



IN THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM & ARUNACHAL PRADESH)

(1) CONT. CASE (CRL.) No.1 OF 2025

1. Advocate General, Assam, 2nd Floor, New High Court Building, Gauhati High Court, M.G. Road, Panbazar, Guwahati, Kamrup (Metro), Assam, PIN – 781001.

2. Shri Devajit Saikia,
Son of Late Tunga Bhadra Saikia,
House No.19/A, Tunga-Dip, Srimantapur, Near Srimantapur L.P. School, PO: Indrapur, PS: Bhangagarh, Guwahati – 781032.

.....Petitioners

-Versus-

1. Shri Anil Kumar Bhattacharyya, Senior Advocate, Member of the Gauhati High Court Bar Association, Resident of Eva's Eden, 13, Manik Nagar, R.G. Baruah Road, Guwahati – 781005.

2. Shri Kamal Nayan Choudhury, Senior Advocate, President, Gauhati High Court Bar Association, Office of the Gauhati High Court Bar Association, Old Building, Gauhati High Court, M.G. Road, Panbazar, Guwahati, Kamrup (Metro), Assam, PIN – 781001.

.....Respondents

(2) CONT. CASE (CRL.) No.2 OF 2025

1. Advocate General, Assam, 2nd Floor, New High Court Building, Gauhati High Court, M.G. Road,

Panbazar, Guwahati, Kamrup (Metro), Assam, PIN – 781001.

2. Shri Devajit Saikia,
Son of Late Tunga Bhadra Saikia,
House No.19/A, Tunga-Dip, Srimantapur, Near
Srimantapur L.P. School, PO: Indrapur, PS:
Bhangagarh, Guwahati – 781032.

.....Petitioners

-Versus-

1. Smti. Pallabi Talukdar, Advocate, Member of
the Gauhati High Court Bar Association
(Membership No.2006) (Bar Council Enrolment
No.482/2003), Resident of House No.38, Hari
Mandir Path, Sarumotoria, Dispur, Guwahati,
Kamrup (Metro), Assam, PIN – 781006.

2. Shri Kamal Nayan Choudhury, Senior Advocate,
President, Gauhati High Court Bar Association,
Office of the Gauhati High Court Bar Association,
Old Building, Gauhati High Court, M.G. Road,
Panbazar, Guwahati, Kamrup (Metro), Assam, PIN
– 781001.

.....Respondents

– BEFORE –

**HON'BLE THE CHIEF JUSTICE MR. VIJAY BISHNOI
HON'BLE MR. JUSTICE N. UNNI KRISHNAN NAIR**

For the Petitioner(s) : Mr. Devajit Saikia, Advocate General
(Petitioner-in-person).

For the Respondent(s) : Mr. Kamal Nayan Choudhury,
(respondent No.2 in-person) in both the
Cont. Cases.

Date of Hearing : 08.04.2025.

Date of judgment : **11.04.2025.**

ORDER (CAV)

(Vijay Bishnoi, CJ)

These 2(two) Contempt Cases (Criminal) are preferred by the learned Advocate General of the State of Assam under Sections 11, 12 & 15(1)(a) of the Contempt of Courts Act, 1971 (*hereinafter to be referred as "the 1971 Act"*), read with Article 215 of the Constitution of India and read with the provisions of the Gauhati High Court (Contempt of Court) Rules, praying for granting the following reliefs:-

Relief in Cont. Case (Crl.) No.1/2025

"In the premises aforesaid it is prayed that Your Lordships may be pleased to issue notice upon the respondents/alleged contemnors to show cause why a contempt proceeding should not be initiated against them for willful and deliberate acts targeted at making scandalous allegations against Judges, leveling aspersions and attributing motives to them in discharging judicial function and undermine the confidence of public at large on the judiciary and upon cause or causes being shown and upon hearing the parties, be pleased to draw a contempt proceeding against the respondents and after hearing them pleased to pass orders for punishment and penalties on the respondent/contemnors and/or pass any other order or orders as Your Lordship may deem fit and proper for securing for ends of justice."

Relief in Cont. Case (Crl.) No.2/2025

"In the premises aforesaid it is prayed that Your Lordships may be pleased to issue notice upon the respondents/alleged contemnors to show cause why a contempt proceeding should not be initiated against them for willful and deliberate acts targeted at making scandalous allegations against Judges, leveling aspersions and attributing motives to them in discharging judicial function and undermine the confidence of public at large on the judiciary and upon cause or causes being shown and upon hearing the parties, be pleased to draw a contempt proceeding against the respondents and after hearing them pleased to pass orders for punishment and penalties on the respondent/contemnors and/or pass any other order or orders as Your Lordship may deem fit and proper for securing for ends of justice."

2. It is averred in both the contempt petitions that it has come to the notice of the learned Advocate General, Assam through some video clippings being circulated in various social media platforms, purportedly on the basis of a programme, namely, "Mejmel", reported by a journalist and broadcast/published by a news channel, namely, "Prag News", on 24.03.2025, that during the sit-in-demonstration organized by the Gauhati High Court Bar Association (*hereinafter to be referred as the "Bar Association"*) on 24.03.2025, some advocates made derogatory remarks on the functioning of the Gauhati High Court and, in particular, referring to a particular Judge of this Court.

3. For the better understanding, it would be appropriate to extract the relevant averments made in both the contempt cases (criminal).

Cont. Case (Crl.) No.1/2025

"3. That, it is stated that the petitioners have come across certain video clippings being circulated in various social media platforms, purportedly on the basis of a program, namely, 'MEJMEL' reported by a journalist and broadcasted/published by a news channel, namely, 'PRAG NEWS' on 24-03-2025, wherein certain advocates of Gauhati High Court have been seen making statements using intemperate language against Hon'ble Gauhati High Court and its Judges, making scandalous allegations against them, leveling aspersions and attributing motives to them in discharging their Judicial and administrative functions. Such allegations were made during and from the stage/platform of the Sit-in-demonstration program, organized by the Gauhati High Court Bar Association, on 24-03-2025 and the video of the television broadcast in concern is an interview taken by a Reporter of the news channel 'PRAG NEWS' and same was broadcasted by the news channel on 24-03-2025, in a program, namely, 'MEJMEL'.

4. That, it is stated that the said news channel program and the video clippings in various social media platforms, being widely

circulated, which incidentally, prima facie, do not reveal any manipulations, interruptions or editing, a particular practicing advocate, who has been arrayed herein as the Respondent/Contemnor No.1 in this petition, had made explicit derogatory remarks on the functioning of the Hon'ble Gauhati High Court and in particular, referring to a particular Hon'ble Judge of the Hon'ble High Court, namely, Hon'ble Mr. Justice Suman Shyam.

5. That, the Respondent/Contemnor No.1 herein, namely, Anil Kumar Bhattacharyya, a designated Senior Advocate by profession, and a Member (Membership No. 1040) of the Gauhati High Court Bar Association, was not only heard and seen making statements - in the said news channel program and in the circulating video clippings in social media platforms, - declaring that he has '**a positive evidence**' that Hon'ble Justice Suman Shyam of Gauhati High Court '**behaves like a CID**'. In his said statements he further raised a question as to - '**why all the time Justice Suman Shyam has to be friendly to the Chief Justice. What is the reason**'. Further, on being asked by a reporter as to what evidence he has in support of his allegations, the Respondent/Contemnor No.1 commented that due to presence of large number of ladies, he was refraining from giving further comments, otherwise he would have replied the question very badly. He went ahead by stating that all the allegations are not required to be proved by citing evidence, by giving various examples, one of those was that no evidence is required to be asked for as to colour or milk is white or black, overtly indicating that his allegations need not requires evidence.

The above remarks have, even if considered to be with the best of intention, were directed to undermine the Hon'ble Court, the Hon'ble Judges and the dedicated Registry. In fact, the remarks made and the manner in which they were uttered in the particular forum, scandalizing the Court and the Judges, has given rise to discussions and dialogues in public, touching upon the dignity, integrity and majesty of the Hon'ble Court.

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6. That, the Respondent/Contemnor No.2 herein is the President of the Gauhati High Court Bar Association, which has organized the Sit-in-Demonstration program on 24-03-2025, from the platform/stage of which the Respondent/Contemnor No.1 made those above narrated statements and the news channel program 'MEJMEL' was prepared on the basis of the statements made by various Advocates present in that Sit-in-Demonstration program.

Be it stated that although the Respondent/ Contemnor No.2 herein has not been heard stating anything directly contemptuous to the Hon'ble Court, the contempt of Court alleged/referred above by Respondent/Contemnor No.1 herein, was committed apparently **with consent and connivance** of the Respondent/Contemnor No.2, as during that period he was seen not making attempt any to stop or restrain the Respondent/ Contemnor No.1 from making such statements, which are out and out contemptuous to the Hon'ble Court. The Respondent/ Contemnor No.2 being the President of the organization, organizing the said Sit-in-Demonstration program, making statements before cameras as the representative/face of Gauhati High Court Bar Association and being present there during the entire Sit-in-Demonstration demonstration he cannot be let loose from the consequences of such contemptuous statements by Respondent/Contemnor No1.

Such **consent and connivance** of Respondent/ Contemnor No.2 is also apparent from the fact that till today the Gauhati High Court Bar Association and its President has neither condemned the statements made by the Respondent/Contemnor No.1 nor it has apologized till date for such contemptuous statements made by one of its member, from the platform of the Gauhati High Court Bar Association.

Further, even if it is presumed, although not believable, that the contempt committed by Respondent/ Contemnor No.1 was without consent or connivance of Respondent/Contemnor No.2, he cannot claim immunity, utterances as by Respondent/ Contemnor No. 1 could not have taken place if negligence would not have been there on the part of the organizer, and the Respondent/Contemnor No.2 being the President of the organizing "Association". Accordingly, he shall also be deemed to be guilty of the same contempt committed by Respondent/Contemnor No.1, as per the mandate of Section 12(5) of the Contempt of Courts Act, 1971. In addition said respondent/Contemnor No.2 is also liable as per the principle of vicarious liability.

7.
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The words spoken by the Respondent/ Contemnor No.1, is an act - which has scandalized, prejudiced, interfered, and tends to obstruct the due course of judicial proceedings of Court and the administration of justice, and, accordingly, it amounts to Criminal contempt, and, the Respondent No.2 being the main organizer of the protest program, is also liable for the same offences under Section 2(c) and Section 12(5) of the Contempt of Courts Act, 1971.

8. *That, the manner of making the above referred statements, as is reflected in the videos in circulation, itself, indicates that the said contemnor has made the statements to malign the judiciary and Judicial Institutions in an unholy attempt to gain his two minutes of fame at the cost of the reputation of temples of Justice. The wide publicity being given to the same show that the onlookers present on the place of occurrence and the media have contributed enough to add injury to insult.*

9. *That, it is stated that the statements have the effect of scandalizing the Hon'ble Court and are obvious attempts to undermine the confidence of public at large on the judiciary. Unfairness have been implied by using the terms indicating the conduct of the Judges. Intemperate language has been used to cast aspersions and to attribute vested motive.*

10.
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11. *That, the contemnors are highly educated citizens and are well versed with the fundamentals of rule of law and are also conversant with the requirement of holding the Hon'ble Courts of law and the Hon'ble Judges, through whom the judicial system functions, to be held in the highest esteem and regard. Contemptuous acts committed by advocates in public forum with the intent to malign the judiciary, more particularly this august institution of Gauhati High Court and its Hon'ble Judges is wholly condemnable and ought not to be forgiven or overlooked.*

12.
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13. *That, it is stated that the translated version of the transcript discloses the malicious statements made by the contemnor no 1, to malign the image of the Hon'ble Court and Hon'ble Judges, and the medium and manner of expression leave no doubt that the same were deliberately made to erode respect and confidence of the public towards the judicial system. The following statements assume importance:*

PRASHANTA RAJGURU- 'But Bhattacharyya Sir, the Chief Justice of High Court and his learned brothers who are his colleagues went and sit in a meeting with the Chief Minister and they had expressed consent. How you have accepted the event that they expressed their consent sitting in a meeting with the Chief Minister.'

ANIL KUMAR BHATTACHARYYA- 'I condemn this. And they have not gone. Only two Judges. Who is not even a member of the collegium and why all the time Justice Suman has to be friendly to the Chief Justice. I have a positive evidence that he behaves like a CID.'

PRASHANTA RAJGURU- 'Who?'

ANIL KUMAR BHATTACHARYYA- 'Justice Suman'

PRASHANTA RAJGURU- 'What evidence do you have?'

ANIL KUMAR BHATTACHARYYA- 'See. Many ladies are here otherwise I would have replied very badly. What evidence is there that is not 'heri' everywhere. Would you ask that evidence has to be given whether milk is white or black. Does it require evidence why do people marry. Rule of marriage...one of the....is procreation- does it require any evidence. Ask that to the Chief Minister. To how many he has given evidence. Does he have any evidence that when he declared here...he is an invitee only. What authority he has to declare that and someone has brought out - I heard today morning also all the Judges have not gone. Fifth Judge he has gone there.'

PRASHANTA RAJGURU- 'Who is not even a member of collegiums.'

ANIL KUMAR BHATTACHARYYA- 'is not.'

14. That, the above Statements are offensive, outrageous and have the undoubted tendency to lower the authority of the Hon'ble Court and Judges. It will seriously undermine the confidence that is reposed in the institution and effective steps are the call of the day to curb such unethical practices, more so, when such contempt is committed by practicing advocates. Accordingly, the petitioner is preferring the present application to initiate proceedings for Criminal contempt of the Hon'ble High Court under Article 215 of the Constitution of India and Section 2(c), 11, 12 and 15(1)(a) of the Contempt of Courts Act 1971 read with Gauhati High Court (Contempt of Court) Rules.

15. That the petitioners state that in the fact and circumstances described the present case is a fit case for drawing up appropriate proceedings against the contemnors and for punishing them for their contemptuous act. The contemnors are fully aware about the law of contempt and they have wilfully acted in manner which constitutes contempt. Therefore, a contempt petition is hereby filed against the contemnors."

Cont. Case (Crl.) No.2/2025

“3 That, it is stated that the petitioners have come across certain video clippings being circulated in various social media platforms, purportedly on the basis of a program, namely, "MEJMEL" reported by a journalist and broadcasted/published by a news channel, namely, "PRAG NEWS" on 24-03-2025, wherein certain advocates of Gauhati High Court have been seen making statements using intemperate language against Hon'ble Gauhati High Court and its Judges, making scandalous allegations against them, leveling aspersions and attributing motives to them in discharging their judicial and administrative functions. Such allegations were made during and from the stage/ platform of the Sit-in-demonstration program, organized by the Gauhati High Court Bar Association, on 24-03-2025 and the video of the television broadcast in concern is an interview taken by a Reporter of the news channel "PRAG NEWS" and same was broadcasted by the news channel on 24-03-2025, in a program, namely, MEJMEL".

4. That, it is stated that the said news channel program and the video clippings in various social media platforms, being widely circulated, which incidentally, prima facie, do not reveal any manipulations, interruptions or editing, a particular practicing advocate, who has been arrayed herein as the Respondent/Contemnor No.1 in this petition, had made explicit derogatory remarks on the functioning of the Hon'ble Gauhati High Court and in particular, referring to a particular Hon'ble Judge of Hon'ble High Court, namely, Hon'ble Mr. Justice Suman Shyam.

5. That, the Respondent/Contemnor No.1 herein, namely, Pallavi Talukdar, an Advocate by profession, having her Bar Council Enrolment No.482/2003 and, also, a Member (Membership No.2006) of the Gauhati High Court Bar Association, was not only heard and seen making statements - in the said news channel program and the circulating video clippings in social media platforms, - declaring that the proposed shifting of the Hon'ble Court was based on 'vested interests'. The said Respondent/Contemnor No.1 had even gone to the extent by stating in clear and unambiguous terms that there was betrayal (bibhishan) from within the judiciary. But to the utter shock and sadness, the said Respondent/Contemnor No.1 crossed all limits of decency and propriety, when she nicknamed a particular Judge as 'chika', which is vernacular for "rat", and ultimately, naming a Judge of this Hon'ble High Court, disclosing that she nicknamed

Hon'ble Justice Suman Shyam as 'chika'. In the said video in circulation she was even heard criticizing the conduct of the said Hon'ble Judge in his Court proceedings.

6. That, further, all barriers of humility and decency were broken by the said respondent/contemnor No.1, when the said Hon'ble Judge was referred to as 'Manage Master' and was stated to be managing the Registry with regard to listing of cases. The above remarks have, even if considered to be with the best of intention, were directed to undermine the Hon'ble Court, the Hon'ble Judges and the dedicated Registry. In fact, the remarks made and the manner in which they were uttered in the particular forum, scandalizing the Court and the Judges, has given rise to discussions and dialogues in public, touching upon the dignity, integrity and majesty of the Hon'ble Court.

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7. That, the Respondent/Contemnor No.2 herein is the President of the Gauhati High Court Bar Association, which had organized the Sit-in-Demonstration program on 24-03-2025, from the platform/stage of which the Respondent/Contemnor No.1 made those above narrated statements and the news channel program

'MEJMEL' was prepared on the basis of the statements made by various Advocates present in that Sit-in-Demonstration program.

Be it stated that although the Respondent/ Contemnor No.2 herein has not been heard stating anything directly contemptuous to the Hon'ble Court, the contempt of Court alleged/referred above by Respondent/Contemnor No.1 herein, was committed apparently **with consent and connivance** of the Respondent/Contemnor No.2, as during that period he was seen not making any attempt to stop or restrain the Respondent/Contemnor No.1 from making such statements, which are out and out contemptuous to the Hon'ble Court. The Respondent/Contemnor No.2 being the President of the organization, organizing the said Sit-in-Demonstration program, making statements before cameras as the representative/face of Gauhati High Court Bar Association and being present there during the entire Sit-in-Demonstration demonstration he cannot be let loose from the consequences of such contemptuous statements by Respondent/Contemnor No.1.

Such **consent and connivance** of Respondent/Contemnor No.2 is also apparent from the fact that till today the Gauhati High Court Bar Association and its President has neither

condemned the statements made by the Respondent/Contemnor No.1 not it has apologized till date for such contemptuous statements made by one of its member, from the platform of the Gauhati High Court Bar Association.

Further, even if it is presumed, although not believable, that the contempt committed by Respondent/ Contemnor No.1 was without consent or connivance of Respondent/Contemnor No.2, he cannot claim immunity, as utterances by Respondent/Contemnor No.1 could not have taken place if negligence would not have been there on the part of the organizer, and the Respondent/Contemnor No.2 being the President of the organizing 'Association'. Accordingly, he shall also be deemed to be guilty of the same contempt committed by Respondent/Contemnor No.1, as per the mandate of Section 12(5) of the Contempt of Courts Act, 1971. In addition said Respondent/Contemnor No.2 is also liable as per the principles of vicarious liability.

8.
.....

The words spoken by the Respondent/ Contemnor No.1, is an act - which has Scandalized, prejudiced, interfered, and tends to obstruct the due course of judicial proceedings of Court and the administration of justice, and, accordingly, it amounts to Criminal contempt, and, the respondent/Contemnor No.2 being the main organizer of the Sit-in-demonstration program, is also liable for the same offences under Section 2(C) and Section 12(5).

9. That, the manner of making the above referred statements, as is reflected in the videos in circulation, itself, indicates that the said contemnor has made the statements to malign the judiciary and Judicial Institutions in a unholy attempt to gain her two minutes of fame at the cost of the reputation of temples of Justice. The wide publicity being given to the same show that the onlookers present on the place of occurrence and the media have contributed enough to add injury to insult.

10. That, it is stated that the statements have the effect of scandalizing the Hon'ble Court and are obvious attempt to undermine the confidence of public at large on the judiciary. Partiality and unfairness have been implied by using the terms indicating management of the Registry. Intemperate language has been used to cast aspersions and to attribute 'vested' motive.

11.
.....

12. That, the contemnors are highly educated citizens and are well versed with the fundamentals of rule of law and are also conversant with the requirement of holding the Hon'ble Courts of law and the Hon'ble Judges, through whom the judicial system functions, to be held in the highest esteem and regard. Contemptuous acts committed by advocates in public forum with the intent to malign the judiciary, more particularly this august institution of Gauhati High Court and its Hon'ble Judges is wholly condemnable and ought not to be forgiven or overlooked.

13. That, it is humbly submitted that Hon'ble Court would be pleased to kindly take judicial notice of the facts mentioned herein above and initiate appropriate deterrent proceedings against the Contemnors, so that any attempt to malign and undermine the judiciary in any manner whatsoever is curbed and the duty and responsibility of each citizen to honor and hold the judiciary in the highest esteem is installed.

14. That, it is stated that the translated version of the transcript disclose the malicious statements made by the contemnor no.1, to malign the image of the Hon'ble Court and Hon'ble Judges, and the medium and manner of expression leave no doubt that the same were deliberately made to erode respect and confidence of the public towards the judicial system. The following statements assume importance:-

'In the same way a Bibhishan is sitting amidst us who is playing bureaucrats politics Manage Master.'

Reporter- 'Who is doing it?'

'Everyone knows that. I have nicked named him 'Rat'.'

Reporter – 'The one who went with chief Justice?'

'He..... Everyone knows who went. Hon'ble Justice Suman Shyam.'

There is Hitlerism politics going on here.

The land in north Guwahati has been shown to many big companies but because the land is bumpy they cannot and finding no way out they want judicial city. For what? Vested interest. It is not personal, it is vested interest.'

15. That, the above statements are vulgar, offensive, outrageous and have the undoubted tendency to lower the authority of the Hon'ble Court and Judges. It will seriously undermine the confidence that is reposed in the institution and effective steps are the call of the day to curb such unethical

practices, more so, when such contempt is committed by practicing advocates. Accordingly, the petitioner is preferring the present application to initiate proceedings for Criminal contempt of the Hon'ble High Court under Article 215 of the Constitution of India and Section 2(c), 11, 12 and 15(1)(a) of the Contempt of Courts Act, 1971 read with Gauhati High Court (Contempt of Court) Rules.

16. That, the petitioners state that in the fact and circumstances described the present case is a fit case for drawing up appropriate proceedings against the contemnors and for punishing them for their contemptuous act. The contemnors are fully aware about the law of contempt and they have willfully acted in manner which constitutes contempt. Therefore, a contempt petition is hereby filed against the contemnors."

4. When these matters came up before this Court for the first time on 08.04.2025, Mr. K.N. Choudhury, who is the President of the Gauhati High Court Bar Association, has appeared in the matters on his own and has submitted that as per his understanding, he is being impleaded as party respondent No.2 in both the Cont. Cases (Crl.) in the capacity of the President of the Bar Association. It is also stated by him that he also understands that no attribution has been made against him but he is made responsible only for the reason that he being the President of the Bar Association, did not take any action against the other respondents in these cases. He also prays for supplying the copies of the contempt cases.

5. At the outset, Mr. Choudhury has submitted that he has few objections regarding the maintainability of these contempt cases.

Referring to Section 15 of the 1971 Act, Mr. Choudhury has submitted that a motion for criminal contempt can be initiated by three ways – **(i)** on a *suo motu* action by the High Court; **(ii)** on initiation by the Advocate General; and **(iii)** by any person with the

consent of the Advocate General. It is contended that as per the details available with the Registry, in these cases the petitioner No.1 is the Advocate General and the petitioner No.2 is Shri Devajit Saikia. It is argued that the Advocate General cannot join hands with a private individual in initiating the contempt proceedings.

6. In response to the objection raised by Mr. Choudhury, learned Advocate General, Assam has submitted that these petitions are filed by him under Section 15(1)(a) of the 1971 Act while arraying the Advocate General as petitioner No.1 and the person holding the said post, i.e. he, as petitioner No.2 only with the intention to identify the person who is holding the post of the Advocate General. He has also submitted that he is ready to get the name of the petitioner No.2 struck off from these cases in case this Court or any party is objecting to it.

7. At this stage, this Court has pointed out to Mr. Choudhury that until and unless this Court takes cognizance of the complaint made, how an alleged contemnor can be provided with a pre-audience hearing? It is made clear by this Court that the alleged contemnor can only get an opportunity of hearing when this Court takes cognizance of the complaint.

8. The learned Advocate General, while reiterating the allegations pleaded in both the contempt cases, has argued that the statements made by the Members of the Bar Association during the sit-in-demonstration, i.e. the respondent No.1 in both the contempt cases, are derogatory and uttered with the intention to scandalizing the Gauhati High Court and the Judges touching upon the dignity, integrity and majesty of the High Court. It is contended that the

derogatory remarks uttered by the respondent No.1 in both the contempt cases are outrageous, which seriously undermine the authority of the High Court which has resulted into erosion of faith of the public at large in the judiciary. The learned Advocate General has read out Paragraphs 5 & 6 of both the contempt petitions and has argued that the remarks made by the respondent No.1 in both the cases during the sit-in-demonstration organized by the Bar Association on 24.03.2025 were derogatory and sufficient to conclude that the same were made with the intention to scandalize the High Court and to lower the authority of the Court.

9. In relation to the respondent No.2 in both the contempt cases, the learned Advocate General has read out the Paragraphs 7, Sub-Paragraph 8, Paragraphs 11 to 15 of both the contempt cases and has submitted that the sit-in-demonstration was organized by the Bar Association under the leadership of the respondent No.2 and it was the duty of the Bar Association to ascertain that no remarks by any of the Member of the Association can be made which tends to scandalizing the Court or lowering the authority of the Court. The Bar Association cannot shrug off its responsibility by only distancing itself from the derogatory remarks made by its Members in a sit-in-demonstration organized by it. He reiterates that in the facts and circumstances of the case and also looking to the fact that no action has been taken against the advocates, who made such derogatory remarks in the sit-in-demonstration organized by the Bar Association, he believes that the said statements were made by the respective contemnors with consent and connivance of the respondent No.2 and, therefore, the respondent No.2 is also equally liable for criminal contempt.

10. The learned Advocate General, placing heavy reliance on the decision of the Hon'ble Supreme Court rendered in ***Prashant Bhushan & Anr. In Re***, reported in ***(2021) 1 SCC 745***, has argued that the Hon'ble Supreme Court, by re-visiting all its earlier decisions on the point, clearly held that a citizen while exercising right under Article 19(1) of the Constitution, is entitled to make a fair criticism of a Judge, judiciary and its functioning. However, the right under Article 19(1) is subject to restriction under Clause (2) of Article 19 of the Constitution. If a citizen makes a statement which tends to undermine the dignity and authority of the Court, the same would come in the ambit of "criminal contempt". It is further held by the Hon'ble Supreme Court that when such a statement tends to shake the public confidence in the judicial institutions, the same would also come within the ambit of "criminal contempt". Placing reliance on Paragraphs 22, 37, 38, 58, 61, 62 and 66 of the case of ***Prashant Bhushan*** (supra), learned Advocate General has argued that the derogatory comments made by the respondent No.1 in both the criminal case are not against an individual Judge but are against the Institution, i.e. the Gauhati High Court. Learned Advocate General has vehemently argued that to curb such practices and to maintain the faith and confidence of the millions of people of the country in judiciary, strict action is required to be taken against the alleged contemnors with iron hands. It is, therefore, prayed that it is a fit case wherein show cause notices may be issued to the alleged contemnors and after receiving their response/responses, appropriate orders be passed.

11. The respondent No.2 has again joined the issue and has argued that in the facts and circumstances, as narrated by the

learned Advocate General, no case for commission of criminal contempt on the part of him is made out. It is contended by Mr. Choudhury that the Hon'ble Supreme Court in ***Dr. Prodip Kr. Biswas -Vs- Subrata Das & Ors.***, reported in ***(2004) 4 SCC 573***, emphasized that the contempt of court is a special jurisdiction to be exercised sparingly and with caution whenever an act adversely affects the administration of justice or which tends to impede its course or tends to shake public confidence in the judicial institutions. It is further held that the contempt jurisdiction can also be exercised when the act complained of adversely affects the majesty of law and dignity of the Courts. It is argued that as per the Hon'ble Supreme Court, the contempt jurisdiction should not be invoked lightly and can only be invoked in the circumstances where the administration of justice is adversely affected or which tends to impede its course or tends to shake public confidence in the judicial institutions. Mr. Choudhury has submitted that in the present cases, the said conditions are not satisfied and, therefore, the Court should restrain itself from issuing notice to him in these criminal contempt cases.

12. Mr. Choudhury has further contended that as per the averments made in the contempt petitions, it is projected that the respondent No.2 is liable as per the principle of vicarious liability, whereas the Hon'ble Supreme Court in ***Dr. U.N. Bora, Ex. Chief Executive Officer & Ors. -Vs- Assam Roller Flour Mills Association & Anr.***, reported in ***(2022) 1 SCC 101*** has clearly held that the principle of vicarious liability is alien to the contempt jurisdiction and no person can be held guilty on the ground that he is vicariously responsible for the action of the others.

13. Mr. Choudhury has vehemently submitted that the learned Advocate General has impleaded him as respondent No.2 in both the criminal contempt cases due to his personal animosity and has submitted that in various interviews given to different electronic media channels as well as in print media, the learned Advocate General has accused him along with 2(two) other advocates for the impasse occasioning.

Mr. Choudhury has further submitted that he is questioning the attempt on the part of the Advocate General of initiating the contempt proceedings impleading him and it is open for this Court to look into the question of giving consent of the Advocate General as per the decision of the Hon'ble Supreme Court rendered in the case of *P.N. Duda -Vs- P. Shiv Shanker & Ors.*, reported in (1988) 3 SCC 167.

14. During his submissions, this Court has repeatedly urged Mr. Choudhury to satisfy whether an alleged contemnor has a right of pre-audience in a contempt case before taking cognizance by the Court or not? Mr. Choudhury, in so many words, has admitted that at present he has no authority which mandates that a pre-audience hearing is required to be given to the alleged contemnor before taking cognizance of the action complained of.

However, despite admitting the position of law, Mr. Choudhury has continued with his submissions and submitted that that he has no control over the advocates, who had allegedly made such derogatory remarks because those advocate are not associated with him. He has also submitted that one of the advocates, who made such derogatory remarks and is also respondent No.1 in one

of the criminal contempt case, is very senior to him and as such, it was not his responsibility to restrain them.

15. It is further submitted that immediately after knowing that some views had been expressed by the individual Members of the Bar Association during the sit-in-demonstration on 24.03.2025, a notice was issued on 26.03.2025 wherein the Bar Association made a clear statement that it is not responsible for the personal views expressed by the individual Member and their statements do not reflect the collective stand of the Bar Association. It is also submitted that a show cause notice has also been issued to one of the contemnors, Smti. Pallabi Talukdar, in relation to the said incident.

Finally, Mr. Choudhury has submitted that in the facts and circumstances of these cases, issuance of notice to him is not warranted.

16. Heard Mr. D. Saikia, learned Advocate General, Assam and also heard Mr. K.N. Choudhury, the respondent No.2 in both these criminal contempt petitions.

17. We are conscious of the fact that the contempt jurisdiction is to be exercised by a Court with caution and it is not to be exercised lightly or in a routine manner. The contempt jurisdiction can be exercised by a Court whenever an act adversely affects the administration of justice or which tends to impede its course or tends to shake public confidence in the judicial institutions. The contempt jurisdiction can also be exercised when the act complained of adversely affects the majesty of law or dignity of the Courts. Any remarks made by a person with the intention to scandalize the Court

or with the intention to lowering the authority of the Court would tantamount to criminal contempt.

Keeping in mind the aforesaid settled principle of law, we have to examine whether on the basis of the material available on record, any *prima facie* case for taking cognizance against the alleged contemnors is made out or not?

18. As observed earlier, at this stage, the Court is not required to give pre-audience to the alleged contemnors because it is not mandated under the scheme of the 1971 Act. At this stage, the Court is also not required to keep in mind the probable defence which the alleged contemnor may take to defend the contempt proceedings and, therefore, we find it difficult to take into consideration the submissions made by the respondent No.2. Of course after recording its *prima facie* satisfaction, the Court is required to adhere to the principle of natural justice and a fair opportunity is to be provided to the alleged contemnor to defend the allegations.

19. Having carefully scrutinizing the material available on record as well after listening to the statements of the respondent No.1 in both the contempt cases made during the sit-in-demonstration, which are of course in vernacular language but since one of us (N. Unni Krishnan Nair, J.) is well versed with the Assamese language, who has verified that the translated copy of the statements submitted along with this contempt petitions is matching with the statements contained in the video clips, we are of the *prima facie* opinion that the statements made by the respondent No.1 in both the contempt cases are not only derogatory but are

contemptuous too and are sufficient to assume that the same had been made with the intention to scandalize the Court and thereby intend to lower the authority of the High Court.

20. Legal profession has adopted certain ethics by practice and an advocate is supposed to act as per those ethics [*See - Lalit Mohan Das -Vs- Advocate General, Orissa :: 1957 SCR 167*]. The Hon'ble Supreme Court in ***Bar Council of India -Vs- A.K. Balaji & Ors.***, reported in **(2018) 5 SCC 379**, referring to its earlier decision in the case of ***Harish Uppal -Vs- Union of India***, reported in **(2003) 2 SCC 45**, has held as under:-

“42. Ethics of the legal profession apply not only when an advocate appears before the court. The same also apply to regulate practice outside the court. Adhering to such Ethics is integral to the administration of justice. The professional standards laid down from time to time are required to be followed. Thus, we uphold the view that practice of law includes litigation as well as non-litigation.”

21. The tendency of criticizing the Judges as well as the Courts as a whole is rising and it is more unfortunate when such criticism is made by a section of the legal fraternity, who are regularly appearing in the Courts. It is high time to take notice of the said conduct of the advocates and measures are required to be initiated to curb this tendency.

Section V of Chapter II of the Bar Council of India Rules (as amended in 2021) provides for duties towards the Society and Bar. It provides that an advocate shall conduct himself/herself as a gentleman/gentle lady in his/her day to day life and he/she shall not do any unlawful act, he/she shall not make any statement in the Print, electronic or social media, which is indecent or derogatory,

defamatory or motivated, malicious or mischievous against any Court or Judge or any member of the Judiciary. Such act of an individual advocate amounts to misconduct as per the provisions of the Advocates' Act, 1961.

22. Right to protest is required to be respected and encouraged because it strengthens democracy and the Bar Association has right to protest in relation to an issue which they perceive to be adverse to their interest. However, such protest cannot be used as a platform to scandalize the Courts, which results into lowering the authority of the Courts.

23. In the cases in hand, the derogatory remarks were made by the respondent No.1 in both the cases during a sit-in-demonstration organized by the Bar Association on 24.03.2025. Those derogatory statements were made before the electronic media in full public glaze in the presence of a large number of advocate and general public.

We are of the view that when the sit-in-demonstration was organized under the aegis of the Bar Association, it was the responsibility of the Bar Association to check that any Member of the Association should not use the platform provided to them to appease his or her personal vendetta or to scandalize the Courts.

True it is that the representatives of the Bar Association cannot be held vicariously liable for the conduct of an individual Member of the Association but disregard to their moral responsibility, they or the Bar Association as a whole cannot shrug off their responsibility simply by distancing themselves from the

derogatory remarks made by its Members terming them as their personal views.

In the present cases also, apart from distancing the views expressed by the alleged contemnors, the Bar Association has not issued any statement of condemning the said conduct of the advocates. It is difficult to understand that even the show cause notice was issued to only the respondent No.1 in Cont. Case (Crl.) No.2/2025 but no such notice was issued to the respondent No.1 in Cont. Case (Crl.) No.1/2025 for the reasons best known to the Association.

24. In such circumstances, the leader of the Bar Association cannot escape from his responsibility of maintaining decorum during a demonstration organized by the Bar Association simply by saying that he is not responsible for the derogatory remarks made by any of the Member of the Association during the sit-in-demonstration, though they were made with the intention to scandalize the Court or tends to lowering the authority of the Court.

Millions of the people of the country have immense faith in the judiciary as a whole and not in the Judges or an individual Judge. The tendency of ignoring the attempts on the part of any person, which amounts to scandalizing the Court or lowering the authority of the Court, would result in erosion of faith of the millions of people in the judicial institutions. It is not only the responsibility of the Bench to ensure that the dignity and majesty of the Courts are to be protected but the advocates and the Associations representing them are also equally responsible for protecting the dignity and the majesty of the Courts. Needless to say that the behavior of an advocate having a good standing in the Bar, which

tends to lowering the authority of the Court, gives a wrong impression in the minds of the young advocates as well as public at large. It is unfortunate that till date, the Bar Council of Assam, Nagaland, Mizoram, Arunachal Pradesh and Sikkim has also not initiated any action against the advocates, who made such derogatory remarks during the sit-in-demonstration organized by the Bar Association.

25. Looking to the overall facts and circumstances of the cases, as discussed above, we are of the view that it is a fit case where cognizance is required to be taken against the alleged contemnors.

26. This Court has reserved the order in these contempt cases on 08.04.2025 after hearing the lengthy arguments advance by the learned Advocate General, Assam and the respondent No.2 in person in both the contempt cases. However, when the order was in the process of finalization for delivery, a mention was made by Mr. K.N. Choudhury on 09.04.2025 at 10:30 AM.

Mr. Choudhury has pointed out that in the cause-list of 08.04.2025, the name of one “*Mr. K.K. Dutta*” is reflected as the petitioner-in-person. He has submitted that from this fact, it appears that the present contempt petitions were filed under Section 15(1)(b) and not under Section 15(1)(a) of the 1971 Act and this fact has to be ascertained.

27. Another objection as raised by Mr. Choudhury is that in the digital platform of “*Prag News*”, there was a news item flashed stating that criminal case has been registered by the Advocate General against a section of the lawyers of the Bar Association and

the said post is liked by one of us (N. Unni Krishnan Nair, J.) and, therefore, Justice Nair may recuse himself from the hearing of these cases.

Mr. Choudhury has also placed on record two decisions rendered by the Hon'ble Supreme Court in ***Sammbhu Nath Jha -Vs- Kedar Prasad Sinha & Ors.***, reported in ***(1972) 1 SCC 573*** and ***Prof. Soniya Nityanand & Ors. -Vs- Prof. Ashish Wakhlu***, reported in ***2024 SCC OnLine ALL 4660***.

28. We have verified from the records and it appears that these contempt cases were though filed on behalf of the learned Advocate General, Assam and Mr. D. Saikia in the capacity as Advocate General but are presented through an Advocate, namely, Mr. K.K. Dutta, probably because Mr. D. Saikia being a senior advocate, cannot file a case on his own. In such circumstances, the objection raised by Mr. Choudhury, that too, after the hearing was concluded and the order was reserved, is not liable to be entertained.

29. Having considered the other objection, we are of the opinion that the same is a desperate attempt to resist this Court from entertaining a very serious matter pertaining to the dignity and majesty of the High Court. The copy of the screenshot produced by Mr. Choudhury, on the basis of which recusal of Justice Nair is sought for, is of a news channel stating that the Advocate General of Assam had registered cases against a section of the lawyers of the Bar Association. The name of the Office Bearers of the Bar Association is not mentioned in the said post. Even though if it is liked by one of us, it cannot be a reason to recuse from the hearing

of the case as it hardly reflects any bias on the part of the Judge. The apprehension raised by Mr. Choudhury is imaginary.

30. The Hon'ble Supreme Court in the case of **Indore Development Authority (Recusal Matter – 5 J.) -Vs- Manohar Lal & Ors.**, reported in **(2020) 6 SCC 304**, has held as under:

“31. Recusal upon an imagined apprehension of legal predisposition would, in reality amount to acceding to the request that a Judge having a particular view and leanings in favour of the view which suits a particular litigant, should man the Bench. It would not only be allowing Bench hunting but would also be against the judicial discipline and will erode the confidence of the common man for which the judicial system survives.”

31. The Hon'ble Supreme Court in the case of **R.K. Anand -Vs- High Court of Delhi**, reported in **(2009) 8 SCC 106]**, has held as under:

“264. We are constrained to pause here for a moment and to express grave concern over the fact that lately such tendencies and practices are on the increase. We have come across instances where one would simply throw a stone on a Judge (who is quite defenceless in such matters!) and later on cite the gratuitous attack as a ground to ask the Judge to recuse himself from hearing a case in which he would be appearing. Such conduct is bound to cause deep hurt to the Judge concerned but what is of far greater importance is that it defies the very fundamentals of administration of justice. A motivated application for recusal, therefore, needs to be dealt with sternly and should be viewed ordinarily as interference in the due course of justice leading to penal consequences.”

In such circumstance, the submission of Mr. Choudhury regarding recusal by one of us (N. Unni Krishnan Nair, J. is without any basis.

32. As we have already recorded our *prima facie* satisfaction, it is directed that notices be issued to the respondent Nos.1 & 2 in

both the contempt cases under Section 17 of the 1971 Act. The notices are made returnable on 13.05.2025. Registry to follow the mandate of Section 17 of the 1971 Act, while issuing notices to the respondent Nos.1 & 2 in both the contempt cases.

The petitioners are directed to furnish the requisites, i.e. the copies of both the contempt cases along with the annexures as well as the pendrives annexed with both the cases as Annexure-A.

33. Considering the provisions of the Information and Technology Act, 2002 and the Information Technology (Intermediaries Guidelines) Rule, 2011, we deem it appropriate to direct the “*YouTube*” as well as “*Prag News*” to remove the videos containing the alleged statements made by the contemnors, from their channels forthwith. The Union of India and the State of Assam are directed to ensure that this direction be implemented forthwith.

34. List these matters on **13.05.2025**.

JUDGE

CHIEF JUSTICE

Mukut

Comparing Assistant