case, the imputations made by the contemner that the then Chief Judge has got demolished the premises of the contemner through the labour of the Court and that the said Judge has behaved pervertedly while hearing the case of contemner amounts criminal contempt. Thus, the imputations made by the contemner against the Chief Judge. City Civil Court. Hyderabad in his representation to the Chief Justice of this Court do come within the definition of "criminal contempt" u/s 2(c) of the Act.

29. The respondent-contemner in his last affidavit has tendered unconditional apology against the remarks made by him. The plea of the respondent is that he is aged about 77 years and doing consultation work, that his wife is suffering from kidney ailment and that he wrote letters in trouble-state of mind.

30. For the above stated reasons, we hold Mr. S.N.A. Nazareth, Advocate, the respondent herein guilty of contempt of Court for the above stated act. However, in view of the fact that he is aged 77 years old and is doing consultant work and has tendered unconditional apology, we think it proper to accept the unconditional apology on the condition that he executes a bond within four weeks from today before the Chief Judge, City Civil Court, Hyderabad for maintaining good conduct and for not indulging in any such contemptuous activities in future.

31. The Contempt Case is disposed of accordingly.