

(2000) 11 BOM CK 0045

In the Bombay High Court

Case No : Appeal No. 971 of 2000 in Show Cause Notice for Contempt issued to Smita Ambalal Patel the aviatrix on 25th August 2000 in Testamentary Suit No. 17 of 1996 in Testamentary Petition No. 132 of 1996 alongwith Notice of Motion No. 643 of 1997

Smita Ambalal Patel

APPELLANT

Vs

Ila Vipin Pandya

RESPONDENT

Date of Decision : 16-11-2000

Acts Referred:

Constitution of India, 1950 — Article 32

Contempt of Courts Act, 1971 — Section 12, 13, 14, 14(2), 14(3)

Citation : (2001) 2 BomCR 436 : (2001) 3 BOMLR 610

Hon'ble Judges : Smt. Ranjana Desai, J;B.N. Srikrishna, J

Bench : Division Bench

Advocate : Mr. G.E. Vahanvati, General, Party in person, for the Appellant; Ms F. Sethna and A. Nadar, for the Respondent

Final Decision : Dismissed

Judgement

B. N. Srikrishna, J.—Long long ago, on the eve of the war at Kurukshetra, Lord Krishna advised the educated leaders of society against doing anything which would incite persons from the lower echelons of society into acts destructive of the orderly fabric of society. Said the Good Lord, "Na buddhibhedam janayet ajnaanam Karmasanginaam; Joshayet Sarva Karmani Vldwan Yuktah Samaacharan" ("Do not confuse the ignorant lay persons (by tall talk); act rightly, so that the people following are enthused to act rightly"). It is unfortunate that recognised leaders of society, recipients of international literacy awards and erstwhile holders of high constitutional offices, go around making speeches, in and out of season, which tend to give an impression to the lay in society that the judiciary is unworthy of the high pedestal on which it is placed and that the Judges can be criticized in a manner that is far from being fair comment. We think that the appeal before us is the fallout of such misplaced seat of the leaders of society, who ignore the sagacious caveat entered by the

Bhagwadgita, "Yadyadacharati Shreshthah tattadevetarojanah; SayatpramanamKurute, Lokastadanuuartate". ("Whatever the man at the top does, others follow: Whatever standards he lays down, others emulate.").

2. The appellant before us is a lady, appearing in person, who, perhaps, on account of the oppressive manner in which the system works, and who, perhaps, being taken for a ride by someone, or, conceivably, even by lawyers engaged by her, behaved in Court in a manner ill-conductive of dignity, decorum and the orderly administration of justice.

3. The contemner before us was issued a Show Cause Notice dated 4th September, 2000. It was alleged against the contemner in the Show Cause Notice that, on 25th August, 2000, when Testamentary Suit No. 17 of 1996 in Testamentary Petition No. 132 of 1996 along with Notice of Motion No. 643 of 1997 taken out therein was on board on that day for framing issues, and the Advocate for the plaintiff was trying to point out why the matter was on board, the contemner lost her temper for no reason and started making very serious accusations against the Advocates calling them "Virappans" (the reference being to the sandal-smuggling brigand in the forests of Tamil Nadu and Karnataka who shot into prominence by abduction of a veteran film star from Karnataka), and accused them of kidnapping justice and dictating terms to the Judges. The learned Single Judge repeatedly warned the contemner that making such reckless allegations would land her into trouble and that the Court could take serious action against her. Despite the cautions administered by the learned Single Judge, the contemner continued with her conduct and the tirade of unwarranted and baseless allegations. Despite the learned Single Judge trying to understand the contemner by giving a cool and patient hearing, she was found to be in the habit of losing her temper, losing the sense of propriety and not maintaining judicial decorum.

4. In reply to the said Show Cause Notice, the contemner filed three affidavits. In the affidavit dated 4th September, 2000, her defence is that, on the relevant date, when the matter was called out, while she was discussing the issue of the chamber summons with the learned Single Judge and drew his attention to certain previous orders, and the learned Single Judge was making enquiries to ascertain the factual position from the Court Associate, Counsel for the plaintiff sought to tender to Court a letter dated 23rd August, 2000 addressed by the Advocate on record for the plaintiff to the contemnor-defendant in Chamber Summons No. 956 of 2000 in Execution Application (Lodging) No. 274 of 1998. The said letter contained certain allegations against the conduct of the contemnor-defendant in the Court of another learned Single Judge (R.J. Kochar, J.) on 23rd August, 2000. The learned Counsel for the plaintiff (Ms. Sethna) informed the Court that, for about four and a half years since the inception of the Testamentary Suit, the defendant-contemnor had been misleading the Courts and terrorising the judiciary. It is the case of the contemner that, she merely repeated what had transpired before the learned Single Judge (Kochar. J.) on

23rd August, 2000. She admitted that she had referred the Advocates as "Virappans", who are kidnapping justice and dictating terms to the Judges and the Court staff. She also drew attention to the fact that, Justice Kochar, in his order dated 23rd August, 2000, after considering the defendant-contemnor's conduct, did not take any action against her. The affidavit thereafter tells us what the contemner perceives the judicial system in this country to be and its shortcomings and failings as noticed by her. Finally, she pleads that, on account of her being a lay person, not trained in the art of presentation, persuasion or knowing the wiles of law and tricks of the trade, it was but natural to get upset, frustrated, depressed, panicky, impatient and shocked by the unusual and extraordinary happenings that had occurred in the temple of justice. As a lay person, she had knocked on the door of the temple of justice, but was disappointed and hurt by the misconduct of the Advocates, who are supposed to be the officers of this great institution of justice. Finally, she said. "I repeat, reiterate that even though I might have been annoyed on account of insinuation and innuendo made by clever lawyers for my opponent. I had never shown any disrespect to the Hon"ble Court or for the judiciary in general and the Hon"ble Judges of the Hon"ble Court in any manner". She also claimed that, she held all the judgments in high esteem and, according to her, the Court was a temple of Justice and the Judges epitomes of justice. She, therefore, maintained that, it was inconceivable that she would make any statement or express words degrading the judiciary or not maintaining judicial decorum. This affidavit in reply also contains a prayer purported to be u/s 14(2) of the Contempt of Courts Act, 1971 seeking that the matter be heard by some other Judge. (The words in the affidavit are somewhat vague and generalized, but this is what we gather from the words used). Then there are certain generalized assertions which really do not alter the picture.

5. The contemner also filed a second affidavit on 15th September, 2000, in which she retraced the events that transpired, according to her, before the learned Single Judge on the eventual date. She made certain allegations against the Counsel for the plaintiff and about her conduct before another Single Judge (Nijjar, J.) on different dates; referred to a number of irrelevant things, cited some Judgments of the Supreme Court and this Court: referred, to the outcome of several litigations to which she was a party, and, finally, prayed that she may be permitted to put in her written submissions dealing with each and every statement of the affidavit-in-reply dated 8th September, 2000 along with the investigation reports and findings. (We may mention here that this affidavit contains 10 paragraphs running into 21 pages).

6. By a further affidavit of 4th October, 2000 (which runs into 16 paragraphs over 43 pages), the contemner referred to a number of other orders passed by other, learned Single Judges of this Court, contended that every one of them had appreciated the justness of her cause, that she had no malice, mala fides or ill-will against any learned Judges of this Court or the Judiciary in general, and the institution as a whole-

7. We have patiently ploughed through the long affidavits and we find them bristling with wholly irrelevant particulars for replying the Show Cause Notice issued to the contemner. She has also indulged in bulky correspondence with the Prothonotary and Senior Master by addressing a number of letters to him and placing on record what transpired during the course of the hearing according to her. She insisted that the Court should accept the truth of the allegations contained in those letters addressed to the Prothonotary and Senior Master as they were not controverted by anyone.

8. The learned Single Judge gave a long hearing to the contemner and passed a detailed order dated 17th August, 2000 by which he found the contemner guilty of contempt u/s 12 of the Contempt of Courts Act, 1971 (hereinafter referred to as "the Act") and sentenced her to simple imprisonment for three weeks and a fine of Rs. 2000/- and a further term of simple imprisonment of one week in default of the fine. He also directed her to pay Rs. 5000/- as costs of the Counsel for the Petitioner. On a motion made by the contemner, the learned Single Judge suspended the sentence to give her an opportunity to "challenge it in appeal. This appeal is directed against the said order convicting and sentencing the contemner.

9. At the outset, we felt that the contemner being a lay person was, perhaps, likely to be impetuous on account of the trauma which she might have undergone during a series of litigations, which she had to prosecute in this Court. Though the appeal as such involves very limited issues of fact and law, we have given the contemner a disproportionately long and patient hearing lasting the whole of yesterday and virtually half of the morning session today. During her long rambling arguments, at times incoherent and punctuated by bitter sobs and impassioned pleas, the contemner made a few points of law, which we have rioted. On one such point, we thought that we should call upon a neutral impartial counsel to address the Court. We, therefore, requested the learned Advocate General to address us with regard to the question of law. We express our grateful appreciation of the assistance rendered by the learned Advocate General.

10. Turning to the facts of the case, we find that this is a case of contempt in facie curiae i.e., contempt in the face of the Court. Though the contemner insists that the findings made by the learned Single Judge were not correct, it is not possible for us to disagree with the findings of the learned Single Judge. The learned Single Judge has extensively dealt with the conduct of the contemner before him and has also weighed the question of punishment in the light of her conduct in other Courts and the orders passed by other learned Judges. We shall deal with these two aspects separately and then take up the questions of law that were urged before us by the contemner.

11. In paragraph 2 of the order, the learned Single Judge has found that on the material date the contemner lost her temper for no reason and started making accusations against the counsel for the petitioner, Ms. Sethna, in particular, and

Advocates in general, calling them "Virappans" (the dreaded sandal dacoit from South) kidnapping justice and dictating terms to the Judges. The learned Judge found that, despite being warned repeatedly of the consequences of making such reckless allegations, the contemner continued to repeat them ignoring the warnings; she lost her temper, sense of propriety and decorum and created chaos in the Court room. He also found that, after the notice to show cause was served upon her, not affected in the least by the notice served upon her, the contemner came to the Court after 2nd or 3rd day with an affidavit and started asserting that she had said something more against the Advocates which should also be included in the notice. The learned Judge dissuaded the contemner from placing such an affidavit on record with a warning that she was aggravating the situation and that it may lead to further trouble for her. However, the contemner filed three affidavits dated 4th September, 2000, 15th September, 2000 and 4th October, 2000. The petitioner (Ila Vipin Pandya), who was present during the incident, also filed an affidavit on 27th September, 2000. Thereafter, the learned Judge heard the parties on three occasions at length.

12. The learned Judge (vide paragraph 5) records that, neither during her oral submissions, nor in any of the affidavits, had the contemner expressed her regrets for her uncalled scandalous allegations and utterances in the Court against the Advocates, nor did she show any contrition regarding her behaviour in the Court. On the contrary, the learned Single Judge records that during the arguments the contemner contended that she did not want sympathy from any Court or anybody and, at her instance, the words "she has also been terrorising the judiciary" had been inserted in the Show Cause Notice.

13. The learned Judge, on appreciation of the facts found by him, came to the conclusion that the conduct of the contemner before him in Open Court amounted to criminal contempt within the meaning of Section 2(c)(i), (ii) and (iii) of the Act; her conduct not only scandalized, but it tends to scandalize, or lower the authority of the Court and effectively interfered with, obstructed or tends to obstruct the administration of justice. The learned Judge relied on certain factual circumstances in addition thereto. These factual circumstances are based on certain letters addressed by the contemnor-defendant to the Prothonotary and Senior Master in which she had repeated the allegations that the Advocates on record for the plaintiff were repeatedly colluding with the Court staff giving her a feeling that the Advocates were not accountable for perverting and polluting the stream of justice, The learned Judge also recorded that the contemner herself, during the course of arguments, invited his attention to certain previous orders passed by other learned Judges of this Court (J.N. Patel, K.K. Baam, R. J. Kochar, S.N. Varlava, D.K. Trivedi, JJ.). She insisted on showing these orders as apart of her defence. She contended that there was no substance in the Show Cause Notice issued to her. The learned Judge has quoted the observations made by Dr. Upasani, J. on a previous occasion in which certain objectionable behaviour on the part of the contemner was noted by the said learned Judge, who had acceded to the prayer made by the Counsel for the other

side that a tape recorder should be permitted to be kept switched on when the contemner addresses the Court. At this, the contemner lost temper with the learned Judge and shouted loudly, "why tape recorder, even video camera should be fitted in the Court Room and every thing should be recorded". On 24.12.99, Dr. Justice Upasani made an order referring to the conduct of the contemner in Court and said :

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

The learned Single Judge also referred to the observations of Justice J. A. Patil made on 6.3.1997 wherein referring to the conduct of the contemner before him Patil, J. said :

"..... She not only talked (illegible) things but also made wild allegations against the Advocates as well as the Staff of the Court. She was in an angry mood and she did not listen to any advice given by me to be reasonable and relevant. On the contrary, she went on shouting that she would not be bothered even if she were to be hanged. The behaviour of the defendant in the Court Room was highly undignified and objectionable. In fact, it is found that she has been conducting herself in the same manner whenever she appeared in the Court. This is not only my experience but also of the other learned Judges before whom the defendant appeared in this matter. My attention was drawn to the order dated 10th December, 1997 passed by Dr. Upasani, J. in Chamber Summons No. 446 of 1997 wherein observations about the objectionable demeanor of the defendant are made. Shri Merchant, the learned Advocate for the plaintiff therefore submitted that the Court should take stern action against the defendant for her misbehaviour, the defendant being a lady not represented by any Advocate, was shown some indulgence and tolerance. However, the Court will have to think seriously in case the defendant persists in misusing the indulgence so as to disturb and obstruct the Court proceedings."

The learned Single Judge also referred to the experience of Justice V. R. Datar with this contemner which was referred in the order of 27.4.98 as under :

"Mr. Humranwalla for the petitioner/plaintiff states that M/s. Humranwalla & Co- has to think of withdrawing from the matter because of the wild allegations made by the aviatrix in person. Mr. Merchant. Counsel appearing for them has refused to appear. aviatrix in person objects to the same.

Stand over to beyond vacation.

Not to be treated as part heard."

14. The learned Judge also referred to a similar predicament faced by another learned Single Judge Justice Mrs. Baam, in a proceeding before her which she recorded in her order dated 21.7.1999 as under :

"At this stage, when the notice of motion is called out, the respondent-Ms. Smita Ambalal Patel - appeared in person and re-agitated the issue of the review petition which has already been decided on the last Wednesday. When questioned whether she wanted to go on with the hearing of the notices of motion, she stated that she wanted xerox copies of the documents to which the learned Advocate for the petitioner stated that every time when an adverse order is passed, this litigant applies for time to ensure that the matter is removed from the board of that particular Court. To this statement, the litigant started shouting in Court and made scandalous allegations against the Judges to the effect that "they act on extraneous considerations". This irresponsible behaviour and conduct which the respondent has been adopting from time to time when adverse orders are passed tends to prejudice the confidence of the litigants in Court? who are present in Court for the administration of justice and disturbs the, decorum of the Court. Hence the Prothonotary and Senior Master is directed to issue a show cause notice to the respondent-Ms. Smita Ambalal Patel - calling upon her as to why contempt proceedings should not be adopted against her. Even when I passed the order of issuance of show cause notice, the respondent tried to dictate me the order which she expected the Court to pass. The respondent cannot dictate to the presiding Judge as to what order the Court should pass. The respondent thinks that she knows everything and time and again she disturbs the proceedings in the Court and thereby prejudices the progress of other matters in the Court. She left the Court in a huff and puff and again shouted to the effect : "the learned Advocate for the petitioner. Shri Humranwala. should go in jail". This is the attitude adopted by her from time to time which does not befit a litigant. By this behaviour which she has been adopting from time to time, by shouting and screaming in Court, she has been causing nuisances and prejudices the Court proceedings, and every time when an order is passed, which is not to her liking, she creates contemptuous atmosphere which not only disturbs the decorum of the Court, but also prejudices the progress of the proceedings in the Court."

15. Baam, J. was pleased to issue a Show Cause Notice No. 973 of 1999 to the contemner to show cause as to why she should not be committed for contempt. This show cause notice came up before another learned Judge (Kochar, J.). By his order dated December 23, 1999, Kochar. J. held that he was not accepting the contemner's version that she had not used any objectionable language, as narrated verbatim by the learned Single Judge Mrs. Baam, J. In other words, the learned Judge (Kochar, J.) was inclined to accept the correctness of the facts as recorded in the order of Mrs. Baam, J. However, taking a lenient view, Kochar. J. let off the contemner on a warning.

16. The contemner, may be undergoing the strain and stress or protracted litigation for the last 26 years in which she may feel that she has had a raw deal. The learned Judge (Kochar, J.) accepted the contemner's statements before him as indicative of genuine contrition on her part and accepted her assurance that henceforth she would maintain decorum in the Court. In those circumstances, the learned Judge (Kochar, J.) discharged the notice issued to the contemner.

17. The learned Single Judge (Deshpande, J.) took into account that, Mrs. Baam, J., vide her order dated 30th March, 2000, directed that the matter be removed from her board being disgusted by the offending and intolerable manner in which the contemner acted before her.

18. These are the circumstances found against the contemner. As to what transpired in the Court of the learned Single Judge (Deshpande, J.) there is no reason for us not to accept what is recorded in the order under appeal. Undoubtedly, such conduct on the part of the contemner amounted to criminal contempt within the meaning of section 2(c) of the Contempt of Court's Act, 1971 (hereinafter referred to as "the Act") in facie curiae. Therefore, we are of the view, that the learned Judge was justified in finding the contemner guilty and imposing punishment upon her.

19. The next question that arises is, whether the learned Judge was justified in the quantum of punishment imposed on her. In view of the contemner's history that we have narrated, it appeared to the learned Single Judge, and it appears to us too, that the leniency showed by different learned Judges was misconstrued as weakness by the contemner. It may be that the contemner is the victim of circumstances whereunder someone cheated her and some Advocates behaved unprofessionally in connection with her litigation. 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). These were the circumstances specifically considered by Kochar, J. when he discharged the contempt notice issued to the contemner in view of the apology tendered, undertaking given, and the promise of future good behaviour. It appears to us that the trust and confidence reposed by Kochar, J, in the contemner stood betrayed on account of her conduct before the learned Single Judge (Deshpande, J.), the details of which we have already referred to. Considering the different orders passed by the different learned Judges of this Court and, the circumstances under which each of the said learned Judges felt that the contemner was taking undue advantage of the leniency of the Court and behaving in a manner obstructive of decorous administration of justice in the Court, we are not in a position to say that the learned Single Judge has imposed a disproportionate quantum of punishment, in view of the background of the case.

20. Now we turn to some of the contentions that the contemner made, on one of which we even sought the assistance of the learned Advocate General. First, the

contemner urges that, the show cause notice has been issued to her for "criminal contempt" and, therefore. It could only be heard by a Bench of not less than two Judges, as provided in section 18 of the Act. She also contends that section 17 requires that, a particular procedure should be followed in the case of criminal contempt, and such procedure has not been followed. In our view, both these contentions have no merit. A contrast between sections 14 and 15 of the Act indicate that, section 14 applies where there is contempt in *facie curiae* (whether criminal or civil) while, section 15 deals with criminal contempt other than contempt referred to in section 14. Where a criminal contempt has occurred other than in the Court itself, then the manner of cognizance is prescribed in section 15. Procedure after cognizance is prescribed in Section 17 and, finally, such a matter has to be heard by Division Bench not less than two Judges as provided in section 18. Perusal of sections 15, 17 and 18 would make clear that the procedure under sections 17 and 18 would be applicable to cases of criminal contempt falling within section 15 of the Act. Section 14 is not hampered by the provisions of section 15, 17, or 18. It stands alone. The contention that the proper procedure prescribed under sections 15, 17 and 18 was not followed, therefore, has no substance and needs to be rejected.

21. The contemner urged that, after an application was made u/s 14(2) to have the matter tried by some Judge (other than the Judge in whose presence the offence is alleged to be committed), the learned Judge was obliged to place the matter before the learned Chief Justice for being placed on the board of another Judge. We are grateful to the learned Advocate-General for having drawn our attention to the judgment of the Supreme Court in *Sukhdev Singh Sodhi v. The Chief Justice and Judges of the Pepsu High Court*, This was a judgment under the previous Act namely. Contempt of Courts Act, 1952, which had only five sections one of which was generally *par materia* with section 14(2) of the Act. Notwithstanding provision of a similar nature, the Supreme Court was called upon to consider as to what should and ought to be done when a contempt in *facie curiae* is alleged and an application moved for the charge being tried by some other Judge. The Supreme Court considered the matter, on general principles and held that the provisions of the Criminal Procedure Code as to transfer of trials would not apply to the trial of a contempt charge. Then the Supreme Court observed :

"If the Code of Criminal Procedure does not apply, then there is no other power which we can exercise. The Constitution gives every High Court the right and the power to punish a contempt of itself. If we were to order a transfer to another Court in this case we would be depriving the Pepsu High Court of the right which is so vested in it. We have no more power to do that than has a Legislature. As for transfer from one Judge to another, there again there is no original jurisdiction which we can exercise, it is not a fundamental right and so Article 32 has no application and there is no other law to which recourse can be had. This petition is therefore incompetent and must be dismissed."

Before dismissing the petition, the Supreme Court entered a caveat in the following words :

"We wish however to add that though we have no power to order a transfer in an original petition of this kind we consider it desirable on general principles of justice that a Judge who has been personally attacked should not as far as possible hear a contempt matter which, to that extent, concerns him personally. It is otherwise when the attack is not directed against him personally. We do not lay down any general rule because there may be cases where that is impossible. as for example in a Court where there is only one Judge or two and both are attacked. Other cases may also arise where it is more convenient and proper for the Judge to deal with the matter himself, as for example in a contempt in facie curiae. All we can say is that this must be left to the good sense of the judges themselves who, we are confident, will comport themselves with that dispassionate dignity and decorum which befits their high office and will bear in mind the oft quoted maxim that justice must not only be done but must be seen to be done by all concerned and most particularly by an accused person who should always be given, as far as that is humanly possible, a feeling of confidence that he will receive a fair, just and impartial trial by Judges who have no personal interest or concern in his case."

22. In our view, what the Supreme Court observed on general principles has now been made part of the statute in the 1971 Act in sub-section (2) of section 14. Sub-section (2) of section 14 reads as under :

"14. Procedure where contempt is in the face of the Supreme Court or a High Court :-

(1)

(2) Notwithstanding anything contained in sub-section (1), where a person charged with contempt under that sub-section applies, whether orally or in writing, to have the charge against him tried by some Judge other than the Judge or Judges in whose presence or hearing the offence is alleged to have been committed, and the Court is of opinion that it is practicable to do so and that in the interests of proper administration of justice the application should be allowed, it shall cause the matter to be placed, together with a statement of the facts of the case, before the Chief Justice for such directions as he may think fit to issue as respects the trial thereof."

Under this sub-section, when an application is moved for the trial to be held by other Judge or Judges than one in whose presence or hearing the offence is alleged to have been committed, and the Court is of the opinion that it is practicable to do so and in the interests of proper administration of justice, the application should be allowed. There are two considerations that must weigh while considering such a request. They are : (a) the Court should be of the opinion that it is practicable to do so; and (b) that it is in the interests of proper administration of justice that the application should be allowed. If these twin

requirements are cumulatively fulfilled, then the concerned Judge is required to make a statement of facts of the case and place it before the Chief Justice for such directions as he may think fit to issue as respects trial of the charge. In the instant case, we notice that the learned Single Judge says (vide paragraph 35 of the order) that the prayer made by the contemner that the contempt notice be transferred to some other Judge, was outright rejected because, (a) it was a criminal contempt for which notice was given to her; (b) there was no legal necessity nor propriety in referring it to another Bench. We do not agree that merely because it was a case of criminal contempt, provisions of section 14(2) would not apply. This part of the reasoning does not appear to us to be correct. However, the other two reasons given by the learned Judge show substantial compliance with section 14(2) of the Act. We are not inclined to read sub-section (2) of section 14 as obligating the learned Judge to move for transfer merely because an application is made. There is no obligation to do so, even if it is practicable, unless the learned Judge in his judicial discretion, is of the view that in the interest of proper administration of justice such application should be allowed. In our view, this is precisely the requisite consideration as observed by the Supreme Court in the ultimate paragraph of the judgment in Sukhdev Singh Sodhi v. The Chief Justice and Judges of the Pepsu High Court (supra) extracted above. We, therefore, respectfully reiterate what was observed by the Supreme Court in Sukhdev Singh Sodhi's case that, where there is an attack verbally or physically on a Presiding Judge in a Court, then the learned Single Judge must consider whether judicial propriety and the interest of administration of justice make it necessary for him to continue the hearing of the charge of contempt. The other facet, namely, that it is practicable to do so, is a matter of administrative convenience. The learned Single Judge rightly held that sub-section (2) of section 14 does not obligate the Judge to transfer the matter from his board, the moment such an application is made. It is in order to meet those rare contingencies, where a transfer application might have to be permitted under sub-section (2), that sub-section (3) of section 14 was enacted to prevent the learned Judge, in whose presence the contempt took place, from being called to give evidence. The test for allowing an application u/s 14(2) is : Does the learned Judge hearing feel embarrassed? If so, then he is entitled to and should request the learned Chief Justice to transfer the proceeding. Otherwise, he has jurisdiction to try the matter without allowing the application.

23. Turning to the facts of this case, we are of the view that, though not articulated in specific words as used by sub-section (2) of section 14, what the learned Single Judge has conveyed in paragraph 35 of his judgment means the same thing. The learned Judge says, "there is no legal necessity, nor propriety in referring the matter to another Bench". In other words, the learned Single Judge was of the view that the circumstances of the case did not suggest that it was either practicable or necessary in the interest of administration of justice to allow the application. Taking an overall view of the matter, we are in agreement with this finding of the learned Single Judge.

24. The contemner drew our attention to the letter dated 9.10.2000 addressed by her to the prothonotary and Senior Master of this Court (page 199 of the Appeal Paper Book) and contended that, what was stated in the letter was true inasmuch as no one had controverted the contents of the letter: that the contents of the letter demonstrated that the learned Judge had prejudice against her. In our view, both contentions are without substance. In the first place, no litigant can write a letter to a Judge making allegations, and expect the Judge to reply to the said allegations. The mere fact that the Court, in dignified silence, ignored the contents of the letter, does not mean an implied admission of its contents. Secondly, we are not satisfied that merely because the Petitioner's said allegations were made in her letter it would demonstrate prejudice on the part of the learned Single Judge.

25. Finally, the contemner tendered a written apology to the Court, and relied upon section 13 of the Act. She contends that no sentence should be imposed on her for contempt of Court unless the Court was satisfied that the contempt was of such nature that it substantially interferes or tends to interfere with the due course of justice.

26. As to the apology, we are of the view that it was only a face saving device resorted to at the fag end of the argument of the appeal, sensing that the appeal was not likely to succeed. Against the background of the conduct of the contemner on record, about which several learned Judges had bitter experience, which we have quoted in extenso, we are not inclined to accept the apology as expression of genuine contrition on her part; nor do we believe it to be a genuine apology, as Justice Kochar believed. In our view, the learned Single Judge has rightly taken the view, and we agree with him, that the conduct of the contemner substantially interfered with the hearing and/or tends to interfere with substantially and/or tends to obstruct substantially with the administration of justice. This was a case, in our judgment, where punishment was a must. The learned Judge has rightly discharged his duty. So must we. Despite the fact that we are dealing with the case of a contemner fighting with the legal system, despite the fact that she is a lady whose pleas were punctuated by heart-rending sobs during the hearing of this appeal, in response to the call of duty, we set aside our emotions and dismiss the appeal.

27. In order to give an opportunity to the contemner to carry the matter to the Supreme Court, if she so desires, we suspend the term of punishment imposed on her for a period of eight weeks from today. We make it clear that the other two aspects of the order of the learned Single Judge, namely, fine and costs, are not stayed.

28. Appeal is accordingly dismissed. No order as to costs.