

(2012) 01 DEL CK 0450

In the Delhi High Court

Case No : Cont. Case (C) No. 165 of 2008

Montreaux Resorts P. Ltd. and Others

APPELLANT

Vs

Sonia Khosla and Others

RESPONDENT

Date of Decision : 04-01-2012

Acts Referred:

Arbitration and Conciliation Act, 1996 — Section 11
Central Excise Rules, 1994 — Rule 100H, 172, 173F, 173G, 52A
Central Excise Rules, 2002 — Rule 10, 11, 12, 26, 4
Central Excises and Salt Act, 1944 — Section 13, 9
Constitution of India, 1950 — Article 226
Contempt of Courts Act, 1971 — Section 12, 2
Customs Act, 1962 — Section 104, 111(O), 112, 132, 135

Citation : (2012) 01 DEL CK 0450

Hon'ble Judges : Suresh Kait, J

Bench : Single Bench

Advocate : Vibhu Bakhru, with Mr. Anand M. Mishra, for the Appellant; Indra Umanayar and Mr. Gurpreet Singh, Advocates with Sh. Deepak Khosla in person, for the Respondent

Judgement

Suresh Kait, J.—While dismissing review application being R.P. No. 788/2011, on 22.12.2011 it was noticed that applicant Mr. Deepak Khosla recorded the proceedings of this Court. The Registrar General and Registrar Vigilance of this Court were called in the Court. The Registrar Vigilance was directed to take into custody the gadgets i.e. SONY MP3 Recorder, LG Mobile Phone, and one HP Pavilion Laptop to ascertain whether the Court proceedings had been recorded by Mr. Deepak Khosla.

2. The Registrar Vigilance was further directed to get the contents of the aforesaid gadgets copied into a CD, thereafter, recording of the Court proceedings be got removed/deleted from the gadgets and same be returned to Mr. Deepak Khosla after due acknowledgement.

3. Pursuant to the order dated 22.12.2011 of this Court the aforesaid gadgets

were examined through Mr. Sarsij Kumar, System Analyst and Mr. Zameen Ahmed, Programmer in the presence of Mr. Girish Sharma, Registrar (Computerisation) of this Court. Since, the password of the HP Pavilion laptop was not available, wife of Mr. Deepak Khosla, who is contemnor No. 1 in present proceedings was contacted at 04:00PM on landline number 0120-4334365, which was taken from LG Mobile phone No. 9953096650 of Mr. Deepak Khosla and she was requested to send Mr. Deepak Khosla to ascertain the password of the laptop. Accordingly, Mr. Deepak Khosla himself appeared before Registrar Computerisation at 04:30PM on 23.12.2011. After getting the password i.e. "1234", the HP Pavilion laptop was opened and examined wherein no audio or video recording pertaining to the court proceedings were found in the laptop. However, two audio recordings were found in the mobile phone (LG P500) and six audio recordings were found in SONY MP3 Recorder. All these recordings have been copied on CD and the said data was removed/deleted from the SONY MP3 Recorder and LG Mobile phone, as per the direction of this Court.

4. For the satisfaction of the Court, the copied recordings were heard on the computer system in chamber and it was found that, Mr. Deepak Khosla had recorded the proceedings of this Court and proceedings of the Co-ordinate Bench of this Court; and further the proceedings of two different Courts namely Shri Ajay Gupta, learned ACMM and his successor Smt. Ravinder Bedi, learned ACMM. It is revealed that before the Courts below Mr. Khosla, has not maintained the dignity and decorum of the Court, as the language used by him is condemnable. This fact is verifiable from the orders passed by said Judges.

5. It is pertinent to mention here that vide a detail order dated 15.12.2011, the cases pending before this Court pertaining to Ms. Sonia Khosla and vice-versa were adjourned sine die due to the reasons recoded therein.

6. It is also pertinent to mention that about the conduct of Mr. Deepak Khosla, a finding has been recorded by a three member Arbitral Tribunal consisting of Hon"ble Ms. Justice Usha Mehra (Retd), Hon"ble Mr. Justice R.C. Chopra(Retd) and Hon"ble Mr. Justice Arun Kumar (Retd) as Presiding Arbitrator. The said Tribunal passed the order in 7th Proceeding held on 20.03.2009 at 05:00 PM which reads as under:-

For Claimants :Mr. Vibhu Bakru, Advocate

Mr. P. Nagesh, Advocate

Mr. Anand Mishra, Advocate

along with Mr. Vikas Kakkar, Advocate.

For Respondent :Mr. Deepak Khosla, representing respondents 1 & 2.

Due to highly obstructive and abrasive conduct of Mr. Deepak Khosla representing Mrs. Sonia Khosla, his wife-respondent 1 and Mr. R.P. Khosla, his father- respondent-2 throughout the proceedings, we the three arbitrators have

resigned as arbitrators in this matter. Mr. Khosla does not let the matter proceed on merits as he keeps on moving one application after another and insists on the applications being heard first. Moreover his stand (as recorded in proceedings on the late date of hearing dated 4.2.2009) is that this Arbitral Tribunal is not legally constituted. The resignations of each of the arbitrators, hand written and duly signed, are annexed hereto.

JUSTICE ARUN KUMAR(Retd)

PRESIDING ARIBTRATOR

7. Thereafter, vide order dated 29.05.2009, my esteemed colleague Hon''ble Ms. Justice Gita Mittal, observed as under:-

42. Having regard to the protracted hearings before this court and the uncontrolled and vituperous allegations against the other side and their counsels, the matter has been taken up on all dates at the end of the Board. Adjournments which have been taken from the court on the pretext of sickness of his wife by Mr. Deepak Khosla, have been utilised to file voluminous and repetition applications to protract the hearings which appear to indicate that the applicant is bend on avoiding adjudication in the main issue which is pending consideration.

These applications are filed in either Co. A .(SB) No. 6/2008 or Co. A .(SB) No. 7/2008 or both by Mr. Deepak Khosla utilising the shield of the appellants by the applicant. The applicants have not been present in court on any date of hearing. Yet the applications purport to make submissions on court proceedings which are incorrect.

43. By way of Co. A. No. 512/2009, a prayer to cross examine his own counsels as well as counsels on the other side is made. Without there being any pleading or statement in respect of which they are to be cross-examined.

44. Furthermore, the application is premised on a total misconception about procedure as well as what would constitute pleadings in law. I find that the application has been filed as a dilatory tactic to avoid adjudication in CA No. 1001/2008 in Co. A. (SB) No. 7/2008 and CA No. 1000/2008 filed in Co. A. (SB) No. 6/2008. The same certainly is intended to pressurize the counsels appearing on the other side.

45. The manner in which the prayers have been couched amount to seeking yet another review.

46. While making submissions on the present application, Mr. Deepak Khosla has urged that if the order under review in the proceedings which are under consideration was correct, "either I have lost senses of my counsel has"; "counsel has to explain what a relief counsel has got me", "I can go on filing review ad nauseum and you have to entertain them". His conduct and utterances in the proceedings are noticed in other judgments on two other applications.

8. Even prior to that, vide order dated 28.01.2009 same Co-ordinate Bench passed order against Mr. Deepak Khosla which reads as under:-

The applications before this Court are in the nature of a review of hearings wherefrom a brother colleague has rescued himself for reasons of scandalous averments contained in CA no.1000/2008. It is well settled that consideration of any application has to abide by judicial record which is placed before the court. Fully conscious of the well settled legal position, unfounded allegations, before even submissions could be completed by counsel, have been made.

The matter was adjourned at request of counsel for the respondents to today. During the intervening period, CA No. 133/2008 in Co. A (SB) 7/2008 and CCP No. 1/2009 in Co. A (SB) No. 6/2008 have been filed on behalf of the applicant.

When the matter was called out for hearing today, the applicant insisted on arguing CCP NO. 1/2009 in Co.A. (SB) No. 6/2008 and CA No. 27/2009 & 31/2009 in Co. A (SB) No. 7/2008 objecting to the appearance of learned counsel on the other side on the ground that they have no right to appear.

Counsels for the respondents were heard and have drawn my attention to the memo of parties filed by Ms. Sonia Khosla before the Company Law Board wherein this company was arrayed as the respondent no.1 and was represented by counsel appearing for the respondent nos.2, 3 and 4 before this court. Counsels relied on Paras 3 to 9 of order dated 31st January, 2008 passed by the Company Law Board at Page 60 of Co. A (SB) No. 6/2008. In this background, in as much as counsels had appeared for the respondents before the Company Law Board and the present petition in appeal being continuation thereof, I saw no reason as to why they cannot continue to complete the arguments in the part-heard matter. It was pointed out that no such objection was ever raised even though the same counsel have been appearing in the matter right from the first date when the respondents first put in appearance. Caveat is also stated to have been filed.

In this background, Mr. Vibhu Bhakru, Advocate who has been addressing arguments was asked to resume arguments on the part-heard application. At this stage, Mr. Deepak Khosla rose and started gesticulating. He interrupted the court proceedings in a loud voice making allegations that the counsels appearing in the matter have no right of audience in the matter and that proceedings in this court are not as per law. All requests to him to contain himself, to resume his seat and permit respondents' counsel to complete his submission did not bear any fruit. Mr. Khosla continued to interrupt the court proceedings in loud and obstructive tone and making allegations against the counsel appearing on the other side in open court that they are lying.

He used insulting language and has cast aspersions on counsel appearing on the other side. The allegations made are scandalous and aimed at creating prejudice and embarrassment to counsel who are discharging their professional duties towards their client. I have been exercising considerable restraint keeping in view

that Mr. Deepak Khosla was appearing in person. The respondents have objected to his appearance inasmuch as he is arrayed as respondent no. 11 before the Company law Board in the petition which has been filed by his wife Ms. Sonia Khosla as the petitioner and Mr. Khosla is the opposite party before the Company Law Board.

His conduct in court today was so obstructive that this court found it impossible to record the order in open court and has risen to dictate this order in chambers.

The acts of Mr. Deepak Khosla in standing up when the other side is arguing, gesticulating with his hands, raising his voice and not permitting the proceedings in the court to continue amounts to interference with the due course of judicial proceedings before this court, which prima facie, constitutes criminal contempt of court.

Paras 1 to 9 of this order be treated as the facts constituting the gravamen of the charge as per para 10 above.

Let a copy of order be given to Mr. Deepak Khosla under signatures of the Court Master. Mr. Deepak Khosla is hereby called upon to submit his response to this order, which is being treated as a notice of charge, to be responded within two weeks.

The contempt matter may be place before Hon"ble the Chief Justice for placing before the appropriate Division Bench for further proceedings.

Registry shall appropriately register the matter and place copies of all the orders and applications noticed above before the Division Bench.

Dasti.

9. The most important factor, which is necessary to highlight the conduct is that the Division Bench of this Court in Deepak Khosla Vs. Union of India (UOI) and Others, on being the matter referred by Co-ordinate Bench of this Court on 25.02.2011, after discussing the facts and law held as under:-

6. There is no cavil over the issue that there is no specific legislation, provision or any law regulating the field referring to which it can be said that there is a mandate of law that the audio/video recording is to be done in respect of Court proceedings. There is no statutory authority which has been given the said responsible function. A writ of mandamus means a command which is issued in favour of a person who establishes an inherent legal right in his case. Such a writ is issued against a person who has a legal duty or obligation to perform but has failed or neglected to do so. It needs no special emphasis to state that such a legal duty emanates either from discharge of a public duty or operation of law. In this context, we may refer with profit to the decision in Director of Settlements, Andhra Pradesh and Others Vs. M.R. Apparao and Another, wherein it has been stated thus:

The expression "for any other purpose" in Article 226 makes the jurisdiction of

the High Courts more extensive but yet the Courts must exercise the same with certain restraints and within some parameters. One of the conditions for exercising power under Article 226 for issuance of a mandamus is that the Court must come to the conclusion that the aggrieved person has a legal right, which entitles him to any of the rights and that such right has been infringed. In other words, existence of a legal right of a citizen and performance of any corresponding legal duty by the State or any public authority, could be enforced by issuance of a writ of mandamus. "Mandamus" means a command. It differs from the writs of prohibition or certiorari in its demand for some activity on the part of the body or person to whom it is addressed. Mandamus is a command issued to direct any person, corporation, inferior courts or Government, requiring him or them to do some particular thing therein specified which appertains to his or their office and is in the nature of a public duty. A mandamus is available against any public authority including administrative and local bodies, and it would lie to any person who is under a duty imposed by a statute or by the common law to do a particular act. In order to obtain a writ or order in the nature of mandamus, the applicant has to satisfy that he has a legal right to the performance of a legal duty by the party against whom the mandamus is sought and such right must be subsisting on the date of the petition (*Kalyan Singh v. State of UP*, AIR 1962 SC 1183). The duty that may be enjoined by mandamus may be one imposed by the Constitution, a statute, common law or by rules or orders having the force of law.

7. In the case at hand, the petitioner does not have a legal right which is provided for under any enactment, common law or by rules or orders which have the force of law. He has advanced his arguments on the basis of transparency. Needless to emphasise, the material brought on record pertains to the practice followed in other countries and the petitioner's personal belief as he has been litigating many cases before this Court. In a way, he has made an adroit effort to give sermons in the name of transparency. An individual sermon cannot earn the status of any law. What is canvassed by him is that the audio/video recording process will curtail the Courts' time and the submissions would be luculent and there would be saving of the proceedings for future. The feelings of the petitioner have not yet been codified into a law by the Legislature. Hearings in Court take place in open court except where it is stipulated by the statute that proceedings shall be taken in camera or in certain cases of habeas corpus or matters relating to chamber proceedings. They are different from recording of proceedings in open court by way of audio/video recording. There is no rule in that regard. Framing of a rule is a matter of policy. Someone can have a grievance when there is a rule which is not followed and the litigant's legal right is affected. Therefore, no mandamus can be issued to the respondents for audio and video recording of the Court proceedings.

8. In this context, we may refer with profit to certain authorities in the field. In *Narinder Chand Hem Raj and Others Vs. Lt. Governor, Administrator, Union Territory, Himachal Pradesh and Others*, their Lordships have opined that no

court can issue a mandate to a legislature to enact a particular law and similarly, no court can direct a subordinate legislative body to enact or not to enact a law which it may be competent to enact.

9. In *State of Himachal Pradesh Vs. A Parent of a Student of Medical College, Simla and Others*, it has been ruled that the court cannot usurp the functions assigned to the executive and the legislature under the Constitution and it cannot even indirectly require the executive to introduce a particular legislation or the legislature to pass it WP(C) No. 12787/2009 page 10 of 13 or assume to itself a supervisory role over the law making activities of the executive and the legislature.

10. In *Supreme Court Employees" Supreme Court Employees" Welfare Association and Others Vs. Union of India (UOI) and Another*, it has been held that no court can direct an executive authority.

11. In *Chandigarh Administration and another Vs. Manpreet Singh and others*, their Lordships of the Apex Court has clearly stated that the High Court cannot assume the role of a rule making authority in exercise of the power under Article 226 of the Constitution of India.

12. In *State of Jammu and Kashmir Vs. A.R. Zakki and others*, , the principle was reiterated that a writ of mandamus cannot be issued to the legislature to enact a particular legislation and the same is true as regards the executive when it exercises the power to make rules which are in the nature of subordinate legislation.

13. In *Municipal Committee, Patiala Vs. Model Town Residents Asson. and Others*, though in a different factual WP(C) No. 12787/2009 page 11 of 13 matrix, the Apex Court has opined that the High Court has no power to structure or restructure the legislative enactments. It has been reiterated that High Court must ensure that while exercising its jurisdiction which is supervisory in nature, it should not over step the well recognized bounds of its own jurisdiction.

14. In view of our premised reason, we answer the reference stating that a writ in the nature of mandamus cannot be issued for taking measures of audio/video recording in trial courts as well as in this Court. We may hasten to add that as the sole prayer in the writ petition pertains to the said relief, nothing subsists to be adjudicated in the writ petition. Accordingly, the writ petition stands dismissed without any order as to costs.

10. It is also brought to my notice that vide order dated 02.12.2011 the Co-ordinate Bench of this Court has passed order in Arb. P. No. 323/2010 which reads under:-

Mr. Sandeep Sethi, learned Senior counsel appearing on behalf of the petitioner had concluded his submission in the month of May, 2011, on the application filed by the petitioner u/s 11 of the Arbitration and Conciliation Act, 1996. No submission was made by Mr. Deepak Khosla appearing on behalf of the

respondents at that time. Being a part-heard matter, the matter was transferred to this Court by another Bench. On the last date of hearing, the matter was called three times but no one appeared on behalf of the respondents. Left with no option but to reserve the order, with the direction to the respondents to file the written submissions. Later on he sent E-mail letter and application directly addressed to the Court, despite he was asked not to do the same. The abovementioned fresh application filed by the respondent has been considered by the court. The averments made in the application about the matter are totally misconceived. This court is not satisfied with the explanation given by the respondent for non-appearance on 25th November, 2011 as many irrelevant and false statements have been made by him. However, in the interest of justice, equity and fair play, the respondents are granted liberty to address their argument on 02.01.2012 alongwith other pending petitions/ applications.

Mr. Sethi states that he has not to add any further submissions in the matter. Mr. Khosla states that the respondents would take three hours to complete their submissions.

11. In spite of all these, Mr. Deepak Khosla, has been continuously, recoding the court proceedings, therefore, it amounts to Contempt of Courts.

12. It is brought to the notice of this court that in show cause notice No. C. No. IV(9)CP/110/03/Pt. III dated 31.08.2004 issued by Office of Commissioner, Customs and Central Excise, NOIDA, whereby it is revealed that Mr. Deepak Khosla and his cousin brother Mr. Vineet Khosla were arrested u/s 104 of CA and Section 13 of CEA on 07.01.2004. The bail applications of both the above mentioned persons were rejected by Id.Special CJM, (Economic Offence Court), Meerut holding acts of both of them serious in nature. Hearing of bail applications continued for number of days and the District & Sessions Judge, Meerut after imposing stringent conditions, granted them bail after 31 days of detention on 06.02.2004. Para 190 of the said Show Cause notice reads as under:-

In view of the above facts, stated in previous paragraphs relating to contravention of various provisions of CA & CEA, rules made thereunder. Provisions of various notifications and scheme of 100% of EOU, it appears that all the contravention were master minded, planned and executed by Shri Deepak Khosla & Shri Vineet Khosla supported by Shri R.P. Khosla and Ms. Pooja Khosla from Ajit Industries and Empire Buildtech Private Limited in collusion with MIL. Scrutiny of incriminating documents and evidences emerging therefrom revealed that Shri Deepak Khosla and Shri Vineet Khosla, aided and abetted by Shri R.P. Khosla and Ms. Pooja Khosla actively participated in intentional fraudulent diversion of goods procured duty free under the 100% EOU Scheme and under valuation of goods with mal-intention of getting un-due benefits by evading duties in violation of the provisions of notification No. 53/97-Cus. Dated 03.06.1997, notification No. 1/95-CE dated 04.01.1995, and the conditions of B-17 bond execute under notification No. 1/93-CE dated 4.1.1995. They appear

to have contravened the provisions of rules 52A, 53, 100H, 173F, 173G read with rule 172 of erstwhile Central Excise Rules, 1994, rules 4, 6, 8, 10, 11 & 12 read with rule 26 of the Central Excise Rules, 2001/2002, Section 14(1) & 111(O) of the CA, thereby rendering themselves liable for punishment under sections 132 & 135 of the CA and Section 9 of the CEA and penalty u/s 112 of CA, read with rule 26 of Central Excise Rules, 2001/2002. Under the reasonable belief that Sh. Deepak Khosla Sh.Vineet Khosla actively participated in the aforesaid contravention leading to evasion of substantial revenue and were liable for punishment aforementioned sections 132 & 135 of CA and Section 9 of CEA, both of them were arrested u/s 104 of the CA and Section 13 of CEA on 07.01.2004. The bail applications of both the above mentioned persons were rejected by Id. Special CJM, (Economic Offence Court), Meerut holding acts of both of them serious in nature. Hearing of bail applications continued for number of days and the District & Sessions Judge, Meerut after imposing stringent conditions, granted them bail after 31 days of detention on 06.02.2004.

Therefore, he invariably fights with the courts and used insulting and contemptuous language and say that he was not afraid of going behind the bar.

14. Before resorting to further action, I must mention that more than 20 Hon'ble Judges of this Court have already rescued themselves from the cases of Mr. Deepak Khosla and the opposite party.

14. In the circumstances, I am of the considered view that he shall not appear in any Court either in person or as attorney; he does not have inherent right to appear and argue in person. This issue has already been settled by the Apex Court in Ila Vipin Pandya Vs. Smita Ambalal Patel, wherein it has been held as under:-

9. We have also gone through the earlier record of proceedings and find a very disturbing picture indeed. It appears that the testamentary suit was fixed for framing of issues before Deshpande, J., of the Bombay High Court on 25th August, 2000, when she misbehaved in Court on which a notice to show cause as to why action for contempt of Court should not be taken against her was served on her there and then and eight days time was allowed to file a reply. The Learned Judge thereafter by his order dated 17th August, 2000 found her guilty u/s 12 of the Contempt of Courts Act, 1971 and sentenced her to undergo simple imprisonment for three weeks and to a fine of Rs. 2000/- in default, to undergo a sentence for one week and also directed her to pay Rs. 5000/- as costs to the counsel for the petitioner. The observations in the aforesaid order tell their own tale and we re-produce hereunder some paragraphs from it:-

"This matter was on board on 25.8.2000 for framing issues, when for no reason and without any provocation from the advocate for the petitioner Ms. Farishte Sethna, contemner lost her temper and started making accusation against Ms. Sethna, in particular, and advocates in general calling them Virappan, the dreaded sandal decoit 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.

Then and there is 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.

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 include 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 4.9.2000. She also filed thereafter another affidavits dated 15.9.2000 and 4.10.2000. In the same manner, the petitioner Ila Vipin Pandya, who was present when the aforesaid incident dated 25.8.2000 took place in the Court Room, filed an affidavit dated 27.9.2000. Thereafter, both, the advocate for the petitioner Ms. Farishte Sethna and the contemner Smita Patel were heard by me on three occasions at length.

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 behavior in the Court. She did not express repentance or remorse about her behavior, but to the contrary during her argument she contended that she does not want any sympathy from the court or anybody. In addition, in her affidavit dated 4.9.2000 she repeated her allegations. When the contempt notice was issued to Smita Patel on 25.8.2000. Ms. Sethna had insisted that Smita Patel also uttered the words that she has been terrorizing 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 4.9.2000 admitting that she made an oral request to me on 28.8.2000 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.

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 can not have any objection, and therefore, while deciding the contempt notice, I am doing to take cognizance of those words uttered by her on 25.8.2000 to the effect that she has been terrorising the judiciary.

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 23.8.2000, as submitted and pointed out before me by Ms. Sethna, Smita Patel in her affidavit

dated 4.9.2000, admitted to have uttered those words before Justice R.J. Kochar. However, what happened before Justice Kochar on 23.8.2000 cannot be made subject matter of the contempt notice because Justice Kochar did not take any action against contemner Smita Patel.

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

20. The matter does not end here. We had, as already indicated, closed arguments on 3rd May 2006 by a speaking order. On the very next day some applications on affidavit dated 4th May 2007 tendered apparently by the respondent were sent to us, again referring to some of the proceedings that had been going on and again raking up irrelevant issues. We reproduce hereunder and verbatim some extracts there from -

Thereafter, in the midst of the arguments of the respondent, the learned Senior Counsel Mr. R.F. Nariman got up and stated that they were prepared to offer anything for settlement. The respondent had at this juncture, furnished two sets of "written arguments on affidavit of the respondent dated 02.05.2007" to the court and one to the learned Senior Counsel Mr. R.F. Nariman and prayed for the say of the Learned Counsel as well as the appellant. The Court read the entire affidavit. The respondent states that the appellant who is the front/ostensible party of the advocates on record engaged by the underworld who are the real parties and have been repeatedly violating the orders/undertaking/status quo orders of the Bombay High Court, tempering with judicial order of the court as well as the courts record with the connivance of the court staff. These advocates have no regard for truth and the courts of law. The respondent states that it is untrue and incorrect to record by Your Lordships that the respondent does not want to argue on points raised by the learned Senior Counsel Mr. R.F. Nariman for the appellant and therefore the court is closing the respondent's arguments. In fact he had completed his argument on 11.4.2007 and the respondent had started her argument on 11.4.2007 from 2.15 p.m. to 4.00 p.m. and on 12.4.2007 from 3.15 p.m. to 4 p.m. and on 03.05.2007 from 10.45 a.m. to 12.15 p.m. and has partially dealt with the learned Senior Counsel Mr. R.F. Nariman's argument.

xxx

The application dated 26.04.2007 (without annexures) made to the Hon''ble the Chief Justice of the Bombay High Court by the respondent and inter-alia prayed that the only way to weed out the cancer of corruption from the judiciary and prevent the unholy nexus between the few corrupt advocates and the court staff is "To hang the victim Smita Patel from the strong hook kept in the Central Court of the Bombay High Court instead from a lamp post on 15th August 2007 on the

Independence Day under the directions of the coming Chief Justice Shri Swatanter Kumar.

In the light of the above submissions, the respondent states that she has not said anything that would attract contempt of courts action against her. However, if this Hon''ble Court still inclined to initiate contempt notice, the respondent prays as under:

(A) This Hon''ble Court be pleased to order that from the Platform Plaza (in the front of the Hon''ble Chief Justice Court Room No. 1) the respondent be shot from a cannon and killed like "Rani Laxmibai -The Jhansi Ki Rani" who was shot and killed by the Britishers as was the practice.

(B) A dynamic be directed to be kept and the respondent is willing to sit on the lap of the statue of Mahatma Gandhi situated in front of the garden lawn of the Supreme Court and light the fuse herself.

Nota Bene: Some of the extracts in the preceding paragraphs have spelling and grammatical errors, but we have reproduced them verbatim from the record before us.

21. It is indeed disgusting to see a litigant attempting to intimidate the Supreme Court and two of its Judges in such a crude and obnoxious manner.

22. A resume of the facts clearly reveal the incorrigible and recalcitrant attitude of the respondent. We could perhaps condone her errant conduct if she was merely a highly strung and impetuous lady over-sensitive to her case and unaware of the nuances of the law and the decorum to be maintained in Court but we are satisfied that no ignorance nor mental imbalance is discernible which can be pleaded in extenuation of her behavior. The record reveals that she is well aware of the conduct of the judicial process and the law and facts relating to her case, but she has evolved a strategy which has thus far kept her in good stead as it has been designed to filibuster the proceedings in case she finds that they are not taking the direction that she has chalked out and that despite her conviction for contempt of court on two occasions and numerous admonitions and warnings notwithstanding, she has remained unfazed and has in a most unbecoming manner relentlessly and ruthlessly pursued the litigation. We also quote yet again from the judgment of the Division Bench dated 16th November, 2000:

It may also be possible that she has lost her mental balance because of the said facts. (Though, considering the manner in which the contemner coolly argued the appeal before us, we are not inclined to believe that she has really lost her mental balance).

We completely endorse this observation.

23. We must emphasize that a Court is not a forum which can be used for spewing venom and vitriol on the opposite party, and even more alarmingly, on

the judge hearing the case and the counsel representing that party. The written arguments that the respondent has filed in court betray her purpose. The new demands clearly reveal her intention to extort as much as she can from the appellant, who, it must be presumed, is exhausted and drained by the huge number of court proceedings that have been going on for the last 11 years.

24. We have advisedly given the detailed history of this litigation to emphasize that those who attempt to take court proceedings lightly or try to subvert the judicial process to their advantage, do so at their peril. The imposition of exemplary costs must, as a consequence, follow.

15. After seeing his conduct in this Court and in different Courts, I am of the opinion that before resorting to legal action, he should be medically examined. It seems that he is suffering from some kind of mental disorder as he has been taking the Courts for granted and has been acting over-smart. Therefore, in these compelling circumstances, his mental assessment is essential.

16. Consequently, in the foregoing situation, I direct SHO, police station Tilak Marg, New Delhi to get him admitted in the Institute of Human Behaviour and Allied Sciences, Shahdara, Delhi, today itself.

17. The Medical Superintendent, of aforesaid institution is directed to assess Mr. Deepak Khosla to check his mental stability, or suffering from some mental disorder. To this effect, the Medical Superintendent is further directed to constitute a medical board, who shall further examine and assess Mr. Deepak Khosla on daily basis for a fortnight and thereafter, submit the report before this Court.

18. It is further directed that SHO, police station GTB Enclave, Delhi shall provide adequate security, so that Mr. Deepak Khosla may not leave the premises of the Institute.

19. SHO, police station GTB Enclave, Delhi is further directed to produce him on 19.01.2012 at 02:15PM, in this Court.

20. Copy of order be given dasti to both the SHO's mentioned above and the Medical Superintendent, IHBAS, Shahdara, Delhi, under signature of the Court Master.

21. Copy of order be also given dasti to Mr. Deepak Khosla. Re-notify for 19.01.2012 at 02:15 PM.

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Ms. Indra, learned counsel submits that she has been engaged today itself, therefore, she would like to file her vakaltnama on behalf of respondents.

Let her do so during course of the day. Re-notify for 19.01.2012.