

(1969) 10 AHC CK 0021

In the Allahabad High Court

Case No : Criminal Misc. (Contempt) Application No. 58 of 1968

Rama Surat Singh

APPELLANT

Vs

Shiv Kumar Pandey and Others

RESPONDENT

Date of Decision : 29-10-1969

Acts Referred:

Contempt of Courts Act, 1971 — Section 3

Citation : AIR 1971 All 170 : (1970) 40 AWR 280 : (1971) CriLJ 580

Hon'ble Judges : S. Mallik, J;Gyanendra Kumar, J

Bench : Division Bench

Advocate : A.D. Giri, for the Appellant; R.K. Singh, for Opposite Party Nos. 2, 8 and 9 and Jitendra Kumar, Additional Government Advocate, for the Respondent

Final Decision : Disposed Of

Judgement

Gyanendra Kumar J.

1. By his order dated 9-5-1969, Katju, J. referred three questions to a larger Bench, arising in a contempt case. This is how the matter has come up before us.

2. The facts of the case are quite simple. The applicant, Ram Surat Singh, was posted as Tahsildar-Magistrate, 2nd Class at Kadipur, district Sultanpur between the 1st of February, 1964, and the 6th of June, 1965. He retired from service on 30-6-1966. During the period of his posting at Kadipur he decided complaint case No. 14 of 1964 Ram Samujh Pandey v. Ram Nawal Pandey, in which the accused was convicted u/s 323, I. P. C. and was sentenced to two months" R. I., on 8-1-1965. The accused preferred an appeal which was dismissed by the Sessions Judge on 5-7-1965- Ram Nawal then filed a criminal revision" before the Lucknow Bench of this Court which was dismissed on 14-7-1967, but the sentence of two months" R. I. was reduced to the period already undergone. The applicant also decided another complaint case No. 150 of 1964 Ram Surat v. Ram Pratap Singh and Ram Lakhan Singh u/s 323, I. P. C. and Section 24 of the Cattle Trespass Act. By his judgment and order dated 14-12-1964 the applicant

convicted both the accused and sentenced each of them to pay a fine of Rs. 50 and in default to undergo fifteen days" simple imprisonment. The convicted persons went up in appeal which was dismissed by the Sessions Judge on 31-3-1965.

3. The applicant further decided mutation case No. 60 of 1959 Beni Madho and others v. Sheo Harakh on 24-7-1964 in which it was ordered that the name of Ram Ujagar should be mutated in place of the deceased, Sheo Harakh. Appeal No. 11 of 1964 was preferred by Smt. Rampati which was dismissed by the Additional Collector Sultanpur.

4. On 24-8-1964 one Shiv Kumar Pandey (now opposite party No. 1) sent a confidential letter to the Home Minister, U. P. Government, inter alia, saying that the Tahsildar of Kadipur was taking a lot of bribe these days, which was being talked over throughout the tahsil. It was further alleged that by accepting bribes in certain cases of Gram Samaj he had decided them against the Gram Samaj, that in one mutation case he had taken a bribe of Rs. 600/- and in another case of Gaon Samaj he took Rs. 50/- as bribe. It was therefore, requested that an enquiry be made through the C. I. D. regarding the corruption of the Tahsildar.

5. The Deputy Secretary to the U. P. Government forwarded the aforesaid letter to the Vigilance Department for an enquiry into the allegations. By his order dated 29-6-1965 the Director of Vigilance directed an open investigation by Sub-Inspector Yadupal Singh belonging to the II. P. Vigilance Establishment (now opposite Party No. 12), after obtaining necessary permission of a competent Magistrate- By his order dated 7-7-1965 Shri A.W.K. Warsi, Magistrate Ist Class Sultanpur, authorised Y. P. Singh S. I. to conduct investigation into the complaint of corruption against the Tahsildar. Accordingly the Sub-Inspector made enquiries in the matter and on 2-8-1965 recorded the statement of Ram Nawal (present opposite party No. 6) that the applicant used to demand bribe openly from the parties and that in the case of Ram Samujh v. Ram Nawal, u/s 323, I. P. C. he accepted Rs. 300/- from Ram Samujh who was complainant in that case. Thereafter he demanded Rs. 500/- from Ram Nawal, accused, which the latter did not comply with. The result was that the Tahsildar sentenced Ram Nawal to two months" imprisonment, which was affirmed by the Sessions Judge on appeal. On revision to the High Court, the Lucknow Bench was wrongly alleged to have acquitted the accused, though in point of fact the revision was dismissed but the sentence of two months" R. I. was reduced to the period already undergone.

6. Sub-Inspector Y.P. Singh also recorded the statement of Ram Lakhan Singh (opposite party No. 9), who stated that a case relating to cattle trespass and of marpit against him and his brother Ram Pratap Singh was decided by the Tahsildar- Magistrate and in that case the Tahsildar had demanded Rs. 150/- from Ram Pratap Singh aforesaid. When the bribe was not paid, the Tahsildar imposed a fine of Rs. 50/- each on both the accused. The Sub-Inspector also recorded the statements of Ram Nawal (opposite party No. 6), who corroborated the above

allegation of Ram Lakhan Singh. The Sub-Inspector further recorded the statements of Ram Achraj (opposite party No. 4), Jagdish Prasad Singh (opposite party No. 8), Virendra Singh (opposite party No. 10), Sri Ram Shukla (opposite party No. 11) and Ganga Prasad (opposite party No. 5).

7. After completing his enquiry, the Sub-Inspector reported that there was no sufficient material for prosecuting the applicant u/s 5(2) of the Prevention of Corruption Act and recommended that a final report be filed in the case. In spite of the above report and recommendation, the Vigilance Department sent a charge-sheet with its letter dated 5-1-1968 to the Administrative Tribunal, U. P., whereupon Syed Sibte Hasan Rizvi (opposite party No. 13), who was a member of the Administrative Tribunal, issued a charge-sheet against the applicant on 16-1-1968. It was almost four months after the issuance of the charge-sheet against him that the applicant chose to move this Court on 14-5-1968, for punishing the opposite parties for contempt of Court. It was further prayed that the above proceedings launched against him be stayed and the Member, Administrative Tribunal (opposite party No. 13) be restrained from proceeding further in the matter.

8. The contention of the applicant is that the statements made by the aforesaid opposite parties before Y. P. Singh S. I., on the basis whereof a charge was framed against the applicant by the Administrative Tribunal, amounted to scandalising "the Court after its decisions were upheld by the appellate or revisional Courts" and were acts of "grossest contempt of Court" of which the opposite parties were guilty.

9. Shiv Kumar Pandey (opposite party No. 1) admits that he had addressed the letter in question to the Home Minister U. P. Likewise, opposite parties Beni Madho. Ganga Prasad. Ram Nawal and Kamta Prasad admit that they had made the alleged statements before the Sub-Inspector. However, opposite parties Kashi Prasad Misra. Ramchrai, Jagdish Prasad, Ram Lakhan, Virendra Singh and Sri Ram Shukla deny having made the impugned statements to the Sub-Inspector.

10. Normally the statements made by opposite parties Beni Madho, Ganga Prasad, Ram Nawal and Kamta Prasad containing allegations that the applicant had demanded bribe, in his capacity as a Magistrate, and had decided the cases against the persons concerned, after they had refused to pay the bribe demanded from them by the applicant, would have clearly amounted to contempt of Court, as they were likely to shake the confidence of the public in the fair administration of justice by the Tahsildar. But the question before us is slightly different. Here the question is whether the statements made by the aforesaid opposite parties before the Sub-Inspector who had been duly authorised by a Magistrate to investigate the case against the applicant, for charges under the Prevention of Corruption Act, in pursuance of the grievance made by opposite party No. 1 to the Home Minister, who was admittedly the superior executive authority of the petitioner, would also amount to contempt of Court in the circumstances of the present case, when the applicant had ceased to

be a Magistrate nearly two years before the lodging of the petition under the Contempt of Courts Act.

11. It cannot be doubted that the purpose of proceedings in contempt is to keep the stream of justice unsullied, and, to maintain the confidence of the public at large in the fair and impartial administration of justice by the Courts of law. If anybody wrongly casts aspersions on the impartiality and fair dispensation of justice by a Court, he pollutes the purity of that stream and has to be punished for Contempt of Court, inasmuch as it shakes the confidence of the public in general, the preservation where of is essential for the proper and fair administration of justice.

12. On the other hand, if a particular judge or magistrate is corrupt and sells justice, then a bona fide complaint to higher authorities to take necessary action against the delinquent judicial officer is again to maintain the self-same purity of the administration of justice, for it is unthinkable that a judicial officer should be allowed to take bribes and if anybody makes a grievance of the matter to the higher authorities, he should be hauled up for contempt of Court.

13. On the one hand it is of the utmost importance for the pure administration of justice that the Courts should be free from such attacks as are derogatory to them, for these aspersions on the Courts are likely to undermine the confidence of the public at large in the impartial administration of justice, On the other hand, it does not mean that if a Magistrate or judge acts dishonestly or is corrupt then too, he is beyond the reach of law and can take protection under the threat of prosecuting those who bona fide raise their voice against him. If the raising of a charge of bribery against a judge is contempt of Court, then would his prosecution also amount to contempt or could it be said that even the Court which tries him for an offence u/s 161, I. P. C. or u/s 5 of the Prevention of Corruption Act is guilty of contempt of [Court ? There may appear some sort of inconsistency between these two principles. But the two conflicting rules of law have got to be reconciled. It was under the distress of the above seemingly conflicting rules of law and the somewhat irreconcilable conclusions arrived at by various Courts that our learned brother Katju. J. referred the following three questions for consideration by a larger Bench:--

"(1) Whether the communication addressed by opposite party No. 1 to the Home Minister (Annexure "A" to the supplementary affidavit of opposite party No. 12) constitutes contempt of court and opposite party No. 1 is liable to be punished for contempt of court?

(2) Whether the statements made by opposite parties Beni Madho, Ganga Prasad, Ram Nawal and Kamta Prasad to Sub Inspector Yadu Pal Singh constitute contempt of court?

(3) Whether opposite party No. 13 in framing charges against the applicant which involved attack on his integrity as a Magistrate while deciding cases had committed contempt of court?"

14. Reference has also been made at the Bar to the following decisions, some of which seem to have laid down conflicting views :-- Rex Vs. B.S. Nayyar, ; State Vs. Brahma Prakash and Others, ; Brahma Prakash Sharma and Others Vs. The State of Uttar Pradesh, ; State of Uttar Pradesh Vs. Shyam Sundar Lal Jain, ; Tukaram G. Gaokar Vs. R.N. Shukla and Others, ; Jang Bahadur Singh Vs. Baij Nath Tiwari, .

15. Before dealing With the above authorities, we think it necessary to point out that the object of the law of contempt is not to vindicate the prestige or position of a presiding officer of a Court, for which the proper remedy is an action in libel or defamation by the officer concerned, but to maintain the continuity of the crystal clear flow of the stream of justice by sustaining the confidence of the public at large in the fair administration of justice. Secondly, we may point out that it is a discretionary and summary remedy which may be taken recourse to only in suitable cases. And thirdly, it has to be remembered that the observations made in a ruling are with reference to the facts and circumstances of that particular case.

16. In Ambard v. Attorney General for Trinidad 1936 AC 322 : (AIR 1936 PC 141) Lord Atkin made his famous observation that "Justice is not a cloistered virtue. She must be allowed to suffer the scrutiny and respectful, even though outspoken, comments of ordinary men".

17. In his report to the Committee of International Jurists 1959 LSC 15 desired a more progressive view when he stated:--

".... Clearly if someone wishes in good faith to make a charge of partiality or corruption against Judge he ought to have the opportunity of making it: We consider that he should be able to do so by letter to the Lord Chancellor or to his Member of Parliament without fear of punishment and would deplore the use of the law of contempt to prevent him from doing so. The charges could then be considered either administratively or in the House of Commons or in the House of Lords."

18. Likewise, in Mcleod v. St. Aubyn. 1899 AC 549 Lord Morris, delivering the judgment of the Judicial Committee, observed:--

"The power summarily to commit for contempt is considered necessary for the proper administration of justice. It is not to be used for the vindication of a Judge as a person. He must resort to action for libel or criminal information."

Coming to the cases of our own Court and those decided by the Supreme Court, we find that in Rex Vs. B.S. Nayyar, one B. S. Nayyar representing the interests of certain tenants in a judicial proceeding pending before the Sub-Divisional Magistrate. Babraich. wrote to the President of the All India Congress Committee and to the Private Secretary to the Prime Minister of India in covered envelopes, insinuating that the S. D. M. Bahraich. while transferring cases from his Court to other Judicial Officers, had allowed to be influenced to do so and the Judicial

Officers. in their turn, decided the cases in the manner they did under certain influences which did not "inspire faith in the public. The Division Bench of this Court held that-

"The words objected to were not used in any newspaper article or in any other writing meant for perusal of public generally, nor were they used to influence the Magistrates said to be concerned in them, but they were used in representations made to authorities which had power to redress the grievances of which the user of the words complained If those complaints are genuine and are made in a proper manner with the object of obtaining redress, and are not made mala fide with a view either to exert pressure upon the Court in the exercise of its judicial functions or to diminish the authority of the Court by vilifying it, it would not be in furtherance of justice to stifle them by means of summary action for contempt, but rather the reverse."

19. Nevertheless, in State Vs. Brahma Prakash and Others, in which the Executive Committee of the Bar Association of Muzaffarnagar had passed resolutions criticising four of the Judicial Magistrates posted there, saying that the officers were thoroughly incompetent in law and did not inspire confidence in the judicial work and that they were given to stating wrong facts when passing orders, Brahma Prakash, the President of the Bar Association sent copies of the resolution with a covering letter marked "confidential" to the District Magistrate, Muzaffarnagar, Commissioner of the Division, The Chief Secretary and the Premier of Uttar Pradesh. It was not disputed that the District Magistrate was the immediate superior of the officers concerned and the other three were higher executive authorities in official hierarchy. In paragraph 18 the Full Bench observed:--

"....., We do not doubt the right. of a citizen to make a representation to the executive authorities in respect of a judicial act; but we know of no authority, and none was cited to us in the course of argument, which makes such representations immune from the ordinary law of contempt At the same time it must ever be borne in mind that the Court's jurisdiction must be exercised with scrupulous care, and that proceedings in contempt ought not to be instituted unless there is a real likelihood of an interference with the due course of justice Criticism of a Judicial Officer which takes the form of a representation to the Government expressed in terms which do not overstep the limits to which we have referred is no contempt, it is only when those limits are transgressed that the question of contempt can arise; but we desire to state plainly that so long as the contempt is merely technical, and there is no interference, or likelihood of interference, with the due course of justice, the Court will not exercise its jurisdiction....."

The Full Bench adopted the following observations of Sir George Rankin C. J. in Ananta Lal Singh and Others Vs. Alfred Henry Watson and Others, :

"The purpose of the Court's action is a practical purpose and, it is reasonably

clear, on the authorities, that this Court will not exercise its jurisdiction upon a mere question of propriety where the tendency of the article to do harm is slight and the character and circumstances of the comment is otherwise such that it can properly be ignored."

At the end the Full Bench held that in the case before them the learned Judges were unable to hold that the right of criticism had not been exceeded and that the allegations made against the Judicial Officers came within the category of contempt which is committed by "scandalising the Court". Accordingly it was held that the terms used in the resolution were little removed from personal abuse and, whatever may have been the motive, they clearly were likely to bring the Magistrate into contempt and lower their authority. The accused were accordingly held guilty, though their unconditional apology was accepted and they were directed to pay the costs of the Government Advocate.

20. Dissatisfied, the contemnors went up in appeal before the Supreme Court in *Brahma Prakash Sharma and Others Vs. The State of Uttar Pradesh*, . In para 8, B.K. Mukerjea J., delivering the judgment of the Bench observed thus:--

"It admits of no dispute that the summary jurisdiction exercised by superior courts in punishing contempt of their authority exists for the purpose of preventing interference with the course of justice and for maintaining the authority of law as is administered in the courts. It would be only repeating what has been said so often by various Judges that the object of contempt proceedings is not to afford protection to Judges personally from imputations to which they may be exposed as individuals; it is intended to be a protection to the public whose interests would be very much affected if by the act or conduct of any party, the authority of the court is lowered and the sense of confidence which people have in the administration of justice by it is weakened."

In paragraphs 11 and 12 Mukerjea, J. further observed :--

"It seems therefore, that there are two primary considerations which should weigh with the court when it is called upon to exercise the summary powers in cases of contempt committed by "scandalising" the court itself. In the first place, the reflection on the conduct or character of a judge in reference to the discharge of his judicial duties, would not be contempt if such reflection is made in the exercise of the right of fair and reasonable criticism which every citizen possesses in respect of public acts done in the seat of justice. It is not by stifling criticism that confidence in courts can be created..... In the second place, when attacks or comments are made on a Judge or Judges disparaging in character and derogatory to their dignity, care should be taken to distinguish between what is a libel on the Judge and what amounts really to contempt of Court. The, fact that a statement is defamatory so far as the Judge is concerned does not necessarily make it a contempt The position therefore is that a defamatory attack on a Judge may be libel so far as the Judge is concerned and it would be open to him to proceed against the libellous in a

proper action if he so chooses. If however, the publication of the disparaging statement is calculated to interfere with the due course of justice or proper administration of law by such court, it can be punished summarily as contempt. One is a wrong done to the Judge personally while the other is a wrong done to the public. It will be an injury to the public if it tends to create an apprehension in the minds of the people regarding the integrity, ability or fairness of the Judge or to deter actual and prospective litigants from placing complete reliance upon the Court's administration of justice or if it is likely to cause embarrassment in the mind of the Judge himself in the discharge of his judicial duties."

21. Dealing with the second portion of the resolution which described the judicial officers as thoroughly incompetent in law and whose judicial work did not inspire confidence, the learned Judge of the Supreme Court observed as follows:--

"Assuming, however, that this portion of the resolution is defamatory, the question arises whether it can be held to amount to contempt of Court. To answer this question, we have to see whether it is in any way calculated to interfere with the due administration of justice in these courts, or in other words whether such statement is likely to give rise to an apprehension in the minds of litigants as to the ability of the two judicial officers to deal properly with cases coming before them, or even to embarrass the officers themselves in the discharge of their duties

On the materials before us, it is difficult to say that the circumstance under which the representation was made by the appellants was calculated to have such effect. There might have been some remote possibility but that cannot be taken note of. We are clearly of the opinion that the contempt, if any, was only of a technical character, and that after the affidavits were filed on behalf of the appellants before the High Court the proceedings against them should have been dropped". In other words, the Supreme Court held that the second part of the resolution which imputed "incompetence to the Magistrates concerned" and consequently "did not inspire confidence" fell short of actionable contempt even though there was some possibility of its creating an apprehension in the minds of the litigants as to the ability of the judicial officers concerned to deal properly with cases coming before them and it was further likely to embarrass these officers in the discharge of their duties.

22. In the instant case, the allegations are such that they impute dishonesty and attempt to take monetary gratification by the Tahsildar Magistrate in the discharge of his judicial duty, which should normally be actionable contempt. Nevertheless, the question remains that if a Magistrate really takes bribe what is the remedy ? The answer plainly is that there can be an administrative enquiry by his superior officer on a properly framed petition. But the petitioner runs the risk of being criminally and civilly liable at the instance of the Magistrate, if his allegations are found to be untrue. Moreover, if the petition alleges dishonesty and corruption in relation to judicial duty, the petitioner also stands the risk of action in contempt, in a suitable case, particularly when it is made ex facie.

23. There can be no doubt that while hostile comments on judicial proceedings which are pending may have an adverse influence on the proceedings themselves as well as on the litigants and Courts involved therein, the same cannot be said with regard to comments or reflections on the judicial proceedings, after they have been finally disposed of and the presiding officer has also retired. Once this stage is reached, the "judge, in Bentham's phrase, is given over to criticism" and public interest demands that no undue fetters should be placed upon the rights of individuals to reflect on the conduct of the Judge or the parties in the proceedings or to comment upon the decisions in those proceedings. Apart from anything else, such criticism would act as a necessary corrective to the judiciary. The right to criticise judicial conduct and judicial decisions in relation to proceedings which are no longer pending cannot, however be of an absolute character but when kept within proper bounds, it is bound to serve a very useful purpose.

24. This view finds support from the weighty observations made by the Supreme Court on more than one occasion. In the case of *Brahma Prakash Sharma and Others Vs. The State of Uttar Pradesh*, , Mukherjea, J. made it very clear that the reflection on the conduct or character of a judge in reference to the discharge of his judicial duties would not be contempt if such reflection is made in the exercise of the right of fair and reasonable criticism, which every citizen possesses in respect of public acts done in the seat of justice and that it is not by stifling criticism that confidence in Courts can be created.

25. The object of the law of contempt is not to provide a cloak for judicial authorities to cover up their inefficiency and corruption or to stifle criticism made in good faith against such officers. It may be borne in mind that in the present case the Tahsildar Magistrate has already retired from service and the cases in which attempt to extract bribe from litigants was said to have been made were no longer pending. Moreover, respondent No. 1 had attempted to expose the Tahsildar Magistrate with a view to enabling a superior authority to take necessary action against him. In the case of the subordinate judiciary the law of contempt ought not to stand in the way of complaint against them being made in good faith to the appropriate authorities. If the position were otherwise, it would tantamount to putting a premium on corrupt or inefficient Magistrates- Referring to a complaint against the Revenue Officer to the effect that he takes two cases simultaneously and allows the Court Reader to do the work for him, their Lordships of the Supreme Court in *Brahma Prakash Sharma and Others Vs. The State of Uttar Pradesh*, observed:--

"If true, it is a patent illegality and is precisely a matter which should be brought to the notice of the District Magistrate, who is the administrative head of these officers." In certain cases, like the present, the line between "scandalising the Court" and "ventilating bona fide grievances against the presiding officer of a Court", is so thin that much will depend upon the circumstances of each case. Having regard to the fact that in public interest some machinery should be

available for bringing the corrupt and inefficient officers to book, a bona fide complaint of want of integrity of a Judicial Officer made to the appropriate superior authority should not amount to contempt of Court. Such a remedy is very essential for the proper administration of justice itself.

26. The 1954 Supreme Court case of *Brahma Prakash* AIR 1951 SC 10 (supra) came up for interpretation before a Bench of this Court in *State of Uttar Pradesh Vs. Shyam Sundar Lal Jain*, . In this case one S had filed a complaint u/s 500, I. P. C. before a Magistrate, who came to the conclusion that the complainant had not been able to establish his case against the accused. Accordingly the complaint was dismissed and the accused acquitted. Thereupon the complainant wrote a letter to the Prime Minister of India in which he made serious allegations of corruption and partiality against the Magistrate. The representation sent to the Prime Minister was forwarded to the Chief Secretary of Uttar Pradesh Government for disposal. The Chief Secretary passed on that letter to the Petitions Officer of U. P. Government for necessary enquiry and final disposal. During the enquiry before the Petitions Officer, S reiterated the allegations of dishonesty and partiality, which he had originally made against the Magistrate, in his representation to the Prime Minister- It was pointed out in writing that the letter was not intended to interfere with the course of justice but was sent in order that an enquiry might be made into the conduct of the Magistrate, whom he alleged to be corrupt. In his turn, the Petitions Officer forwarded the original representation as well as the second application to the District Magistrate of Dehradun for necessary action. The District Magistrate did not hold any enquiry but took the view that the letter constituted contempt of court and referred the matter for proceedings in contempt which came up for hearing before the Bench concerned.

27. The Bench relying on the principles laid down by the Supreme Court in *Brahma Prakash Sharma and Others Vs. The State of Uttar Pradesh*, held as follows:--

"Now, there can be no question of causing embarrassment in the mind of the Judge himself as the representation was sent after the disposal of the case. There was no case pending before the learned Magistrate or before any court at the time the representation was sent to the Prime Minister. The letter was sent to a person who, the opposite party thought, was the appropriate authority there was here no publication to the public or any section of the public. The letter was in the form of a confidential letter. It was sent per registered post. Now, there may have been publication so far as the representation is concerned from the point of view of the law of libel. The letter is "prime facie" of a libellous character and the magistrate? whom it seeks to defame has a remedy by way of a libel suit or a criminal action for defamation against the opposite party. The question, however, is whether the opposite party can be held to be guilty of contempt on the ground that by so doing he has scandalised the court or brought the administration of justice into discredit or

contempt. A letter sent to the Prime Minister and not intended to be broadcast to the public or any section of the public cannot create an apprehension in the minds of the people, to use the language of Mr. Justice Mukherjee, "regarding the integrity, ability or fairness of the judge". Further, it could not deter actual and prospective litigants from placing complete reliance upon the Court's administration of justice for the obvious reason that they would know nothing about it, it not having been published to them. It may be remarked that, again, to use the language of Mr. Justice Mukherjee.

"the object of contempt proceedings is not to afford protection to judges personally from imputations to which they may be exposed as individuals." It is rather intended as a protection to the public whose interests would be very much affected if by the act or conduct of any party, the authority of the Court is lowered and the sense of confidence which people have in the administration of justice by it is weakened.

28. It is well known that the contempt jurisdiction is a summary jurisdiction. "The jurisdiction should be exercised", as is observed by Lord Russell, L. C. J., "with scrupulous care and only when the case is clear and beyond reasonable doubt". (Vide "R. v. Gray" (1900) 2 QB 36). This Court is reluctant to use this weapon except in order to maintain the dignity of the Courts and to uphold the majesty of the law. It may be emphasised that the Supreme Court view, as we read it, is that Courts should be reluctant to take notice of technical contempts of Court. There must be something to show that the contempt was likely to interfere with the due administration of justice or undermine the confidence which the public rightly reposes in courts of law as courts of justice. In this particular case, while the attack on the magistrate is of a vile character, those particular tests are not satisfied. For these reasons we do not think that the remedy of contempt is the appropriate remedy for the Magistrate."

29. In the above case of Shyam Sunder Lal, Sapru, J., delivering the judgment of the Bench, emphasised the fact that the representation was sent to the Prime Minister after the disposal of the case and therefore there was no question of causing any embarrassment to the Magistrate concerned. Furthermore, the impugned letter was marked "confidential" and was sent to a person in authority, so there was no publication to the public or any section thereof. It was accordingly held that the remedy of the aggrieved Magistrate was by way of a libel or criminal action for defamation and that, in the circumstances of that case, it was held that the remedy of contempt was not the appropriate remedy for the aggrieved Magistrate.

30. We, therefore, think that Shyam Sunder Lal's case is in consonance with the decision of the Supreme Court in the case of Brahma Prakash, arising out of the Full Bench decision of the Allahabad High Court between the same parties.

31. As pointed out by Rankin C, J. in Ananta Lal Singh and Others Vs. Alfred Henry Watson and Others, and approved by the Full Bench of this Court in

Brahma Prakash's case State Vs. Brahma Prakash and Others, the purpose of an action in contempt is a practical purpose. In the instant case, no practical purpose would be served by taking proceedings in contempt against the opposite parties, as the impugned litigations have long been decided finally and the Tahsildar Magistrate himself retired more than three years ago. So there can be no question of causing any apprehension in the mind of the litigant public now that they would not get fair and even handed justice from the applicant Tahsildar Magistrate. The applicant also can have no embarrassment in deciding cases in future on account of the allegations made against him, inasmuch as he has already retired from service and is not deciding cases any longer. In view of the want of "Practical purpose" touching the matter, it is not a case in which this Court should launch contempt proceedings against the opposite parties or even some of them.

32. The principle laid down by the Supreme Court in Tukaram G. Gaokar Vs. R.N. Shukla and Others, and Jang Bahadur Singh Vs. Baij Nath Tiwari, would also apply for the benefit of opposite parties Syed Sibte Hasan Rizvi (Member, Administrative Tribunal, U. P.) who had framed charges against the applicant in the discharge of his public duty, Yadupal Singh (Inspector of Police) who was investigating the case against the applicant, in the bona fide discharge of his duty and of Shiv Kumar Pandey, who had sent a representation to higher authorities complaining against the alleged misconduct of the applicant, as well as for the benefit of opposite parties Beni Madho, Ganga Prasad, Ram Nawal and Kamta Prasad, who had made statements to the Investigator in due course.

33. For all the above reasons and in the light of the law as laid down by the Supreme Court and interpreted by this Court these opposite parties should not be prosecuted for contempt, particularly when the allegations of corruption made by the first opposite party (Shiv Kumar Pandey) against the applicant are still under investigation and it cannot be said, at this stage that they were either untrue or mala fide.

34. To us it further appears that the instant application for taking proceedings in contempt against various opposite parties is not bona fide, inasmuch as it was filed (a) long after the applicant had ceased to be a Magistrate, (b) long after the impugned cases stood finally decided, (c) about four months after the applicant was served with a charge-sheet in respect of his alleged misconduct and (d) this contempt application appears to have been moved by way of counter-blast to the administrative enquiry pending against the applicant for his alleged misconduct and corruption. This fact is evident from the applicant's anxiety to obtain a restraint order from this Court against opposite party No. 13, prohibiting him from proceeding further with the administrative enquiry pending against him. In fact, he succeeded in obtaining a interim order to the above effect from the High Court on 22-5-19(58).

35. In view of the facts and circumstances of this case, our answers to the questions referred to us are as under:--

(1) The communication addressed by opposite party No. 1 to the Home Minister (Annexure "A" to the supplementary affidavit of opposite party No. 12) does not constitute contempt of Court and opposite party No. 1 is not liable to be punished for contempt of Court.

(2) The statements made by opposite parties Boni Madho, Ganga Prasad, Ram Nawal and Kamta Prasad to Sub-Inspector Yadupal Singh do not constitute contempt of court.

(3) Opposite party No. 13 (Syed Sibte Hasan Rizvi, Member Administrative Tribunal, U. P.) is also not guilty of contempt of court, when he framed charges against the applicant, which involved an attack on his integrity as a Magistrate while deciding cases.