
(1982) 01 KL CK 0007
In the High Court Of Kerala

Vincent Panikulangara

APPELLANT

Vs

Gopala Kurup

RESPONDENT

Date of Decision : 25-01-1982

Acts Referred:

Constitution of India, 1950 — Article 226

Contempt of Courts Act, 1971 — Section 12, 2, 4, 5, 6

Citation : (1982) CriLJ 2094

Hon'ble Judges : P. Subramonian Poti, Acting C.J.; P. Janaki Amma, J

Bench : Division Bench

Judgement

P. Subramonian Poti, Actg. C.J.

1. This petition under the Contempt of Courts Act 1971 is moved by three advocates of this Court after obtaining the consent of the Advocate General under-S. 15 of the Act. The respondent: Sri. Eravankara Gopala Kurup is a member of the Syndicate of the University of Kerala and also the Convener of the Syndicate Standing Committee for Examinations, University of Kerala. Based on the news reports which had wide publicity the petitioners sought to rely also on the fact, a fact not averred in the petition, that the respondent Sri Kurup was the president of the Non-teaching Gazetted Officers' Association in the University, some members of which were said to be involved in the criminal cases registered as a result of police investigation consequent on the decision of this Court on a batch of petitions relating to admissions to Medical Colleges. We do not think it necessary to call upon the petitioners to file an affidavit as to this fact only because it was admitted at the hearing by the counsel for the respondent after ascertaining with the respondent that he was the President of the Association. Commenting on an interim order passed by this Court on 8-12-1981 the respondent Sri Kurup gave to the press a prepared statement which was reported on 10-12-1981 in the Malayalam daily the Malayala Manorama and the English daily, the Indian Express. Ext. P1 is the copy of the prepared statement issued by the respondent and Ext. P2 is the copy of the relevant page of the newspaper Malayala Manorama containing report of the above statement.

According to the petitioners the statement Ext. PI was deliberately made, to wilfully scandalise and lower the authority of this Court and also to interfere with the pending proceedings before this Court. Before we come to that statement and the Memorandum of Charges based on that statement it may be necessary to state a few facts to furnish the background that may be necessary to properly appreciate whether the criticism by the respondent made in Ext. PI statement was called for and justified and further whether it was within his rights to do so.

2. As in the previous years this year too there were a good number of petitions before this Court under Article 226 of the Constitution challenging the admissions to the first year M, B. B. S. Course in the Medical Colleges in the State 1981-82. But there was a difference in that this year in addition to the challenges made on various grounds to the admissions there were also allegations in many petitions of the prevalence of widespread malpractice in the conduct of the examinations. This, it has now turned out, is the reflection of the general public opinion which viewed the conduct of the examinations with considerable suspicion. To this aspect this Court has adverted elaborately in the final judgment in the Original Petitions rendered on 23-12-1981 in O. P. No. 5756/81 and connected cases, particular reference has been made therein to a series of articles in the leading dailies of the State and particularly the Malayala Manorama, by eminent academicians including Vice-Chancellors who had been in office in the Kerala University and the Cochin University, a former Pro Vice-chancellor of the Calicut University and even the current Vice Chancellor of the Kerala University. Besides them many eminent men of the academic world had also commented very disparagingly of the prevalence of such malpractice. Despite this when the petitioners moved this Court seeking that this Court should go deeper into this matter to find out whether there was such malpractice this Court was reluctant to do so. But after hearing counsel for some of the petitioners particularly in the background of views expressed by many eminent men competent to speak on the subject and also the views expressed by the responsible press of this country this Court felt that, a prima facie case had been made out for the Court to justify looking into this question. At that stage the court passed an order in the Medical College admission cases on 18-11-1981 to make available for perusal by the Court, if necessary, the answer books of the candidates whose names appeared in the provisional select list. The Court directed to keep these in readiness in duly sealed covers in the hands of the respective counsel for the two Universities, Kerala and Calicut. The Court then called upon the counsel for the petitioners to choose some numbers at random from among that of those who had been selected in the provisional list so that instead of going through all the books the Court may consider only those answer books of those chosen by the petitioners. To these the Court also added some numbers at random thus making about 60 answer books. These were directed to be scrutinised by eminent academicians in each of the four subjects, physics. Chemistry, Botany and Zoology who had volunteered to assist the Court in this matter. The Court was not proposing to revalue the papers, but only ascertain whether on going through the papers the

Court would be able to say that any malpractice had been committed, keeping an open mind on the issue. During the course of such examination it was disclosed to the Court that in the original answer books of two of the candidates out of the 40 and odd candidates of the Kerala University whose answer books were so scrutinised the marks obtained were such as would not entitle them to seek admission. In fact in the case of one candidate the total of marks for the four optional subjects was only 2. The Court, thereupon called on the Additional Advocate General to make available the mark lists produced by these candidates before the principal, Medical College, Trivandrum in support of the application for admission and these were obtained. The mark lists in respect of the two candidates who had obtained marks which would not qualify them for admission were found to be different from the marks noted in the answer books. Evidently this meant one of two things; either that the marks in the answer books were not reflected in the mark lists issued by the University or that there was no proper verification by the Selection Committee before preparing the select list. If there was no machinery for ascertaining the correctness of the marks with reference to the University records and admissions were based simply on the mark lists supplied by the candidates that again was bad enough though the default then would be that of the Selection Committee. The Court did not know what the situation was at that time. There were many suspicious circumstances other than these disclosures with regard to marks. The possibility of substitution of answer papers was a matter urged before the Court and that again was a matter which the Court wanted to be pursued as evident from the order dated 8-12-1981.

3. In the order passed by this Court on" 8-12-1981 reference was made to these matters. No doubt the Court made reference to the charge of malpractice in the examination conducted by the University and the concern the Court had in regard to such charges.

4. The point that we wish to emphasise is that the order passed by this Court on 8-12-1981 did not directly or indirectly comment on the conduct of the Universities in regard to the mark lists produced by the petitioners before the Selection Committee though this Court did express concern generally about the University examinations based on other materials in the case. Though the respondent has chosen to file an affidavit specifying his stand he has not chosen to point out any part of the order of this Court of 8-12-1981 as justifying his comments. It is not said with reference to any part of that order that it led him either to misunderstand the order or understand it in a manner which called for comment. Had he done so we would have adverted to that part of the order. In the absence of such a case we have to advert generally to that order. The order dealt with in detail the conduct of the Registrar of the University and the averments in the affidavits of the Deputy Registrar in an attempt to show that the Registrar did not act in accordance with the directions of this Court particularly in producing some of the answer books in time. Those answer books should have been with the counsel for the University days earlier in accordance

with the orders of this Court. In this background the Court felt suspicious about such answer books and felt that the conduct of the Registrar had to be commented upon. After having referred to this the Court proceeded in para 4 of its order to refer in brief to the scrutiny of the answer papers. The Court said:

We must say that in regard to some papers there is reason for suspicion particularly in regard to some of the papers produced on 7-12-1981. Though the story of revaluation was emphasised before us on the earlier occasion and we have been led to think those papers which were not before us were legitimately elsewhere, being revalued. Now we have come to know that only two papers out of these twelve were revalued and not the others.

This Court went on to refer to the discrepancy in the marks disclosed on examination of some answer books. For the sake of convenience it is better that we extract para 5 of this Court's order:

5. More alarming is the result disclosed in regard to two of the candidates who have been provisionally selected for the First Year M. B. B. S. Course. One of them has obtained 0 mark in Physics, 0 mark in Chemistry, 0 mark in Botany and 2 marks in Zoology for the final examination. Candidates who have obtained total marks of 427 out of 450 have been provisionally selected by inclusion in the list and this candidate has got into the said select list as a candidate who has secured 428 marks. Certainly he could not have secured the said marks when he got 0 in all the three papers and 2 in one paper. He would not be anywhere near the winning post, he must be at the other end. We have yet another candidate who has obtained 17 marks in Physics, 18 marks in Chemistry, 24 marks in Botany and 26 in Zoology for the final examination (Total 85/180). Nevertheless the total marks of the candidate shown are 442 out of 450. How this happened we are not speculating. We would have looked into this ourselves. But unfortunately the mark list is not available with the University in regard to these candidates. We have gone through the mark list supplied by the candidates to the selection committee for admission. The marks shown in the copies of the certificates have evidently been acted upon by the Selection Committee for the present. It is for the Government to pursue this matter.

As the last sentence in the para shows the Court left it to the Government to pursue this matter. We may incidentally say that going by press reports, the efforts of the Government in pursuing this matter led to registration of a number of crimes relating to manipulation of mark lists, a fact mentioned at the bar and not controverted. In para 6 the Court referred generally to the talk of corruption in the examination process without reference to any particular examination or any particular University and noticed that the Court's investigation into a few cases showed that there was room for concern and the charges of malpractice cannot be said to be unfounded. The Court directed what should be done in regard to the cases about which the Court felt suspicion on the examination of answer books, This is the order which was commented upon by the respondent in this case.

5. The charge now levelled against the respondent in the petition reads:

Memorandum of Charges; You Era vankara Gopala Kurup, "Ajaya Bhavan", pandalam, Convener of the Syndicate Standing Committee for Examinations of the University of Kerala, have issued a press statement which is reported on 10-12-1981 in all the important Malayalam dailies like "Malayala Manorama" and also the English dailies like "Indian Express" published from Cochin imputing improper motives against the Hon'ble High Court of Kerala in passing the interim order in O. P. No. 5756/81 on 8-12-1981, wilfully scandalising and lowering the authority of the Honourable High Court and also interfering with the pending proceedings before the High Court of Kerala and the administration of justice and thereby committed the contempt of court u/s 2(c)(i), (ii) and (iii) of the Contempt of Courts Act, 1971." According to the petitioners the statement of the respondent disclosed the following assertions.

(a) The criticism of the High Court tends to create the impression that three Pre-degree Examination candidates who secured zero marks and digit marks have obtained admission to the Medical Colleges because of the confusion and irregularities in the conduct of examinations by the University of Kerala.

(b) Such criticism is opposed to truth.

(c) The premature action on the part of the High Court before verifying that the candidates themselves tampered with, the mark lists and secured admission to the Medical Colleges is an uncharitable act on the part of the High Court against the University of Kerala;

(d) The High Court, instead of directing the University to produce the mark lists of the 400 students ordered the bundling up of 400 answer books to be brought over to Ernakulam and produced in the court. Thereafter in the guise of scrutiny of 30 answer books, picked out 3 answer books containing irregularities. This conduct on the part of the High Court is suspicious;

(e) The High Court in its order has made a mountain out of a mole hill, thereby instigating anti-university agitations by the students and the public; and

(f) The High Court ought to have exercised self-restraint".

To understand this it may be necessary to refer to some of the statements in Ext. P1 which is in Malayalam. Referring to the newspaper reports about the fraud in the marks obtained by three persons as due to the conduct of the University in conducting the examinations the respondent mentioned in his statement Ext. P1 that this was occasioned by the comments of the High Court in its order. As we have indicated the High Court never connected the discrepancy in marks with any conduct of examinations by the University. That apart in the second para of his statement Mr. Kurup comments on the conduct of the High Court calling for all the answer papers which, according to him, had to be carried all the way to Ernakulam when the purpose could have been served by calling for the mark lists of the 400 students. He says it is suspicious that when 30 answer books were

checked three of them happened to be cases where malpractice was discovered. His advice that the High Court should have shown some restraint is evidently made in this background.

6. In a celebrated passage in the memorable judgment of the Privy Council oft quoted by courts, Lord Atkin said thus:

No wrong is done by any member of the public who exercises the ordinary right of criticising, in good faith, in public or in private, the public act done in a seat of justice. The path of criticism is public way the wrong-headed are permitted to err therein provided that members of the public abstain from imputing improper motives to those taking part in the administration of justice...they are immune. Justice is not a cloistered virtue she must be allowed to suffer the scrutiny and respectful, even though outspoken, comments of ordinary men". (Ambard v. Article Gen. for Trinidad & Tobago (1936) AC 322 . 335 : AIR 1936 PC 141. Lord Denning, speaking on the Free Press (The Road to Justice by Sir Alfred Denning page 75) observed;

The courts are as much open to fair criticism as anyone else, and it is very right that they should be so, It is a salutary check on all persons in authority that they should be subject to fair criticism.

7. Contempt of court may be of many forms. Insult to Judges, attacks upon them, comments on pending proceedings which have a tendency to prejudice fair trial and scandalising the Judges of the Courts are some of them. It would amount to such scandalising "when the conduct of a person tends to bring the authority and administration of the law into disrespect or disregard. In this conduct are included all acts which bring the court into disrepute or disrespect or which offend its dignity, affront its majesty or challenge its authority." E.M. Sankaran Namboodripad Vs. T. Narayanan Nambiar, .

8. The law of contempt now stands sketched by the provisions of the Contempt of Courts Act 1971, an Act passed after due deliberation necessitated by the fact that our Constitution laid significant emphasis on freedom of speech, a freedom which had to be given its full amplitude while at the same time it was necessary to safeguard the status and dignity of courts and interests of administration of justice. This Act denned Criminal Contempt in Section 2(c) thus:

"Criminal Contempt" means the publication (whether by words, spoken or written, or by signs, or by visible representations, or otherwise) of any matter or the doing of any other act whatsoever which-

(i) scandalises or tends to scandalise, or lowers or tends to lower the authority of any court, or

(ii) prejudices, or interferes or tends to interfere with, the due course of any judicial proceeding; or

(iii) interferes or tends to interfere with, or obstructs, the administration of

justice in any other manner.

Section 12 provides for punishment for contempt. The definition of contempt should be understood with the limitations in Sections 4 - 9 of the Act and particularly in Section 9 Which expressly indicates that the Contempt of Courts Act 1971 was not intended to enlarge the scope of contempt and therefore nothing contained in the Act should be construed as implying as punishable a conduct which would not be punishable apart from the Act.

9. In a democracy fair criticism of the working of all the organs of the State should be welcome and would in fact promote the interests of democratic functioning. Section 5 of the Act, evidently enacted with a view to secure this right, provides that a person shall not be guilty of contempt of court for publishing any fair comment on the merits of any case which has been heard and finally decided. This does not mean that the right to commit for any contempt by scandalising the court has become obsolete. The question would still be whether the publication alleged to be offending is by way of fair comment on the merity; of the case. Comment not made honestly and in good faith would not be fair comment. Comment not intended to promote public interest could not be fair comment.

10. The accuracy of the law laid down by them in their decisions should be the object of fearless scrutiny. Such freedom to criticize is essential if the high quality of judicial administration is to be maintained" Freedom, the Individual and the Law by Harry Street at pp. 167-168.

If reasonable argument or expostulation is offered against any judicial act as contrary to law or the public good, no Court could or would treat as contempt of Court" AIR 1936 PC 141.

Speaking of the English Law of contempt of Court Prof. Harold J. Laski in "Studies in Law and Politics" quoted the views of Justice Holmes that the boundaries to the expression of opinion ought only to be set by the imminent danger of public disorder, We will quote the passage here:

It is unnecessary here generally to argue the case for a wide freedom to criticize in a democratic State. Its corollary is the clear inference, insisted upon by Mr. Justice Holmes in a classic opinion, that the boundaries to the expression of opinion ought only to be set by the imminent danger of public disorder. Against such a canon the present English procedure seriously offends. While the privilege of Parliament would leave its members free to speak strongly upon matters concerning the judiciary, all other persons who, even from the highest motives, may choose to criticize the course, find the scales heavily weighted against them. For, as has been argued, there is an inevitable corporate interest in the judiciary which makes it difficult for them to act independently and impartially in cases of this kind", (at p. 234).

Courts should not be over sensitive to criticism. The jurisdiction in contempt is

not to be invoked unless the case is clear and beyond reasonable doubt. Even so a criticism which imputes improper and dishonest motives has necessarily to be regarded seriously.

11. We shall examine the case before us in the light of the law briefly stated here. We reiterate that in the order of this Court there was no comment on the conduct of the University in so far as it concerned the disclosure of marks in the answer books different from that in the mark lists furnished by the students to the Principal of the Medical College along with the applications for admission. Hence the assumption by the respondent of such a fact as the basis for his comments was unfounded. To say the least the comment is reckless. More serious and objectionable is the evident suggestion conveyed to the public about the conduct of the High Court in finding fraud in three numbers when exactly 30 papers were checked. It is better to quote the very words of Ext, PI. (Matter in vernacular omitted here.-Ed.)

Translated into English the substance of the above passage is this;

The University had done whatever is possible this year to see that the valuation in the pre-degree examination was perfect. Our belief is that we have succeeded in this. Some of the irregularities at certain examination centres are under enquiry. We have already taken steps to see that such things are not repeated. In these circumstances while it would have been sufficient to call for the mark lists of the 400 students, to direct that all the answer papers of all these students have to be carried to Ernakulam and further to find fraud in three papers when checking exactly 30 books is suspicious.

Evidently the suggestion is that the High court had acted improperly in calling for the answer books, that it would have been sufficient to call for the mark lists, that it was extraordinary that when 30 books were checked, irregularities in three were discovered and that this is suspicious. The plain suggestion is one of suspicious conduct on the part of the High Court. The significant point is that the respondent has not bothered to explain this statement in the counter affidavit filed in this Court or at the hearing. The learned Counsel for the respondent at the hearing took the stand that he doesn't want to add anything further to what is stated in the counter affidavit of the respondent and he would be satisfied with reading the counter affidavit as his argument in the case. In other words he did not want to add to what was stated therein. The respondent was told that he could, if he wanted to make any submission in addition to what was stated in his counter affidavit, but he had no further submissions to make. In these circumstances could we say that the comment is honest ? It would be honest if it is based on true facts. That as we have said is not the case here. It is ex facie irresponsible. If it did come from a member of the public unconnected with the examination whose comment was motivated by public interest only it would have had a different complexion. The respondent as one who shares the responsibility for the conduct of examinations, in the University (as the Convener of the Standing Committee of the Examinations) is more or less in the position of one

who was a party, he having identified himself with the case of the University.

12. Fair criticism of orders and judgments of Courts by public are permitted as it may be necessary for the public to be educated on the propriety of acts of Courts just as acts of Legislature or the Executive, call for honest comment. Any system could improve only by periodical assessment of its performance and the Court is not beyond the purview of such assessment. Public opinion does play a significant role in making any institution responsive to the need of the times. When a member of the public does honestly criticise an order or a judgment of the court he does it not to promote his own interest, but that of the general public. When a party to a litigation does it he is essentially subjective to a considerable extent and it is more in his own interest that he does it than in the public interest. Sri. Eravankara Gopala Kurup identifies himself with the University because he evidently feels that it was the conduct of examination by the University that was commented upon and that called for an answer from him. He was apparently trying to vindicate himself. This has a bearing on determining whether the criticism is honest). Yet another matter which is of relevance is that the respondent was not speaking when he was off guard. He was speaking deliberately and purposefully. He had a prepared statement to be fed to the press. There is no case that the newspapers rushed to him for ascertaining his reaction. Evidently he has carried the statement to the press. This of was not at a time when consequent upon the judgment the public response had become so intense, that it called for a reply. The order of the court was delivered on 8-12-1981, the news of this came in the papers on the 9th and whatever developments might have taken place later such as agitation by students that would not have had any bearing on the attitude of the respondent at the time he issued the statement, for, it was prepared by him and handed over to the press on the 9th itself, the day when the order was reported,

13. Now we look into the stand taken by the respondent in his counter-affidavit. He mentions in his counter-affidavit that after having ascertained that there was no discrepancy between the marks on record and those issued to the Colleges he bona fide thought that this Court's observations would prove most damaging to the University's image and that he honestly felt that this situation could have been avoided if the High Court had in the first instance called for the records of the University relating to the mark lists for scrutiny and verification in which case the source of the discrepancy and the responsibility therefore could have been detected at that stage itself. He has no explanation to offer to the statement made by him that the conduct of the Court was "suspicious." Though the respondent ends his statement with an apology it is neither honest nor sincere, but only stated as an escape valve.

14. The respondent has been quite ill-informed when he says that this Court could have called for the mark lists of all the candidates instead of calling for the answer books. The purpose of calling for answer papers was different from any purpose that would be achieved by calling for mark lists. The answer papers

were called for with a view to see whether there was substitution of answer books in a large scale as indicated in the newspaper articles and reports to which this Court's attention was drawn, if this was the only comment by the respondent we would have ignored it as the product of ignorance and immaturity,

15. The statement of the respondent that in three papers out of the 30 answer papers chosen by the Court there was malpractice disclosed is a suspicious circumstance is a thoroughly irresponsible and mischievous statement which ought not to have been made in any event. The suggestion, to a layman, would be that this Court knew what papers had to be looked into and therefore looked into 30 papers in which malpractice in regard to three could easily be discovered. This Court chose papers at random as mentioned in the order and even in those few papers there were two cases where there was apparent manipulation of marks. What suspicion could attach to the conduct of the court is evidently not explained. The imputation is irresponsible, reckless and malicious, coming as it does from a responsible person associated with the University. It cannot be justified as within the bounds of fair criticism. The statement does amount to contempt as it scandalises the court and impairs the image of the court in the public eye.

16. The statement Ext, P1 is headed by an advice that the High Court should have exercised self-restraint. Though this advice is uncalled for on the facts of the case and unwarranted it is only a distorted approach by the respondent and we do not think that this criticism amounts to contempt of court.

17. We are aware that a Court should not be too sensitive to criticism and if a case falls on the border line it would be safer to hold that the comment does not amount to contempt. Living under the protection of a Constitution which assures the right to freedom of speech every person has been assured freedom to criticise even the Court. Error in the criticism by itself will not be a ground to characterise it as contempt. Ali may not be level headed and too much of objectivity in such matters should not be expected. Even so a court would naturally ask the questions : has the alleged contemner been honest in the conduct ? What motive prompted him to make the statement? Was it in furtherance of his own interest or the interest of the public? If it is his own interest has he exercised a restraint, which he ought to, knowing that he is commenting on the conduct of a Court in a case in which he is personally interested? What is the effect of the publication by him ? Has he dishonestly imputed or insinuated improper conduct on the part of the Court?

18. In E.M. Sankaran Namboodripad Vs. T. Narayanan Nambiar, Justice Hidayatullah observed thus:

The mischief that his words would cause need not be assessed to find him guilty. The law punishes not only acts which do in fact interfere with the courts and administration of justice but also those which have that tendency, that is to say, are likely to produce a particular result.

Judged from that angle we have no doubt that the statement made by the respondent referred to in Clause (d) of the petition namely that the High Court's conduct in regard to checking 30 numbers of answer books was suspicious is a per se scandalous statement, is a deliberate attempt to scandalise the court imputing lack of good faith in the discharge by the court of its judicial duties. Judged in the above background we consider the respondent to be guilty of contempt of court and liable to be proceeded against u/s 12 of the Act.

19. Before we close we express the same sentiments as Lord Denning did in the recent case of *Home Office v. Harman* (1981 2 All ER 349 358. To quote his words:

I wish that people who criticise the decisions of the judges would study the facts first, because every rule of law is stated in relation to the facts of the instant case.

20. After pronouncing the respondent guilty of contempt we heard the respondent -on the question of sentence. He has given a statement expressing his unconditional regret and withdrawing his earlier statement in which he attempted to justify his conduct and expressed conditional regret. According to him he assumed that the facts disclosed to him at the time he issued the statement justified his comment but subsequent developments have disclosed the existence of a racket for about 20 years in the Kerala University and the judgment of this Court has been responsible for focussing light on this matter. For this reason he feels he is wrong and he seeks to express his regret and offer his unconditional apology. We post this case to 28-1-1982 for final orders.

21. We have found the respondent guilty. We had mentioned in our judgment that we were not prepared to accept the apology offered in the last paragraph of his counter-affidavit as sincere and as arising out of any feeling of genuine regret or remorse. This was not. because the apology was conditional. Coupled with the stand he took in the said counter affidavit and the similar stand he took up at the hearing we did feel that the apology did not sound well, It appeared to be formal and ritualistic. After we pronounced the respondent guilty we gave an opportunity to him to make submission, if any, on the question of punishment. Then he stated in Court in unequivocal terms that he was withdrawing his earlier statement and was expressing regret. If that stood by itself we, would not have considered it as reflecting a genuine change of attitude or approach. But he furnished the background for the change in attitude, perhaps the startling disclosures that followed investigations commenced soon after the order of the Court and the public feeling and sentiment on the issue which found vociferous expression might have had their influence on the respondent. That is evidently what his present statement indicates. The expression of regret under such circumstances may be genuine.

22. The object of imposing a punishment on a person guilty of contempt is evidently deterrence. The current liberal attitude of Courts in adjudicating the

plea of contempt, consistent with the emphasis on the right to freedom of speech and expression, is naturally the result of public awareness of the democratic rights of the people and the judicial response to it. Even so when criticism of Courts does not satisfy the tests of objectivity as well as honesty it would be objectionable as falling outside the purview of permissible comment. Objectivity calls for reasonable foundation on facts and honesty, in this context, calls for not only fairness, but promotion of public interest. It is well to remember that while the Court adopts a liberal attitude in assessing whether a particular comment or criticism amounts to contempt, once the case falls within the scope of contempt the punishment has to be deterrent unless it be that the same object is otherwise served, perhaps better served, by the strong sentiment expressed in words of censure by the Court or by the acceptance of an apology, sincerely offered to Court. There can be no greater punishment to a man who holds a public office to which he is elected than public censure. Peoples' memory is no doubt short and the stigma of an adverse finding by a Court may get erased in course of time. Even so the strong feeling of resentment and consequent censure by a Court may, in the case of some class of persons work more effectively as a lesson than a substantive sentence of imprisonment) or fine.

23. We impose no punishment on Sri. Kurup, We accept his apology tendered after he was found guilty. For reasons which, we believe, are self evident this course is the most appropriate in the circumstances of the case. We now close the case.