

(2000) 10 BOM CK 0025

In the Bombay High Court

Case No : Testamentary Suit No. 17 of 1996, in Testamentary Petition No. 132 of 1996, alongwith Notice of Motion No. 643 of 1997

Ila Vipin Pandya

APPELLANT

Vs

Smita Ambalal Patel

RESPONDENT

Date of Decision : 17-10-2000

Acts Referred:

Contempt of Courts Act, 1971 — Section 12, 2

Citation : (2000) 3 ALLMR 27 : (2001) ALLMR(Cri) 663 : (2001) 1 BOMLR 393 : (2001) CriLJ 838

Hon'ble Judges : D.G. Deshpande, J

Bench : Single Bench

Advocate : Mr. Farister Sethna and Ms. Nadar, instructed by Dunmorr Sett and Co, for the Appellant; Smita Patel, the Caveatrix, for the Respondent

Judgement

D. G. Deshpande, J.—Contemner is Smita Ambalal Patel, who is the defendant in this suit and who is fighting her own cases in person in the Courts, particularly in this Court.

2. This matter was on board on 25th August 2000 for framing Issues, when for no reason and without any provocation from the advocate for the petitioner Ms. Farister Sethna, contemner lost her temper and started making accusation against Ms. Sethna, in particular, and advocates in general calling them Virappan, the dreaded sandal dacoit from South, kidnapping Justice and dictating terms to the Judges. She was warned repeatedly by me of consequences for making such reckless allegations. But she continued to make them without taking into account all the warnings. She lost her temper, sense of propriety and not maintaining decorum and created chaos in the Court Room.

3. Then and there a notice was served upon her as to why action for contempt should not be taken against her. She was given eight days time to give reply.

4. Not affected in the least by contempt notice served upon her, the contemner

Smita Patel came to the Court on 2nd or 3rd day with an affidavit and started asserting that she had said something more against the advocates and that should be included in the contempt notice. The affidavit was not taken by me on record with a warning that she was aggravating the situation and that may lead to trouble for her. However, Smita Patel filed an affidavit in reply to the show cause notice on 4th September 2000. She also filed thereafter another affidavits dated 15th September 2000 and 4th October 2000. In the same manner, the petitioner Ila Vipin Pandya, who was present when the aforesaid incident dated 25th August 2000 took place in the Court Room, filed an affidavit dated 27th September 2000. Thereafter, both, the advocate for the petitioner Ms. Farister Sethna and the contemner Smita Patel were heard by me on three occasions at length.

5. It is necessary to note at this juncture that neither during her oral submissions nor in any of her affidavits, Smita Patel expressed her regrets for her uncalled scandalous allegations and utterances in the Court against the advocates, nor she was at any time apologetic about her behaviour in the Court. She did not express repentance or remorse about her behaviour, but to the contrary during her argument she contended that he does not want any sympathy from the Court or anybody. In addition, in her affidavit dated 4th September 2000 she repeated her allegations. When the contempt notice was issued to Smita Patel on 25th August 2000, Ms. Sethna had insisted that Smita Patel also uttered the words that she has been terrorising the judiciary. But I had deliberately omitted to take this as a ground for the contempt notice because of the compassionate view which a Court generally has for the litigants fighting their own cases. However, Smita Patel in her affidavit dated 4th September 2000 admitted that she made an oral request to me on 28th August 2000 to include those words in contempt notice and she had prayed that the contempt notice be amended and corrected accordingly and the words uttered by her that "she has been terrorising the judiciary" be inserted therein.

6. If the contemner wants and insists upon making situation difficult for her, is adamant and has uncalled for recklessness upon such insistence, then the Court cannot have any objection, and therefore, while deciding the contempt notice, I am going to take cognizance of those words uttered by her on 25th August 2000 to the effect that she has been terrorising the judiciary.

7. In fact the words uttered by Smita Patel in the show cause notice and as now added were uttered by her before Justice R. J. Kochar also on 23rd August 2000, as submitted and pointed out before me by Ms. Sethna. Smita Patel in her affidavit dated 4th September 2000 admitted to have uttered those words before Justice R. J. Kochar, However, what happened before Justice Kochar on 23rd August 2000 cannot be made subject matter of the contempt notice because Justice Kochar did not have any action against contemner Smita Patel.

8. From the aforesaid circumstances it would be clear that utterances of Smita Patel in the Court that advocates are Virappan, they are kidnapping justice and

dictating the terms to the Judges and they have been terrorising the judiciary are undoubtedly contemptuous and they are nothing short of criminal contempt which is defined in Section 2(c) of the Contempt of Courts Act, 1971 as;

"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 lends 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:"

9. From the contempt notice it will be clear that the contemner Smita Patel uttered those words without any provocation from Ms. Sethna secondly she lost her temper; thirdly she was warned by me not to indulge in such baseless allegations, but even then she insisted and repeated those allegations and this was in spite of patient hearing which we usually give to undefended litigants and, therefore, in the contempt notice it was pointed out that she was in habit of losing her temper, losing sense of propriety and not maintaining judicial decorum.

10. By the aforesaid contempt notice not only the utterance of contemner Smita Patel on 25th August 2000 have been the subject of contempt but her total behaviour in the Court whenever she appears in the matter is made a subject of contempt and that is specified in the second paragraph of the contempt notice : "she was found in habit of losing her temper and losing sense of propriety and not maintaining decorum." Therefore, the contempt notice is not only about the utterances of 25th August 2000 but the whole attitude of Smita Patel as observed by me whenever she appears and makes the submissions to the Court is made a subject of contempt.

11. Amongst her other submissions, Smita Patel tried to urge in defence that she has been fighting her own cases without help and assistance of any advocate, that she has been harassed and tortured by the opposite side advocate and might be because of these reasons she was in the habit of losing her control in the Courts. At the same time she repeatedly urged that she does not want any sympathy from the Court on this count.

12. When the contemner wants sympathy of the Courts or not, fairness of the thing requires that the Courts take into consideration all these particular aspects.

13. It is true that many litigants for different reasons fight their own cases or causes in Court without help or assistance of any advocate. This may be due to paucity of funds, financial constraints, lack of proper advice, or over confidence.

But very rarely persons fighting their own cases in the Courts behave in the manner in which Smita Patel has been behaving in the Courts. It is necessary to mention here that I am strictly going by her behaviour in my Court, that is, whenever she had any occasion to appear before me, and this I am taking into consideration because her usual behaviour is the subject matter of the contempt notice. Therefore. I have clarified in the contempt notice that, "even though the Court tries to understand her case by giving cool and patient hearing she was found in habit of loosing her temper and loosing sense of propriety and not maintaining judicial decorum."

14. The approach of the Court as stated in the show cause notice towards the litigants, fighting their own cases in person is always sympathetic. The Court tries to understand their cases, their problems and difficulties, some times priority is given to those litigants and if found necessary they are made cautious of the risk they face in fighting complicated cases without legal assistance from advocate. However, no litigants can be permitted to misbehave in the Court to behave in arrogant manner, to shout in Court, to make Tamasha in Court, make baseless allegations against other side advocate and upon Judicial System. The Courts can take very strong view of such misbehaviour.

15. So far as misbehaviour of Smita Patel is concerned, she has crossed all the limits. So far as misbehaviour in Court is concerned, she is in the habit of loosing temper in Court, shouting and raising her voice, scorning at the advocates, making faces, and gesture contemptuous to the other side, making show to the public, addressing the Court as if she is addressing the huge mob. Her attempt is to show that she is a lonely crusader, fighting against all the evils in the world, particularly in the Judicial System. However every time she was forgiven and neglected. But this broader human approach of the Court did not have any effect on her and her behaviour in the Court is becoming totally intolerable. It is creating a picture in the mind of the litigants and advocates appearing in the Court that Smita Patel can utter anything in Court, make any allegations in Court, make Tamasha in Court, and go scot free. It is also creating an alarming situation when every one present in the Court is carrying an impression that the Courts are either powerless to take any action against Smita Patel or that the Courts are pampering her and encouraging her misbehaviour.

16. Even while arguing this show cause notice Smita Patel did not stop and did not control her expressions. She was contemptuous while Ms. Sethna addressing the Court. She was making faces in the Court, laughing and smiling as if the contempt notice is a prize or garland offered to her by the whole judicial system for her fighting against so called corruption and unfair tactics of the advocates. Smita Patel not only repeated her allegations but tried to give vehement support to them. I have already observed that in spite of the contempt notice and the warning given to her in the contempt notice and during her argument, she did not show repentance, nor was apologetic, nor she gave any promise to improve herself.

17. If a litigant fighting his/her own cases loses his/her temper once while, and utters something against other side advocate or against the Court, the Court would not take serious cognizance and would let off the said person by warning. But case of the Smita Patel is different because it is her usual and casual approach and casual way of presenting herself in the Court and casual way includes shouting at the top of her voice, making allegations against the advocates, trying to obstruct judicial process and making Tamasha in the Court and worst of all to create a picture as if the Courts are without any power or authority to deal with her firmly.

18. Utterances by her on 25th August 2000 that the advocates are like Virappan, kidnapping justice and dictating terms to the Judges and terrorising the judiciary are scandalising and tend to lower the authority of the Court. If Smita Patel had made those allegations against the advocates, outside the Court Room, the matter would be different. But she made those allegations while arguing her case without any provocation, without there being any reason, and she did not stop by making the allegations against the advocates, but she alleged that the advocates are dictating the terms to the Judges and are also terrorising judiciary. Implications of these utterances is that the judges fall prey to the kidnappers or the advocates who are kidnappers like Virappan and succumb to their prayers and dictate judgments as per the desire of those advocates. These utterances, therefore, not only scandalise the authority of the Court but prejudice or interfere with the due course of the judicial proceeding and they also interfere and obstruct the administration of Justice in the Court.

19. During her submissions, Smita Patel tried to defend her utterances and also her behaviour. She filed three lengthy affidavits dated 4th September 2000, 15th September 2000 and 4th October 2000 and had also given a compilation of documents on 11th October 2000 after her submissions were over. [The manner and the mode through which the compilation of documents was given, is highly objectionable. Smita Patel had submitted that she would be giving certain authorities in support of her argument to the Court. However instead of giving this compilation to the Court or to the Office Associate, she gave this compilation in the office. In fact this is totally uncalled for and improper on the part of Smita Patel to tender her written submissions or compilation in a judicial matter to the department, particularly when she was supposed to give that compilation to the Court or in the Court. I could have rejected this compilation outright but since this is a contempt matter. I have taken it on record for the purpose of discussing the case laws cited by her.]

20. Smita Patel repeatedly tried to urge on the basis of three affidavits filed by her that in most of her cases, i.e. the Chamber Summons, or notice of motions or main petition or suit, the advocates appearing for the petitioner have conducted themselves not only in improper or illegal manner but they have been indulging in all sorts of activities like managing the staff, changing the record, replacing it and substituting it and therefore different Judges of this Court had

ordered inquiries and investigations into the conduct of different advocates appearing for the petitioner. She even urged and insisted upon as per her affidavits that all of her matters against different advocates should be referred to the Hon"ble Chief Justice who should appoint judicial commission to make investigation and inquiry into her allegations. All these submissions are totally senseless and they have got to be outright rejected.

21. When specifically questioned, Smita Patel, however, could not point out a single order of any of the Judge of this Court wherein any inquiry is directed against the conduct of the advocate with reference to her cases. She referred number of orders passed in her matters by Justice J. N. Patel, Justice K. K. Baam, Justice R. J. Kochar. Justice Variava, Justice D. K. Trivedi, but all her allegations were found to be absolutely baseless and totally false because none of these orders support her.

22. According to Smita Patel, she levelled charges against the advocates that they are Virappan, kidnapping justice and dictating terms to the Judges, because there have been different orders of different Judges of this Court against those advocates. However, not only one miserably failed to substantiate her contentions but she is exposed as a earlier of the first degree and is also found to be indulging in making false statement.

23. This also shows that not only Smita Patel uttered contemptuous and scandalous words as reproduced in the show cause notice dated 25th August 2000 but her expressions against the advocate were totally baseless, false and therefore the only inference that can be drawn is, she made those allegations against all the advocates and particularly made against Ms. Farister Sethna deliberately and intentionally to discourage Ms. Sethna from appearing in this matter for the petitioner to oppose Smita Patel.

24. As against this conduct of Smita Patel, Ms. Farister Sethna pointed out from the affidavit of petitioner dated 8th September 2000 that many Judges of this Court had made observations about the misbehaviour of Smita Patel in their Courts. These include observations of Justice J. N. Patel on 6.3.1997 when Smita Patel went to the extent of asking Justice J. N. Patel to accept vakalatnama on her behalf and fight for her causes. They also included a precise written by Smita Patel on 19.9.2000 to the Prothonotary and Senior Master where she wrote as under :-

"the present advocates as well as the erstwhile advocates on record for the plaintiff are repeatedly colluding with the Court staffs which gives a feeling that the advocates are not accountable for perverting and defiling the Streams of Justice."

Another incident that is quoted in the affidavit of Ms. Ila Pandya is the observations made by Dr. Justice Pratibha Upasani is as under :-

"Caveatrix Ms. Patel who is appearing in person is shouting very loudly and is

disturbing the Court proceedings. Actually she is talking and screaming in a very high pitch which makes it impossible for the Court to go on with the hearing of this matter."

"..... Mr. D. S. Parikh has agreed to the expeditious hearing of the petition and the suggestion was made to hear Notice of Motion along with petition at an early date. However, the Caveatrix, after hearing this suggestion, has backed out and has started speaking all sorts of irrelevant things accusing Advocates, the judicial system in general, without giving specific reply to the query made by the Court. In the commotion caused by the shouting and screaming of Ms. Patel, it is not possible to go on with the proceedings. The Court is, therefore, constrained to adjourn the matter to the next date.

At this stage. Mr. D. S. Parikh, who is appearing for the petitioner, makes an earnest oral request, in view of the allegations hurried by the Caveatrix against the Advocates and judicial system and in view of the commotion which is being created by the Caveatrix and in view of the irrelevant speeches obviously intended for playing to the gallery that the proceeding be tape-recorded so that whatever unwarranted, irrelevant and almost defamatory remarks are passed by the Caveatrix would be recorded."

25. Justice Dr. Pratibha Upasani then noted :-

"Heard Mr. D. S. Parikh, so also the Caveatrix. The Caveatrix is shouting loudly to the effect that "why tape recorder, even Video Camera should be fitted in the Court Room and everything should be recorded."

Perused the proceedings. It was informed to this Court across the Bar that even my predecessor Mrs. Baam, J. had given direction that a lady constable should remain present in Court obviously in view of the violent nature and frequent outbursts of the Caveatrix. On this background, when the Caveatrix obviously appears to be out of control and is in fact disturbing the Court proceedings, the suggestion made by Mr. D. S. Parikh appears to be worth taking notice of. Hence following order is passed :

Mr. D. S. Parikh may bring his tape recorder on the next date and the Court may consider whether the proceedings should be recorded or not on that day."

26. The same matter was appeared before Dr. Justice Pratibha Upasani on 24.12.1997 where it was observed by Dr. Justice Upasani as under :-

"..... There used to be always heated arguments and outbursts, unwarranted remarks, playing to the gallery attitude on the part of the Defendant, [i.e. Smita Patel] and there used to be always atmosphere of chaos in the Court Room. The hearing, therefore, could not take place in the congenial, peaceful and disciplined atmosphere as it should be in any Court of Law. Very often, the Defendant has gone astray while arguing the matter and has deviated from the averments made in the Chamber Summons, making summersaults and many of the points remained to be clarified in the utter chaos that ensued."

27. The matter does not end there. Justice J. A. Patil on 6.3.1997 also observed as under :-

" 3. The defendant stated that by the draft Chamber Summons she was seeking urgent relief. She insisted that the same should therefore be taken up for hearing. Accordingly, the defendant was given a patient hearing for about half-an-hour. Thereafter, the learned Advocate Shri D. V. Merchant for the plaintiff rose up to make his submission. He hardly argued for five minutes when he was interrupted by the defendant with the result he could not continue his submission. It was noticed that through out the hearing the defendant was noisy and she (illegible) at the top of her voice. She not only talked ... (illegible) things but also made wild allegations against the advocates as well as the Staff of the Court. She was in an angry mood and she did not listen to any advice given by me to be reasonable and relevant. On the contrary, she went on shouting that she would not be bothered even if she were to be hanged. The behaviour of the defendant in the Court Room was highly undignified and objectionable. In fact, it is found that she has been conducting herself in the same manner whenever she appeared in the Court. This is not only my experience but also of the other learned Judges before whom the defendant appeared in this matter. My attention was drawn to the order dated 10th December, 1997 passed by Dr. Upasani, J. in Chamber Summons No. 446 of 1997 wherein observations about the objectionable demeanor of the defendant are made. Shri Merchant, the learned Advocate for the plaintiff therefore submitted that the Court should take stern action against the defendant for her misbehaviour, the defendant being a lady not represented by any advocate, was shown some indulgence and tolerance. However, the Court will have to think seriously in case the defendant persists in misusing the indulgence so as to disturb and obstruct the Court proceedings."

28. Similar was the experience of Justice V. R. Datar and on 27.4.1998 Justice Datar observed as under :-

"Mr. Humranwalla for the petitioner/plaintiff states that M/s. Humranwalla & Co. has to think of withdrawing from the matter because of the wild allegations made by the Caveatrix in person. Mr. Merchant, Counsel appearing for them has refused to appear. Caveatrix in person objects to the same. Stand over to beyond vacation. Not to be treated as part heard."

29. The petitioner Ila Pandya in her affidavit dated 8th September 2000 quoted three more incidents of misbehaviour of Smita Patel before Justice K. K. Baam. They are reflected in the order of Justice on 10.6.1998 as under:-

" ... 2. Ms. Patel, the Caveatrix, appearing in person, states that she will proceed (illegible) matter only if the tape recorder is brought or video camera is made available in the Court which application, according to me, is not required to be allowed as this is a Court of Law and not any place of entertainment. Hence, the application of the Caveatrix is rejected"

30. Justice Baam had against to face tired of Smita Patel and she observed on 21.7.1999 as under :-

"At this stage, when the notice of motion is called out, the respondent-Ms. Smita Ambalal Patel - appeared in person and re-agitated the issue of the review petition which as already been decided on the last Wednesday. When questioned whether she wanted to go on with the hearing of the notices of motion, she stated that she wanted xerox copies of the documents to which the learned Advocate for the petitioner stated that every time when an adverse order is passed, this litigant applies for time to ensure that the matter is removed from the board of that particular Court. To this statement, the litigant started shouting in Court and made scandalous allegations against the Judges to the effect that they act on extraneous considerations." This irresponsible behaviour and conduct which the respondent has been adopting from time to time when adverse orders are passed tends to prejudice the confidence of the litigants in Courts who are present in Court for the administration of justice and disturbs the decorum of the Court.

Hence the Prothonotary and Senior Master is directed to issue a show cause notice to the respondent-Ms. Smita Ambalal Patel - calling upon her as to why contempt proceedings should not be adopted against her. Even when I passed the order of issuance of show cause notice, the respondent tried to dictate me the order which she expected the Court to pass. The respondent cannot dictate to the presiding Judge as to what order the Court should pass. The respondent thinks that she knows everything and time and again she disturbs the proceedings in the Court and thereby prejudices the progress of other matters in the Court. She left the Court in a huff and puff and again shouted to the effect: "the learned Advocate for the petitioner, Shri Humranwala, should go in jail." This is the attitude adopted by her from time to time which does not befit a litigant: By this behaviour which she has been adopting from time to time, by shouting and screaming in Court, she has been causing nuisances and prejudices the Court proceedings, and every time when an order is passed, which is not to her liking, she creates contemptuous atmosphere which not only disturbs the decorum of the Court, but also prejudices the progress of the proceedings in the Court."

31. Justice Baam, therefore, issued suo moto contempt notice to Smita Patel vide Show Cause Notice No. 973 of 1999 and matter came to be assigned to Justice R. J. Kochar. Justice Kochar held her guilty of committing contempt of Court by using contemptuous and objectionable language. However Justice Kochar took lenient view and let off Smita Patel and discharged the contempt notice with a word of caution to Smita Patel to keep her balance and not to loss temper.

32. It is necessary to clarify at this juncture that conduct of Smita Patel before Justice Baam on 21.7.1999 which is quoted above has already been the subject matter of contempt wherein Smita Patel found guilty, and therefore. I am not considering it for the purpose of present contempt notice but it will be considered

only as a background and as a aggravating situation when the question of punishment comes. Justice Kochar discharged the contempt notice with a word of caution to the contemner to keep her balance and to lose temper in his order dated 23.12.1999. However utterances of Smita Patel on 25th August 2000 before this Court, loosing her balance, indulging in making allegations and her behaviour are creating grave situation because it is clear that Smita Patel did not learnt lesson from the earlier contempt proceedings where she was found guilty.

33. Ms. Sethna also pointed out that disgusted with the behaviour of the contemner Smita Patel. Her Ladyship Justice K. K. Baam by her order dated 30.3.2000 passed following order :

"Remove from Board, not to be placed before me."

Ms. Sethna also boldly clarified and submitted that this order was passed by Justice Baam not because of Smita Patel known to her, or related to her, but because of the offending and uncontrollable manner in which Smita Patel defending herself before Justice Baam. In the background of this fact. I have no hesitation to accept the statement of Ms. Sethna.

34. It will be therefore clear from all the circumstances that so far as contempt notice dated 25th August 2000 is concerned, Smita Patel is guilty of contempt of Court and her contempt is criminal contempt as defined in Section 2(c) of the Contempt of Courts Act, 1971 because her utterances and her behaviour, which was subject matter of the contempt notice, scandalise and lower the authority of the Court: that is prejudices, interferes and obstructs the administration of justice.

35. Smita Patel during her own affidavit and during her oral submissions contended that his contempt notice be sent to some other Judge. This prayer was outright rejected by me because it was a criminal contempt for which notice was given to her- There was no legal necessity nor propriety in referring this contempt matter to some other Bench. This position was clarified by me to her during her submission.

36. Now coming to the Case laws cited by Smita Patel and given in the compilation by her. She relied upon P.D. Gupta Vs. Ram Murti and Another, - However, it is to be noted that none of these authorities are of any help to Smita Patel. It is not her defence that the words uttered by her did not constitute contempt or her behaviour did not amount to contempt. Therefore, there is no question of interpreting the words and utterances or behaviour of Smita Patel on 25th August 2000.

37. In S. P. Chengalvarraya Naidu v. Jagannath, the Supreme Court came to the conclusion that Jagannath, the plaintiff before the Trial Court obtained a decree by playing fraud on the Court. The said Jagannath was not subjected to any contempt proceedings.

In The Municipal Corporation of Greater Bombay and Anr. v. Smt. Annatte

Raymond Uttanwala and Ors. in that case the advocate by suppressing facts fraudulently obtained favourable orders from Court but far from being repentant contemner expressing his willingness to tender apology only to save his skin, and therefore, contemner was sentenced to undergo imprisonment and fine. This judgment does not help Smita Patel in any manner. To the contrary, observations in this judgment go against them which I intend to use while considering the punishment to be awarded to Smita Patel.

38. The next citation is *P. D. Gupta v. Ram Murti and Anr.*, There also the advocate had purchased property, which was the subject matter of litigation, from his client, on whom the advocate could exercise undue influence especially when there was a doubt case on the client's title to the property. The advocate purchased property at almost throw away price and he became a party to the litigation. The Supreme Court therefore upheld the punishment of debarring the advocate from practising for a period of one year. This judgment does not support Smita Patel because of her allegations against her opposite side advocate were baseless, false, motivated and scandalized.

39. Smita Patel also relied upon a judgment in *Chandra Shashi u. Anil Kumar Verma*, but it also does not help her because in that case as usual a forged and fabricated document was filed in Court with an oblique motive of deceiving and defrauding the Court. Punishment was awarded to the contemner.

40. The next case relied upon by Smita Patel in *Dhananjay Sharma v. State of Haryana and Ors* wherein the Supreme Court held that filing false affidavit in Court, not only obstructs but perverts Court of Justice and therefore contemner was held guilty of criminal-contempt. This judgment does not support Smita Patel.

41. Lastly, the judgment of Calcutta High Court in *Hastings Mill Limited v. Him Singh*, relied upon by Smita Patel also does not support her because what amounts to the acts of interference with due course of judicial proceeding is interpreted by the Calcutta High Court.

42. It will be therefore clear that Smita Patel has relied upon case laws which are not relevant, not germane to the issue. In her compilation she has also filed number of documents, none of which referred by her in her oral submission and none of them proves her contentions that the advocates are like Virappan, kidnapping justice and dictating terms to the Judges. It is, therefore, not necessary to consider or to go through any of these documents in the compilation.

43. While Smita Patel was making her submissions in reply to the contempt notice, it was pointed out to her that terrorists, gangsters, murderers, those convicted to death sentence, FERA detainees, MISA detainees also come frequently to the Court, but none of them has shown such disrespect to the Court, none of them ever repeatedly indulged in reckless behaviour in the Court, none of them ever made such allegations against other side advocates and in

that background, her behaviour was highly objectionable and there was no reason for her to repeatedly indulge in creating chaotic condition in the Court. To this Smita Patel has no answer.

44. This matter was on board today for order and contemner Smita Patel was told that she has been found guilty of the contempt i.e. the criminal contempt, and even though there is no legal obligation on the Court to ask explanation from the Caveatrix Smita Patel regarding punishment to be awarded, I asked what she has to say about the punishment u/s 12 of the Contempt of Courts Act which could extend to Simple Imprisonment up to six months and fine of Rs. 2,000/-. Therefore, I asked about the same, but she said that she cannot make any submission on this point unless she gets the copy of the Judgment.

45. On the other hand, counsel for the petitioner contended that maximum sentence should be awarded to the contemner.

46. I have already considered in my judgment the conduct of the contemner before me because that was the subject matter of the contempt notice and also her behaviour before the other Courts as pointed out by the counsel for the petitioner and I have already quoted the specific instances and the observations made by the Judges of this Court. In spite of those observations the contemner never improved herself. In fact on earlier occasion she was held guilty by Justice Kochar but she was let off on a warning. In fact the warning was expected to change the way of her behaviour in the Court, but the experience is otherwise and in spite of the warning and in spite of holding her guilty in contempt for her behaviour in the Court she has not improved and has continued in her uncontrolled behaviour in the Court which is creating a very serious situation because the litigants are thinking that the Courts are either pampering her or powerless to take a firm and curative action against her. I am quoting the Law of Contempt of Court. Published by Legal Classics from UBA, page 246 "The strains and mortification of litigation cannot be alleged to lead litigants to tarnish, terrorise and destroy the system of administration of justice by vilification of judges. It is not that Judges need be protected; judges may well take care of themselves. It is the right and interest of the public in the due administration of justice that has to be protected. A contumacious disregard of all decencies can only lead to a serious disturbance of all decencies can only lead to a serious disturbance of the system of administration of justice, unless duly repaired at once by inflicting an appropriate punishment, on the contemner, which must be to send him to jail to atone for his misconduct and thereafter to come out of prison as a better citizen". The contempt notice was issued to the contemner amongst other things not because she made direct allegations against this Court or any Judge but by implication her allegations were directed against the Judges. Therefore, considering the conduct of the contemner throughout before this Court and before the different judges and her reckless, baseless and scandalous allegations against the advocates in general and the advocate for the petitioner in particular and also considering the fact that though previously she was found

guilty in contempt and was let off her on a warning she has not improved herself at all. Therefore, this is a case where stern action is required to be taken, and as such as rightly contended by the counsel for the petitioner and even from the circumstances of the case, this is not a case where the contemner can be let off on a fine only. She is required to send to imprisonment along with fine and also costs for scandalous and reckless allegations against the advocate for the petitioner. I therefore pass the following order.

ORDER

47. Contemner Smita Patel is found guilty u/s 12 of the Contempt of Courts Act 1971. She is sentenced to Simple Imprisonment for three weeks and fine of Rs. 2,000/-. If fine is not paid she will have to go further S.I. for one week more. She will have to pay Rs. 5,000/- towards the costs to the counsel for the petitioner. Copy of this entire order will be made available to the contemner and petitioner by the end of the day.

48. Office to give number to the show cause notice.

49. Looking to the nature of the order, copy of this order duly authenticated by the Court Associate be given to the parties. Certified copy expedited.

17.10.2000.

50. After this order was pronounced the contemner prayed that this order be suspended as she wants to challenge this order in appeal. The prayer is reasonable, and therefore, operation of this order regarding imprisonment is suspended for one week from today, but as a condition, the contemner will have to deposit the fine and pay the costs by Thursday evening i.e. 19.10.2000 with the Prothonotary of this Court.