

IN THE HIGH COURT OF JUDICATURE AT JABALPUR.

CONTEMPT PETITION No. 11 OF 1998

Madhya Pradesh, High Court Bar
Association through-its
Secretary, High Court Camp,
Jabalpur.

APPLICANT

Vs.

1. Shri Rajendra Saini,
& 2 others.

-NON-APPLICANTS

I N D E X

<u>S.No.-Particulars.</u>	<u>Ann.mkd.</u>
1. Copy of the relevant news paper cutting	Ann.C/1 7
2. Copy of letter of S.L. Saxena, Advocate General (MP), dt.9.7.98	Ann.C/2 8

COUNSEL FOR APPLICANT

Jabalpur.
dt.9.7.98

M. K. Gupta
Advocate
J. D. A. Park House
New Adarsh Colony,
Garhi Road, Jabalpur

IN THE HIGH COURT OF JUDICATURE AT JABALPUR

CONTEMPT PETITION NO. _____ OF 1978

APPLICATION UNDER ARTICLE 215 OF THE CONSTITUTION
OF INDIA, READ WITH SECTION 12 OF THE CONTEMPT OF
COURTS ACT

Madhya Pradesh High Court Bar
Association, through its Secre-
tary, High Court Campus, JABALPUR.....APPLICANT

VERSUS

1. Shri Rajendra Sail, aged about
52 years, son of Shri Ramdeen
Sail, resident of 18/2-1422,
New Shantinagar, RAIPUR.
2. Shri Vijay Phanshikar, Editor,
Hitvada Press, Pandit
Jawaharlal Nehru Marg, NAGPUR
- 12.
3. Shri Rajendra Purohit, General
Manager, Purohit & Company,
Publication Division, Hitvada
Press, Pandit Jawaharlal Nehru
Marg, NAGPUR - 12.....NON APPLICANTS

The applicant, abovenamed, begs to submit
as under :

1. That Madhya Pradesh High Court Bar Association, hereinafter referred to as 'Bar Association', is a representative body having Advocates practicing in the High Court as well as in different District Courts of the State, as its Members. The Bar Association has its own Constitution. The aims, objectives and its area of operation is not only limited to protect and advance interest, welfare and development of its Members but also extend its commitment towards maintenance and preservice of sanctity, dignity

and prestige of judicial Institutions. It is the bounden duty of the Bar Association to protect and preserve the dignity of the Honourable High Court against any onslaught being attempted by any person which adversely affects its prestige & dignity and demeans its status in the eyes of public at large.

2. The Bar Association is constrained to file this application with the prayer to draw contempt proceedings against the non applicants for committing criminal contempt of court as defined in Section 2 (c) of the Contempt of Courts Act, punishable under section 12 of the said Act, in view of publication flashed in Daily Hitvada English, published from Nagpur dated 4.7.1998 in the form of a news item quoting the speech of the non applicant No.1 in a public meeting held on 1.7.1998 at Khursipar (Bhilai), District Durg. A copy of the relevant newspaper cutting is filed herewith as Annexure C/1.

3. The non applicant No.1 in his speech has made a scathing, scandalous remarks and allegations against the integrity and fairness of the Honourable Judge of the High Court in the context of judgement rendered by a Division Bench of this Honourable Court consisting of Honourable Justice Shri S.K.Dubey and Honourable Justice Ms. Usha Shukla in Criminal Appeal No.1441/97 - Gyan Prakash Mishra, Awadesh Rai, Abhay Kumar Singh Vs. State of Madhya Pradesh & others. Apart from Criminal

Appeal No.1441/97, Criminal Appeal Nos.1278/97, 1374/97 and 1442/97 were also included in the said judgement. The non applicant No.1 also styled the said judgement as "rubbish".

4. That the non applicant No.1, infact has made a direct attack and on-slaught on this Honourable Court and administration of justice by saying the following, as appearing in Annexure C/1 :

- (i) "...the Judge who was on the verge of retirement should not have been entrusted with the responsibility of dealing with such crucial case."
- (ii) "...High Court bench comprising Justice S.K.Dubey and Ms.Usha Shukla had belittled the respect for judiciary by bringing what he said, a biased and rubbish judgement in Niyogi murder case."
- (iii) "...nobody could have made much difference when already Judges were prejudiced in this case." and,
- (iv) "...he had substantial evidence to prove that Judge S.K.Dubey was bribed in this case and that he possessed properties disproportionate to his income."

5. That the disparaging and scurrilous remarks and statements of the non applicant No.1 published in Hitvada English daily, have infact and

ineffect not only scandalised the Honourable Judge/Judges of the Honourable High Court but have brought the authority and administration of law into dis-respect, disrepute and disregard. He has attempted to affront its majesty and challenge its authority. A bare reading of the publication, Annexure C/1, referred above, is infact injury to the public as it tends to create an apprehension in the minds of the people regarding the integrity, ability or fairness of the Judge of this Honourable Court and in all likelihood such publication is deterrent for actual and prospective litigants from placing complete reliance upon the Court's administration of justice.

6. That the statements and publication thereof, are pointedly scandalous. According to Webster's 3rd new international dictionary the word 'scandalised' connotes to speak falsely or maliciously, to bring into reproach, dishonour, disgrace, to offend the feelings, conscience or propriety of an action. Likewise Jowitt's dictionary of English law contains the connotation of word 'scandal' is a report or rumour or an action whereby one is affronted in public, making defamatory statements regarding the persons of high rank such as Peers, Judges or Great Officers of the State.

7. The applicant submits that statements of the non applicant No.1 do amount to criminal contempt of Court as defined in Section 2 (c) (i).

Likewise the publication of such statements in Hitvada English daily dated 4.7.1998 with bold letter headings has further aggravated contempt of this Honourable Court besides detailed publication of statements and, therefore, the non applicant Nos.2 and 3 alongwith the non applicant No.1 have committed criminal contempt of this Honourable Court and made themselves liable for deterrent punishment to be imposed under section 12 of the Contempt of Courts Act. Hence this application.

7. An affidavit in support of this application is filed herewith.

P R A Y E R

It is, therefore, prayed that this Honourable Court be pleased to punish the non applicants befitting to the serious and grave Contempt of this Honourable Court by them.

JABALPUR

DATED : 9/7/1998

COUNSEL FOR THE APPLICANT

IN THE HIGH COURT OF JUDICATURE AT JABALPUR

CONTEMPT PETITION NO. _____ OF 1998

Madhya Pradesh High Court Bar
Association.....AFFLICANT

VERSUS

Shri Rajendra Saini & others.....NON APPLICANTS

A F F I D A V I T

I, Rajkumar Verma, son of Late Shri K.L.Verma, Secretary, Madhya Pradesh High Court Bar Association, High Court Campus, Jabalpur, do hereby state on oath as under :

1. That I am the applicant in the instant case and the attached application under Articles 215 of the Constitution of India read with Section 12 of the Contempt of Courts Act has been drafted on my instructions. I have gone through the said application and have understood the contents thereof.
2. That the statement of facts made in paras 1 to 7 are true and correct and those relating to law and records are based on the information received from my Counsel and the documents and believed to be true by me.

DEPONENT

V E R I F I C A T I O N

I, Rajkumar Verma, the abovenamed deponent do hereby verify at Jabalpur on this 9th day of July 1998 that the contents of paras 1 and 2 of this affidavit are true to my personal knowledge. I have not suppressed any material fact.

DEPONENT

Identified by

A d v o c a t

Mitavada M.P.-Line

C

in terms High Court decision Niyogi murder case as 'rubbish'

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He alleged that High Court bench comprising Judges S. K. Dube and Ms. Usha Shukla had belittled the respect for judiciary by pronouncing what he said a biased and rubbish judgement in Niyogi murder case.

However, Mr. Sail was full praise for the judgement of Additional Sessions Judge of district court, K. K. Ma. He also described district court's decision in Niyogi murder case as landmark and unique. He asserted that he was proud witness in Niyogi murder case in District Court hearing.

Asking as to what made the case weaker on part of prosecution despite K. O. Kannayyan, P.U.C. National President and well known criminal lawyer, being the CBI counsel, Mr. Sail replied that no body could have made any difference when already the judges were prejudiced in this case.

Mr. Sail added that he had substantial evidences to prove that judge S. K. Dube was bribed in this case and that the political activities disproportionate to his income.

Commenting over the allegation of break away faction leader of CMM, Bheem. Raj. Bagde that Rajendra Sail and Anup Singh of P.U.C. were involved in hatching conspiracy of murder of Mr. Niyogi, Mr. Sail said that there was no need for refusal of such baseless charges.

"It is quite understandable that somebodies should get involved in giving intemperate statements after being expelled from the party," said Mr. Sail.

"If Mr. Bagde really thinks so then he is damn free to go to police or court," he added.

Pointing towards the scores of labourers participating in this public meeting, Mr. Sail said, "these labourers are epitome of not gathered here out of any sort of temptation. They have common sense and capacity to judge as to who is killer and who is benefactor."

He claimed that CMM was the only organisation which truly and honestly represented the rights of labourers.

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A. R. Gupta
Advocate
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New Adarsh Colony,
Kharva Road, Jabalpur.

9 c 11

LAL SAXENA
JE GENERAL



D.O. No. _____
OFFICE OF THE ADVOCATE GENERAL
MADHYA PRADESH

Phone 320710 320705, 320701
Fax 320701
Phone 320701
Fax 320701
Phone 320701
Fax 320701

C-2

To,
Shri. Rajkumar Verma,
Secretary,
High Court Bar Association,
High Court Campus,
JABALPUR (M.P.).

Dated 9.7.98.

Sub : Consent to permit you to move an application
for initiating contempt (Criminal) Proceed-
ings against the non-applicants.

Ref : Your letter dt. 9.7.1998.

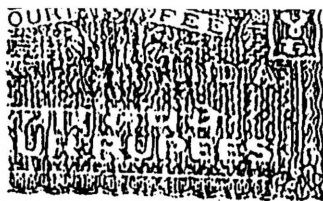
I went through the news paper report, published
in Daily Hitwad (M.P.Line) dt. 4.7.1998. The publication
debauchises the High Court and lowers the authority of
the Court.

In my opinion, a case of Criminal Contempt is
made out and I give my consent in writing to move a
motion for initiating contempt proceedings in the
competent Court.

The consent is given under Section 15(b) of
the Contempt of Courts Act, 1971.

S.L. Saxena
(S.L.Saxena)
Advocate General, M.P.

S. R. Gupta
Advocate
New J. D. House
New Addl.
Garha RBB



BEFORE THE ADVOCATE GENERAL, MADHYA PRADESH,
JABALPUR

APPLICATION UNDER SECTION 15 (1) (b) OF THE CON-
TEMPT OF COURTS ACT.

I, Rajkumar Verma, son of Late Shri K.L.Verma, Secretary, Madhya Pradesh High Court Bar Association, High Court Campus, Jabalpur, beg to state as under :

1. That the Madhya Pradesh High Court Bar Association, hereinafter referred to as the 'Bar Association', is a representative body of its Advocates Members.
2. That the Hitvada daily, published from Nagpur, dated 4.7.1978 bore news item collecting speech/statement of one Shri Rajendra Sail, aged about 52 years, son of Shri Ramdeen Sail, resident of 18/2-1422, New Shantinagar, RAIPUR; in the context of judgement rendered by a Division Bench of the Honourable High Court, consisting of Honourable Justice Shri S.K.Dubey and Honourable Justice Ms.Usha Bhukla. In nutshell the statements are as under

(i) "...the Judge who was on the verge of retirement should not have been entrusted with the responsibility of dealing with such crucial case.

(ii) "...High Court bench comprising Justice S.K.Dubey and Ms.Usha Shukla had belittled the respect for judiciary by

bringing what he said, a biased and rubbish judgement in Niyogi murder case."

(iii) "...nobody could have made much difference when already Judges were prejudiced in this case." and,

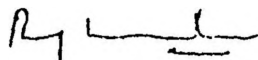
(iv) "...he had substantial evidence to prove that Judge B.K. Dubey was bribed in this case, and that he possessed properties disproportionate to his income."

A copy of the newspaper cutting is enclosed. These disparaging, scurrilous statements are scandalous in nature and have brought disrespect and disrepute to the majesty of Law and in fact and in effect challenged the authority of this Honourable Court. These statements have lowered and demeaned the status of the Honourable High Court in the eyes of public at large. The statements and its publication do amount to criminal contempt of court as defined in Section 2 (c) (i) of the Contempt of Courts Act, punishable under section 12 of the said Act. As such, Shri Rajendra Sail (named above), Shri Vijay Phanshikar, Editor, Hitvada Press, Pandit Jawaharlal Nehru Marg, NAGPUR - 12 and Shri Rajendra Parohit, General Manager, Parohit & Company, Publication Division, Hitvada Press, Pandit Jawaharlal Nehru Marg, NAGPUR - 12, are liable for action and punishment for criminal contempt of court.

In view of the facts and circumstances mentioned above permission may kindly be accorded to file contempt petition before the Honourable High Court.

JABALPUR

DATED 9/8/1978



(RAJKUMAR VERMA)
SECRETARY
SECRETARY,
H. P. High Court Bar Association
JABALPUR.

Dr. K. Gupta
Advocate
Near J. D. A. Pension House
New Adarsh Colony
Garha Road, Jabalpur



अधिवक्ता - पत्र (वकालतनामा)

प्राप्तकर्ता श्री In the High Court of Madhya Pradesh
At Jabalpur

अभियोग/व्यवहारनाम Comp/Behan सन् १९९४

पक्षी MP High Court Bar Association through its Secretary का/आवेदक/पुनरावेदी

विरुद्ध Shri Rajendra Singh प्रतिवादी/आवेदक/उत्तरवादी

निर्णय / अपीलकर्ता

दावा

उपरोक्त अभियोग/व्यवहारनाम में हम Applicant यह अधिवक्ता-पत्र लिख रहे हैं कि हमने श्री Shri H.S. Kale Rajendra Singh को अपना अधिवक्ता नियुक्त किया है।
 हमारे अधिवक्ता नियुक्ति के संबंध में हमारे अधिवक्ता महोदय की यह कार्यवाही पूर्ण प्राप्त होगी। प्रत्येक पक्षी धारक पर हम समय उपस्थित रहेंगे अथवा हमारे अधिवक्ता महोदय तपस्थित रहेंगे। यदि अभियोग/व्यवहारनाम में अनुपस्थिति के कारण अवास्त हो जावेगा अथवा उसकी पूर्ण कार्यवाही होगी तो उसके उत्तरदायी हम रहेंगे, न कि हमारे अधिवक्ता महोदय या पत्र द्वारा सूचना के उत्तरदायी रहेंगे। आगमकता अनुसार उन्हें अन्य अधिवक्ता महोदय को रखने का अधिकार रहेगा। कितनी दूर तक समय अथवा पत्र में जाकर हमारे अधिवक्ता एवं व्यवहारनाम में कार्य करना हमारे अधिवक्ता महोदय की इच्छा पर निर्भर रहेगा। उपरोक्त अभियोग/व्यवहारनाम का शुल्क अथवा शुल्काने देय रह जावेगा, तो भी की कार्यवाही करना अथवा न करना हमारे अधिवक्ता महोदय की इच्छा पर अवलंबित रहेगा।

अतएव हम इस अधिवक्ता-पत्र पर अपने निम्नलिखित परिचित साक्षियों के सामुख अपने हस्ताक्षर करते हैं / जमुठ कृत करते हैं।

नाम
 पति १
 पति २

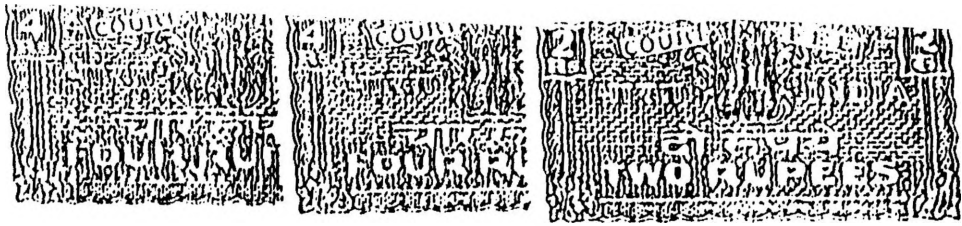
[Signature] हस्ताक्षर
[Signature] हस्ताक्षर
[Signature] हस्ताक्षर

NOTARIAL SEAL
N. P. ...

साक्षर कहता है कि मैं परिचित हूँ। उन्होंने मेरे सम्मुख अपना मुठ कथित किया है।
 र श्री
 अपना अधिवक्ता नियुक्त किया है।
 साक्षर

उपरोक्त प्रतिबन्ध के अन्तर्गत स्वीकार किया

[Signature]
(R.K. Gupta)
 Counsel for applicant



IN THE HIGH COURT OF JUDICATURE AT JABALPUR: M.P.

Contempt Petition No. _____ of 1998

Madhya Pradesh High Court Bar
Association, through its Secretary
High Court Campus, Jabalpur.

Applicant.

Vs.

Shri Rajendra Sail & others.

Non-Applicant.

A APPLICATION FOR URGENT HEARING OF THE PETITION

The applicant named above begs to submit asunder :-

1. That, the applicant has filed an application under Article 225 of the Constitution of India, read with Section 12 of the Contempt of Courts Act before this Hon'ble Court.
2. That for the reasons mentioned therein, the matter is to be heard urgently.

P R A Y E R

It is, therefore, prayed that this Hon'ble Court may kindly be pleased to list the case for hearing, in the interest of justice.

Jabalpur

Dtd. 9.7.98.

Counsel for the applicant.

K. K. Gupta
Address
Near J. D. ... House
New Adm ...
Garha ...