
(2012) 08 AHC CK 0253

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No's. 36273 and 37820 of 2012

Kanak Singh and Another

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 09-08-2012

Acts Referred:

Constitution of India, 1950 — Article 226
Criminal Procedure Code, 1973 (CrPC) — Section 340
Penal Code, 1860 (IPC) — Section 181, 182, 294

Citation : (2013) 1 ACR 358 : (2012) 8 ADJ 432

Hon'ble Judges : A.P. Sahi, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Hon'ble A.P. Sahi, J.—These two petitions have been filed by Kanak Singh claiming himself to be the President of the Committee of Management, Kisan Post Graduate Degree College, Simbhaoli, District Panch Sheel Nagar which is a society registered under the Societies Registration Act, 1860. The dispute began with a complaint made by one Rahul Singh claiming himself to be the Secretary of the Society who alleged that in view of the judgment of the High Court dated 17.2.2009 in Writ Petition No. 30664 of 2006 the petitioner will be presumed to have been convicted in an offence involving moral turpitude and therefore in view of the provisions of Section 16-A of the 1860 Act read with Clause 7(a)(iii) of the Bye-laws of the society, the petitioner is disqualified to hold the office of President of the Society. The Deputy Registrar has proceeded to entertain the said complaint and has accordingly passed the impugned order dated 5th July, 2012 holding the petitioner to be disqualified in the terms aforesaid and therefore not entitled to continue as President of the Society any longer.

2. As a consequence of the passing of the said order and a resolution to that effect of the Committee of Management dated 25th June, 2012 which is also to the same effect, the Vice-Chancellor on 10th July, 2012 has passed an order

approving the resolution of the Committee of Management against the petitioner Kanak Singh which has been communicated by the Assistant Registrar Affiliation on 12th July, 2012. The said communication has been challenged by the petitioner Kanak Singh in the second writ petition, namely Writ Petition No. 37820 of 2012 where a prayer has also been made to quash the resolution in the meeting dated 25th June, 2012.

3. I have heard Sri R.K. Ojha, Learned Counsel for the petitioner in both the writ petitions and Sri Shashi Nandan, learned Senior Counsel, assisted by Sri Ayush Singh for the contesting respondent Rahul Singh in both the writ petitions. The issue involved being purely legal about the impact of the judgment dated 17th February, 2009, it was not necessary to call for any counter-affidavit from the respondents including the State or the University to proceed with the matter.

4. In the second writ petition Sri Anurag Khanna has advanced his submissions on behalf of the Chaudhari Charan Singh University Meerut and its authorities. Accordingly, the matter is being disposed of finally at this stage itself.

5. Sri R.K. Ojha inviting the attention of the Court to the proceedings of Writ Petition No. 30664 of 2006 contends that in the said writ petition a prayer had been made to decide the representation filed by the petitioner which had to be disposed of in accordance with the judgment of the High Court dated 16.2.2005 in writ petition No. 29641 of 2003. The submission in essence was that the judgment dated 16.2.2005 issued a direction to the Vice-Chancellor to decide the matter. The same having not been done the petitioner alongwith another person Raj Singh filed writ petition No. 30664 of 2006 praying for a mandamus to the Vice-Chancellor to decide the same.

6. The said writ petition was disposed of on 26.5.2006 with a direction to the Vice-Chancellor to dispose of the representation of the petitioner whereafter one Sukhvir Singh, who was the respondent in the said writ petition, filed an application for recall of the order dated 26.5.2006. The respondent University also filed a counter-affidavit to the said recall application. However, the Court by making observations allowed the recall application setting aside the order dated 26.5.2006 and directed that the matter shall now be placed before the appropriate bench dealing with such matters. The order passed by the learned Single Judge on 17.11.2006 is quoted hereinbelow :

Hon"ble Bharti Sapru, J.

This is an application filed by the respondent No. 9, Sukhvir Singh for recall of the order passed by this Court on 26.5.2006.

A counter-affidavit has been filed by the University to the recall application and in paragraphs 10 and 17 of the said counter-affidavit the contention of the applicant, Sri Sukhvir Singh has been corroborated by the University that is to state that the representation which is appended as Annexure-9 to the writ petition was never filed before the Vice-Chancellor and is different from the

representation which was filed before the Vice-Chancellor on 15.3.2005.

The order dated 26.5.2006 was passed by the Court on the understanding that the order of this Court dated 16.2.2005 passed in writ petition No. 29641 of 2003 has not been complied with, that is the representation made by the petitioner before the Vice-Chancellor, had not been decided by the Vice-Chancellor.

The position as revealed in the recall application and the counter-affidavit filed by the University clearly shows that a false and misleading representation was made by the petitioner in paragraphs 18 and 25 of the writ petition and it is on the basis of that representation the order dated 26.5.2006 was passed.

The counsel for the respondent, University was also not in position to controvert the contents of paragraphs 18 and 25 of the writ petition on that date as it was also under the bonafide impression that the submission made in the petition was correct, as it had just received fresh notice and no counter-affidavit could have been filed.

Such being the case the order dated 26.5.2006 is hereby recalled. This petition may now not be treated to be tied up to me. The other applications, which are pending, are not tied up to me and may be considered freshly by the other Court.

7. Thereafter the matter was heard finally and after having noted the aforesaid order a learned Single Judge of this Court passed an order on 12th January, 2009 on the application moved by Sukhvair Singh as to why contempt proceedings be not initiated for having filed a false affidavit. The petitioners in the said writ petition including the present petitioner were called upon to appear in person before the Court on 17th February, 2009. The present petitioner appeared before the Court and filed an application alongwith an affidavit tendering unconditional apology affording an explanation that he had no deliberate intention to mislead the Court and an exemption application was filed on behalf of the other petitioner who was about 82 years of age on the ground of his illness. The learned Single Judge after having heard the Learned Counsel and having perused the affidavits on record passed the following judgment dismissing the writ petition on 17.2.2009 and simultaneously imposing a cost of Rs. 25,000/- each on both the petitioners with certain observations and directions. The said judgment dated 17.2.2009 is quoted hereinbelow:

Hon"ble Tarun Agarwal, J.

The petitioners, namely, Sri Kanak Singh and Sri Raj Singh, alleging themselves to be the Ex. President and Ex. Secretary, respectively of the Committee of Management of Kisan Degree College, Simbhaolil District Ghaziabad have filed the present writ petition praying for the quashing of the order dated 12.5.2006 passed by the Vice-Chancellor of Chaudhary Charan Singh University, Meerut and further praying for a writ of mandamus commanding the Vice-Chancellor to issue requisite directions to hold the election of the Committee of Management in

accordance with the Bye-laws of the Society. The writ petition was disposed of at the admission stage itself directing the Vice-Chancellor to decide the representation moved by the petitioners. Subsequently, an application, for the recall of the order, was filed by the respondent No. 9. A counter-affidavit was already filed by the University stating that the representation which was directed by the Court to be decided by the Vice-Chancellor was never filed by the petitioners and that a different representation was filed before the Vice-Chancellor. The Court, after considering the matter, passed an order dated 17.11.2006 recalling its earlier order dated 26.5.2006. The Court found that the petitioners had misled the Court and had filed a false affidavit.

The respondent No. 9 also moved an application for taking action against the petitioners for filing a false affidavit and for misleading the Court. The Court issued notices on the said application to the petitioners to show-cause why contempt proceedings may not be initiated against them. The Court, by an order dated 12.1.2009 also directed the petitioners to appear in person before the Court on 17.2.2009.

Today, the petitioner No. 1 had appeared and an application has been filed on behalf of petitioner No. 2 for exemption of his appearance on the ground of his old age, being 82 years old and on the ground of his illness. This exemption application has been taken on record and has been allowed. The affidavit filed by the petitioner Nos. 1 and 2 today as well as the orders of the Court passed earlier clearly indicates that the petitioners have misled the Court and had filed a false affidavit which clearly amounts to perjury, punishable u/s 181 I.P.C.

The Learned Counsel for the respondents submitted that a complaint should be lodged against the petitioners u/s 340 Cr.P.C.

Considering the facts and circumstances that has been brought on record coupled with the facts that the petitioners have rendered unconditional apology indicating that they had no deliberate intention in misleading the Court coupled with the fact that the petitioner No. 1 is about 76 years old and that the petitioner No. 2 is about 82 years of age, consequently, no useful purpose would be served in lodging a complaint against them at this stage of their life. Since false facts have been stated, no indulgence can be granted to the petitioners and, on this short ground, the writ petition is dismissed. Further, some kind of punishment, in the nature of cost, is required to be imposed as a deterrent to the petitioners, so that in future such kind of mistake is not committed.

Considering the facts that the petitioner No. 1, was at one time, the President and the petitioner No. 2 was the Secretary of the Committee of Management of educational institution, and must have done yeomen service to the institution, consequently, I direct the petitioner Nos. 1 and 2 to deposit a sum of Rs. 25,000/- each in the name of the college, Kisan Degree College, Simbhaoli, Ghaziabad within four weeks from today with the Principal of the institution. The Principal of the college will accept the bank draft and credit it in the account of

the College. From this amounts, two scholarships in the name of the petitioner Nos. 1 and 2 will start which will be paid every year to the best two students of Post Graduate (Previous) to be chosen by the Committee of Management in consultation with the Vice-Chancellor. This scholarship will be met from the interest received from this amount. Compliance of this order shall be carried out by the petitioners within four weeks from the date of the production of a certified copy of this order and an affidavit to this effect shall be filed by the petitioners before this Court on or before 17.3.2009. Even though, the writ petition is dismissed today, it will be listed for orders again on 23.3.2009.

8. The petitioner and the other person both deposited the said amount and the issue according to the petitioner came to a close.

9. Fresh elections were held in the year 2011 in which the petitioner was reelected as the President and the respondent No. 5 Rahul Singh was elected as the Secretary. The said Committee was also recognized and there was no dispute of any kind.

10. The petitioner claims that he was surprised to receive a show-cause notice from the Secretary Rahul Singh on 16.5.2012 to inform the Committee of Management as to why he may not be declared disqualified as his conviction under the judgment dated 17.2.2009 for moral turpitude militates against him.

11. The petitioner on 22nd May, 2012 sent a reply to the said show-cause notice and it is alleged that a meeting was proposed to be held on 30th May, 2012. The Vice-Chancellor of the University appears to have passed some order for staying the proceedings of the meeting and the petitioner and the respondent No. 5 were called upon to appear before the Vice-Chancellor. A further development took place before the Vice-Chancellor and a representation filed by the petitioner was rejected on 16.6.2012. A fresh agenda was circulated on 18th June, 2012 calling a meeting on 25.6.2012 in relation to the alleged disqualification of the petitioner. It is alleged that in the said meeting a resolution was passed against the petitioner disqualifying him to work as the President of the Committee of Management.

12. It is during this period that the Deputy Registrar who had received the complaint of Rahul Singh proceeded to issue notices and the petitioner informed the Deputy Registrar that he does not suffer from any disqualification and that the judgment dated 17.2.2009 does not convict the petitioner of any moral turpitude. The Deputy Registrar took some opinion from the District Government Counsel (Civil), Sri Raj Singh and in view of his opinion dated 18th June, 2012 came to the conclusion that since the petitioner had been punished and found guilty of having committed perjury and filing a false affidavit before this Court therefore the same amounted to a conviction of moral turpitude and accordingly passed the impugned order on 5th July, 2012.

13. Simultaneously, the resolution against the petitioner by the Committee of Management has been accepted by the impugned order of the Vice-Chancellor

dated 10th July, 2012 and communicated on 12th July, 2012 which is impugned as Annexure 19 in writ petition No. 37820 of 2012.

14. Having heard Learned Counsel for the parties and having perused the records, it appears that a dispute relating to the management of the institution which is affiliated to the Meerut University arrived before this Court in writ petition No. 29641 of 2003. The writ petition was disposed of with a direction that the respondent in the said writ petition shall make a fresh representation before the Vice-Chancellor in respect of the validity of the amendments and the Vice-Chancellor was to decide as to whether the amendments have been validly made or not. After such a decision is taken by the Vice-Chancellor the matter was to be brought to the notice of the Assistant Registrar, Firms, Societies and Chits who had to determine the electoral college for holding of the elections as per the valid bye-laws of the Society. Thereafter the elections were to be referred to the Vice-Chancellor for recognition of the Committee u/s 2(13) of the U.P. State Universities Act, 1973. The aforesaid judgment dated 16.2.2005 has been placed before the Court.

15. The petitioners approached the Vice-Chancellor and filed a representation for the compliance of the aforesaid judgment. It is alleged that since the said judgment was not being complied with by the Vice-Chancellor as also by the Assistant Registrar a fresh writ petition was filed for a direction to the Vice-Chancellor in this respect. It is this writ petition No. 30664 of 2006 which has given rise to the judgment dated 17.2.2009 and which is the bone of contention between the parties.

16. The aforesaid writ petition had been disposed of on 26.5.2006 but the order was recalled on 17.11.2006. The learned Single Judge having perused the affidavits on record entertained an application filed by Sukhvair Singh for taking action against the petitioner for filing a false affidavit and misleading this Court. The Court issued a show-cause notice as to why proceedings of contempt be not initiated. After the reply was submitted by the petitioner and Sri Raj Singh, the Court passed the judgment on 17.2.2009 which has been extracted hereinabove.

17. Sri R.K. Ojha, Learned Counsel for the petitioner contends that the observations made by the learned Single Judge do not amount to convicting the petitioner of any guilt and to the contrary the petitioner had been exonerated by the learned Single Judge by imposing an exemplary cost which was deposited by the petitioners in terms of the laudable object of providing scholarship to the students of the institution. He further contends that the entire content of the judgment as a matter of fact clearly indicates that the petitioners were not convicted but had been warned not to commit any mistake in future and as a matter of fact the alleged guilt of perjury was discharged. He submits that the petitioners were not punished in the sense of having been convicted, and there was no element of moral turpitude found by the learned Single Judge who, to the contrary, had observed that the petitioners must have done yeomen service to the institution. He further contends that the dismissal of the writ petition might

have been a cause of anguish on account of the alleged affidavit having been filed by the petitioners deliberately but there was neither any motive nor any deliberate intent on the part of the petitioners to either commit perjury or file a false affidavit. It is for this reason that Sri R.K. Ojha submits that the judgment dated 17.2.2009 is no conviction in the eyes of law.

18. Advancing his submissions he contends that the tendering of unqualified apology is no admission of the guilt and it is for this reason that the Court refused to initiate proceedings for lodging a complaint u/s 340 Cr.P.C.

19. He further submits that even if the proceedings are treated to be one of contempt, the notices were issued but the entire proceedings were dropped and neither any charges were framed nor was the petitioner subjected to any trial under the Contempt of Courts Act, 1971 for having committed either perjury or criminal contempt. He contends that if that was so, then the learned Single Judge could have referred the matter to the Division Bench where the jurisdiction lay to try a criminal contempt. The said procedure as provided for under Chapter 35-E of the High Court Rules, 1952 having not been followed, the same would amount to absolving or discharging the petitioner from the contempt proceedings by the learned Single Judge himself.

20. He therefore submits that in the absence of any trial u/s 340 Cr.P.C. or any trial under the Contempt of Courts Act. There is no conviction in accordance with law and the judgment dated 17.2.2009 would not amount to a conviction as understood in terms of the provisions of the Criminal Procedure Code or the Contempt of Courts Act.

21. An action according to him taken as a measure in the exercise of jurisdiction under Article 226 of the Constitution is not a trial or a verdict of conviction and is rather a discretionary jurisdiction where the Court having found a via-media to absolve the petitioners of the alleged guilt and to also provide for a deterrent in order to prevent any future mistake. In sum and substance, he contends that the act of the petitioner was treated to be an inadvertent mistake without any deliberate intention and as such the judgment cannot be read as a conviction, that too even of a moral turpitude against the petitioner. He therefore, submits that not only the order of the Deputy Registrar but the resolution passed by the Committee of Management and its compliance by the Vice-Chancellor all proceed on an erroneous assumption and therefore deserve to be set aside.

22. According to Sri Ojha there is no disqualification incurred by the petitioner either under the 1860 Act or the Bye-laws, hence, the impugned orders are vitiated. Sri Ojha further submits that the petitioner had been already re-elected in 2011 as the President and no objection was ever taken at all to his nomination as the President, even though he was continuing as such after the judgment dated 17.2.2009. This objection was not even taken by the respondent Rahul Singh and he therefore submits that it is a complete afterthought with a view to edge out the petitioner so that the respondent may be able to install a person of

his own choice. This is being done deliberately so as to lay the ground work for future elections and eliminate the petitioner.

23. Sri Shashi Nandan, learned Senior Counsel for the respondent submits that conviction in common parlance means finding of guilt. He submits that it is correct that the application for proceeding with the complaint u/s 340 Cr.P.C. was declined by the learned Single Judge. He however submits that the proceedings for contempt were initiated and after having entertained an unqualified apology of the petitioner, the Court came to the conclusion that the filing of a false affidavit clearly amounted to perjury which was punishable u/s 181 I.P.C., He further submits that the writ petition was also dismissed on this ground namely that the petitioner had come with unclean hands and since false facts had been stated no indulgence was granted by the Court.

24. Sri Shashi Nandan contends that in view of the nature of the guilt the Court instead of taking recourse to any further trial or punishment imposed the punishment in the nature of a cost. He submits that this clearly amounts to having acted upon after the finding of guilt was recorded and the consequential award of cost in no way takes away the impact of the finding of guilt. He further contends that even if the amount deposited by the petitioner has been utilized for a laudable object, the same cannot absolve the petitioner of the offence of moral turpitude which was found to have been committed in the shape of perjury and punishable u/s 181 I.P.C. by the learned Single Judge. Sri Shashi Nandan, therefore, having taken the Court through the contents of the judgment dated 17.2.2009 and the background of the litigation urged that this Court cannot go behind the guilt and the punishment that has been awarded under the judgment which is nothing short of conviction, and further the same having been acted upon by the petitioner, clearly amounts to the commission of an offence involving moral turpitude. In the circumstances, he submits that the finding recorded by the Deputy Registrar is justified and the resolution passed by the Committee which has been accepted by the Vice-Chancellor is also in consonance with the provisions of Section 16-A of the 1860 Act read with the relevant provisions of the bye-laws referred to hereinabove. He therefore submits that the petitions deserve to be dismissed.

25. Sri Anurag Khanna for the University however has described the act of the petitioner only as a mistake but he submits that the Vice-Chancellor had no option but to accept the said resolution of disqualification having been imposed on the petitioner by the Committee of Management.

26. The learned Standing Counsel has also supported the order of the Deputy Registrar and he contends that the provisions of the Act are clearly attracted as recorded by the Deputy Registrar and the petitioner having suffered a statutory disqualification has been rightly discontinued as President of the Society.

27. Having heard Learned Counsel for the parties and having perused the records, the background in which the petitioners came to be put to notice by the

learned Single Judge is that they incorrectly informed the Court about that representation which they had alleged to have filed before the Vice-Chancellor. The Court took exception to this information and treated the affidavit filed by the petitioners to be a false affidavit. The Court further recorded that filing of a false affidavit amounted to perjury and punishable u/s 181 I.P.C. On an application for filing a complaint of 340 Cr. P.C. in order to try out the offence of perjury, the Court was of the opinion that since an unconditional apology has been tendered by the petitioner, coupled with the fact that they are of a very advanced age, and further their affidavit that they have had no deliberate intention to mislead the Court, refused to proceed with any complaint u/s 340 Cr.P.C. This conclusion of the learned Single Judge therefore clearly ruled out any trial of the petitioners for the offence of perjury by lodging a complaint u/s 340 Cr.P.C.

28. The observations however made were that the petitioner had misled the Court by filing a false affidavit which amounted to perjury. In the opinion of the Court, the learned Single Judge simultaneously accepted the unconditional apology discharging the possibility of any proceedings under the Criminal Procedure Code. Thus there is no conviction by a Court after trial in terms of the Criminal Procedure Code.

29. At this stage, it would be relevant to observe that filing of a false affidavit and committing perjury is undoubtedly an offence which involves moral turpitude. Whether the petitioners had intended to commit such an offence is a different matter. Not only this an offence of providing false information to a Government servant as contemplated u/s 182 I.P.C. has been held to be an offence of moral turpitude. Reference may be had to the judgments of this Court in the case of Baleshwar Singh Vs. District Magistrate and Collector, Banaras and Others, . These judgments have been noted in another judgment of this Court in a Division Bench judgment of this Court in the case of Ran Vijay Chandra Vs. State of U.P. and Others, .

30. Sri Ojha has also invited the attention of the Court to the three ingredients that are required to constitute an offence of moral turpitude for the purpose of conviction as observed in paragraph 13 of the aforesaid judgment. The aforesaid principles are well recognized as also the expression moral turpitude which has been defined in those judgments.

31. In my opinion, also there is no doubt that if a person deliberately or motivatidely files a false affidavit before this Court with an intent to mislead the Court, such an act would amount to a depravity extending to moral turpitude. A person committing such an offence has to be looked down by the society as he tends to pollute the pure stream of justice of this Court and thereby defiles the entire judicial system. The attempt of a person to commit such an offence of perjury therefore has to be treated to be one of moral turpitude.

32. Coming to the facts of the present case it is undisputed that the petitioner had tendered an unqualified apology and had termed his act as a mistake. The

learned Single Judge accepted the said explanation of the absence of deliberate intent and having noted the same refused to lodge any complaint u/s 340 Cr.P.C. In the circumstances, even if it is assumed that any incorrect or false affidavit has been filed, the learned Single Judge did not choose to take action and reduced the same by imposing exemplary costs.

33. The question is whether the said judgment should be construed to be a judgment of conviction and whether the imposition of the cost should be treated as a punishment.

34. The facts of this case are peculiar in the sense that the learned Single Judge did neither get a complaint lodged for investigation nor the procedure of contempt was followed for arriving at a final decision of convicting the petitioner. It was on the strength of the unqualified apology and the explanation tendered by the petitioner that the learned Single Judge in the exercise of inherent powers of this Court exercised his discretion not to adopt any of the modes of conviction or punishment, and dropped the notices of contempt as well by imposing a penalty calling upon both the petitioners to deposit Rs. 25,000/- each. Not only this, the learned Single Judge observed that the same shall be invested as a scholarship in the name of the petitioners to be disbursed to the best students of the Post Graduate previous year of the college. Such students were to be chosen by the Committee of Management in consultation with the Vice-Chancellor. There is no dispute that the petitioner and the other person Raj Singh have complied with the aforesaid part of the judgment.

35. In my opinion even though the mistake has been admitted by the petitioner, the same would not amount to accepting guilt for the purpose of conviction as urged by Sri Shahsi Nandan for the respondent. The judgment in my opinion is in the shape of a deterrent taking exemplary action for not allowing the petitioners to commit any mistake in future. It is true that the word punishment has been used but it is in the shape of a cost. It is dependant on the apology tendered by the petitioner who had also indicated that the mistake was unintentional and not motivated. The judgment is in the shape of a reprimand or a censure having found a fault to have been committed by the petitioner. Having accepted the apology the Court exercised its discretion of remission which is forgiveness as well as pardon with an imposition of cost.

36. The inclination of the learned Single Judge was to grant a reprieve or a deliverance from the awkward situation which the petitioner had placed himself. The tenor of the entire judgment indicates a partial remission in the sense that there is an indication of relaxing and the lessening of the alleged mistake having been committed by the petitioner. The slackening shown by the learned Single Judge gradually therefore in my opinion was remittal. The Court therefore adopted a magnanimous attitude of not subjecting the petitioner to any trial either under the Criminal Procedure Code or the Contempt of Courts Act and itself imposed the cost while dismissing the writ petition. The judgment in my opinion was a cautionary note against the petitioner for his imprudent or

inappropriate manner of filing an affidavit before this Court.

37. It was therefore in the shape of a warning and not as a conviction. In other words the act was condemned by the Court without convicting the petitioner. Every adverse criticism or condemnation therefore cannot be construed to be a conviction. Accordingly, applying the aforesaid principles and the submissions raised, I am not prepared to accept the argument of Sri Shashi Nandan that the petitioner had been convicted by this Court.

38. On the facts of the present case the learned single Judge did not record the mistake or the alleged guilt of the petitioner to be one of moral turpitude. The sum and substance of the judgment appears to be to teach a lesson for future. The proceedings cannot also be described as one of plea bargaining. The petitioners conduct was one of obedience and surrender to uphold the majesty of the Court while tendering apology. He exhibited respect and Courtesy and did not choose to engage himself in any legal gymnastic. The apology therefore appears to have been accepted. An act of unconditional subordination cannot by itself be treated to admit a conviction.

39. In essence the petitioner was not held entirely responsible founded on base motive and was bailed out on the acceptance of an inadvertent mistake. The Court therefore did not choose the procedure of complaint or contempt to hold a formal trial and then convict the petitioner. The pronouncement of the Court of a false affidavit having been filed after apology was transformed into an opportunity to the petitioner of leading a better life and not face any severity of conviction. The cost was an exemplary cost with a novel investment in the name of the two petitioners for the benefit of the institution which is a laudable object, that would act in the shape of a reminder to all and sundry not to commit any such factual or legal slip in future.

40. The method adopted by the learned Judge was that as adopted in summary proceedings even though the order is under Article 226 of the Constitution of India which can be more aptly described as the inherent power of the High Court exercised to meet the ends of justice and affirm the faith of the people in the system. By this method the petitioner appears to have been emancipated on a note of repentance and not a formal conviction. The learned Single Judge therefore in my opinion did not convict the petitioner and by an exalted and magnanimous measure of powers that inhere in the High Court, other than Constitutional or Statutory powers, very aptly devised a tool that in my opinion balanced equity, justice and good conscience, simultaneously upholding the rule of law. This inherent power of the High Court allows it to adopt a via-media that is an admixture of all that can be thought of to be possessed by the High Court, of course without offending or violating settled law.

41. There is yet another aspect that should not escape notice so far as the present dispute is concerned. The respondent Rahul Singh allowed the petitioner to be elected President even after the so called indictment. He went hand in

gloves with the petitioner and he now after more than two years of the new elections and after more than three years of the judgment dated 17.2.2009, turns wise overnight to throw out the petitioner, not for any misconduct or demeanour as an office bearer, but for the alleged disqualification. This is certainly a sinister move and resembles the act of Brutus in Shakespeare's Julius Ceaser. To profess faith in the petitioner's leadership for this long inspite of the alleged disqualification is a conduct that is not one of compulsion. The general body must have reposed faith in the petitioner by a collective decision and suddenly a resolution by the Committee is adopted to remove him even before the decision of the Deputy Registrar. The petitioner should therefore take a lesson of not keeping company of such people and if possible avoid it. The Court would therefore end with a note, both for the aged petitioner and the young respondent by acknowledging the low ebb of morality resulting in moral turpitude by quoting the famous lines of an Urdu poet.

42. The issue of moral turpitude has been debated before the Apex Court and in a case involving conviction u/s 294 I.P.C. it was held in the case of Pawan Kumar Vs. State of Haryana and another, that offence involving too petty matters should not be treated as one necessarily involving moral turpitude. The said judgment was also discussed and explained in a full bench judgment of the Madras High Court in the case of Manikandan v. The Chairman, decided on 28.2.2008 (source- Indian Kanoon. Org.). Consequently, the reasoning given either by the Deputy Registrar in the order dated 5th July, 2012 or the resolution of the Committee of Management dated 25.6.2012 as accepted by the Vice-Chancellor on 10th July, 2012 are unsustainable. The writ petitions are therefore allowed and impugned orders dated 5th July, 2012 and the order of the Vice-Chancellor dated 10th July, 2012 as well as the communication dated 12.7.2012 are all quashed. The resolution of the Committee of Management consequently also cannot be sustained. The petitioner would stand restored as the President of the Committee of Management.