

Reserved

Neutral Citation No. - 2025:AHC-LKO:16744-DB

Reserved on 05.03.2025

Delivered on 24.03.2025

Case :- Contempt Application (Criminal) No.1202 of 2016

Applicant :- State of U.P.

Opposite Party :- Devendra Kumar Dixit

Counsel for Applicant :- G.A

Counsel for Opposite Party :- Indra Bhusan Singh, D K Dixit (In Person)

Hon'ble Vivek Chaudhary, J.

Hon'ble Brij Raj Singh, J.

1. This criminal contempt was initiated against the contemnor-Devendra Kumar Dixit, resident of E-627/F, L.D.A. Colony, Kanpur Road, Lucknow arising out of the complaint dated 30.04.2016 sent by him levelling allegation of corruption against Hon'ble Judges of this High Court. The Hon'ble Acting Chief Justice took cognizance on the said complaint on 09.06.2016 and referred the matter to the Court concerned for initiating appropriate proceedings. Consequent thereupon, the case was registered and after perusing the contents of the complaint and the record, contempt notice was issued to the contemnor-Devendra Kumar Dixit on 19.10.2026. In pursuance thereof, contemnor-Devendra Kumar Dixit appeared and sought time to file reply. Thereafter, the contemnor filed an application along with an affidavit dated 18.01.2017 raising preliminary objection regarding the maintainability of the criminal contempt initiated against him. The said application was rejected by this Court vide order dated 12.10.2022. Thereafter, the contemnor filed reply on 08.12.2024 in response to the order passed by this Court on 04.12.2024. After considering his reply/affidavit dated 08.12.2024 as well as material on record, this Court framed the charge against contemnor-Devendra Kumar Dixit on 16.01.2025. The said order is quoted below for ready reference:-

“(Order on C.M. Application No. IA/5/2024)

This application has been filed by the Contemnor with the heading 'Application for Taking Affidavit on Record', which reads as under :-

"The applicant named above submits as under :-

For the facts and reason stated in the accompanying affidavit on behalf of the contemnor, it is most respectfully prayed that Hon'ble Court may kindly be pleased to take the affidavit on record for just, proper and fair adjudication of the instant case."

The record reveals that the Contemnor has filed an affidavit under the heading 'Reply in Response to the passed order dated 04.12.2024', wherein in paragraphs No.5 and 6, the Contemnor has stated as under :-

"5. That deponent/contemnor has placed a written complaint before the Honorable President, Union of India, Rashtrapati Bhavan, New Delhi through application dated 30/04/2016, how it have come to the Hon'ble High Court Allahabad it is unknown to the deponent contemnor because the copy of the forwarding letter/covering letter is not annexed with the contempt petition.

6. That covering letter/forwarding letter is too much required to the deponent contemnor for submitting his reply, in the interest of justice, the copy of that forwarding letter/covering letter issued by Rashtrapati Bhavan, New Delhi may please be provided to the deponent contemnor to enable deponent contemnor to put up his reply before this Hon'ble Court."

We find that this contempt proceeding has been instituted against the Contemnor on the basis of the communication dated 30.04.2016 sent by him, in which the Contemnor made averments against sitting Judges, which prima facie scandalizes or tends to scandalize, lowers or tends to lower the authority of the Court and as such, a Co-ordinate Bench of this Court, vide order dated 19.10.2016, issued notice to him to show cause as to why proceeding under Contempt of Courts Act be not initiated against him. The forwarding letter/covering letter along with which the complaint was received from the Rashtrapati Bhavan, New Delhi has no concern with the contempt proceeding whatsoever, hence we do not find any substance in the prayer made by the Contemnor and the same is rejected.

(Order on Memo of Contempt Application)

Heard the Contemnor on framing of charges.

Taking into consideration the contents made in communication dated 30.04.2016 made by the contemnor, which prima facie indicates material that scandalizes or tends to scandalize, lowers or tends to lower the authority of the Court, this Court frame the following charge against the Contemnor :-

"You, Devendra Kumar Dixit, had made communication/ complaint dated 30.04.2016, describing therein that while deciding writ petition No. 7137 (M/B) of 2016 filed by him, Hon'ble Judges dealt with corrupt, dishonest and traitor culprit officials through Mr. Jaydeep Narayan Mathur and taken money for dismissing writ petition No. 7137 (M/B) of 2016 and as per deal with the corrupts, dishonest and traitor, the writ petition no. 7137 (M/B) of 2016 has been dismissed with cost very first day of the hearing of the case?, which scandalizes or tends to scandalize, lowers or tends to lower the authority of the Court and are contemptuous coupled with your demeanour in levelling such allegations in writing that have been

reduced in the form of communication dated 30.04.2016 by you, amounts to a clear contemptuous behaviour as envisaged under Section 2 (c) (i) of the Contempt of Courts Act, 1971 defining criminal contempt that makes you liable to be punished."

Let reply to the aforesaid charge be filed by the Contemnor on or before 30.01.2025.

List this case on 30.01.2025. The Contemnor, who is present today, shall again appear on the date fixed.

Let a copy of this order be supplied to the Contemnor on payment of usual charges.

The Registry shall inform Shri I.B. Singh, learned Senior Counsel who has been appointed as amicus in the matter, about this order."

2. After framing of the charge, the contemnor has filed an affidavit on 27.01.2025. Thereafter, the matter was heard by giving opportunity of hearing to the contemnor in person on 05.03.2025.

3. It has been submitted by the contemnor that he may be provided the covering letter/forwarding letter issued by the Rashtrapati Bhawan, New Delhi, which is required for contemnor to prove his case. It has further been submitted by the contemnor that unless the covering letter/forwarding letter issued by the Rashtrapati Bhawan, New Delhi is supplied to him he is unable to prove his case.

4. From perusal of the record and contents of the complaint dated 30.04.2016, it transpires that allegation of corruption has been levelled against Hon'ble Judges of this High Court without any basis and evidence. The preliminary objection raised by the contemnor has already been rejected by this Court on 12.10.2022 by observing that the contemnor has admitted the contents of the complaint dated 30.04.2016 written by him and the original document was shown to him, which was on record, and he admitted his signatures on the same. He also admitted that he had sent the complaint. Therefore, there is no justification as to why the covering letter/forwarding letter issued by the Rashtrapati Bhawan, New Delhi is required when he himself had admitted the contents of the complaint dated 30.04.2016. The contents of the complaint are clearly coming within the purview of criminal contempt. He has scandalised and lowered down the authority of the court, which amounts to interference in the administration of justice.

The proceedings have been initiated under Section 2(c) of the Contempt of Courts Act, 1971 (for short “Act, 1971”) based on the reference made by the Hon’ble Acting Chief Justice dated 09.06.2016.

5. Hon’ble Supreme Court has considered the scope and ambit of Section 2(c) of the Act, 1971 in various decisions. In the case of ***Shamsher Singh Bedi Vs. High Court of Punjab and Haryana*** (1996) 7 SCC 99 has held that remarks against the Magistrate who refused to grant bail, are definitely scandalous and are definitely with reference to the discharge of his judicial function. Paragraphs 6 and 7 of the aforesaid judgement are quoted below:-

“6. We have gone through the entire judgement and particularly the contents of the notice. Admittedly the appellant drafted the notice and he cannot escape the responsibility of having drafted the same in his professional capacity, which incriminates him. In the notice it is mentioned that the Magistrate had no power to refuse bail to Gurdial Singh and by refusing the same, he acted with mala fide intention and with a view not to displease the local police. It is also stated in paragraph 12 of the notice which reads as follows:

“That instead of showing your judicial independence and passing a bail order in conformity with the mandatory provisions of law you tried to help the local police in their nefarious designs and activities to keep Sarpanch Gurdial Singh in custody as long as possible in order to humiliate him and to put pressure upon him that no complaint should be filed against him.”

7. These remarks against the Magistrate who refused to grant bail are definitely scandalous and are definitely with reference to the discharge of his judicial function. We are unable to agree with Mr. Sodhi that the objectionable remarks made in the notice do not in any way interfered with the administration of justice by that Court. In Brahma Prakash case AIR 1954 SC 10 it is also observed:

“It is not necessary to prove affirmatively that there has been an actual interference with the administration of justice by reason of such defamatory statement; it is enough if it is likely, or tends in any way, to interfere with the proper administration of law.”

6. Similarly, in the case of ***T. Deen Dayal Vs. High Court of A.P.***, (1997) 7 SCC 535, Hon’ble Supreme Court has again considered the scope of Section 2(c) of the Act, 1971 and has held that ex facie contempt is made out in case there is scurrilous attack that intends to scandalise the court. Paragraphs 4 and 16 of the aforesaid judgement are extracted herein under:-

“4. It will be relevant to mention that a notice for initiation of proceedings under the Act was issued calling upon the appellant to show-cause. He was filed the Counter Affidavit the offence. In the counter Affidavit in para 4 he has stated as under:

"His Lordship the Hon'ble Mr. Justice Upendralal Waghray in his order dated 16.4.85, initiated contempt proceedings against me, quite in violation of Section 13 of the Contempt of Courts Act, 1971, allegedly because Sri.P. Upendra, M.P. (3rd respondent in Election Petition No.1/84) paid a bride of Rs. 2 Lakhs, vide Crl.M.P.No.2988/88 in Transfer Petition (Criminal) No.147/87 ordered by the Hon'ble Supreme Court of India, New Delhi, On 22.7.1988."s Lordship the Hon'ble mr. Justice Upendralal Waghray in his order dated 16.4.85, initiated contempt proceedings against me, quite in violation of Section 13 of the Contempt of Courts Act, 1971, allegedly because Sri. P.Upendra, M.P. (3rd respondent in Election Petition No.1/84) paid a bride of Rs. 2 Lakhs, vide Crl.M.P.No.2988/88 in Transfer Petition (Criminal) No.147/87 ordered by the Hon'ble Supreme Court of India, New Delhi, On 22.7.1988."

16. We have extracted the allegations constituting the contempt in the beginning if this order. We are satisfied they are ex facie contumacious and the scurrilous attack was intended to scandalise the court within the meaning of criminal contempt under Section 2(c) of the Act. Such attack as seen above , is punishable as contempt for the reason that it tends to create distrust in the popular mind and impairs confidence of the people in courts which are prime importance to the litigants in the protection of their rights and liberties. This Court In RE S. Mulgaokar'(1978 (3) SCC 339) observed as follows:-

“The sixth consideration is that, after evaluating the totality of factors, if the court considers the attack on the Judge of Judges scurrilous, offensive, intimidatory or malicious beyond condonable limits, the strong arm of the law must, in the name of public interests and public justice, strike a blow on him who challenges the supremacy of the rule of law by fouling its source and stream."

7. Hon’ble Supreme Court in the case of ***Prashant Bhushan and another In Re:*** (2021) 1 SCC 745 while dealing with the issue in question held as under:-

“52. This Court holds, that the judiciary is the guardian of the rule of law and is the central pillar of the democratic State. It holds, that in our country, the written Constitution is above all individuals and institutions and the judiciary has a special and additional duty to perform i.e. to oversee that all individuals and institutions including the executive and the legislature, act within the framework of not only the law but also the fundamental law of the land. It further holds, that this duty is apart from the function of adjudicating the disputes between the parties, which is essential to peaceful and orderly development of the society. It holds, that if the judiciary is to perform its duties and functions effectively and remain true to the spirit with which they are sacredly entrusted to it, the dignity and authority of the courts have to be respected and protected at all

costs. It has been held, that otherwise, the very cornerstone of our constitutional scheme will give way and with it will disappear the rule of law and the civilized life in the society. It has been held, for this purpose that the courts are entrusted with the extra-ordinary power of punishing those who indulge in acts whether inside or outside the courts, which tend to undermine their authority and bring them in disrepute and disrespect by scandalising them and obstructing them from discharging their duties without fear or favour. It has been held, that when the court exercises this power, it does not do so to vindicate the dignity and honour of the individual judge who is personally attacked or scandalised, but to uphold the majesty of the law and of the administration of justice. It has been held, the foundation of the judiciary is the trust and the confidence of the people in its ability to deliver fearless and impartial justice. When the foundation itself is shaken by acts which tend to create disaffection and disrespect for the authority of the court by creating distrust in its working, the edifice of the judicial system gets eroded.

62. No doubt, that when a statement is made against a judge as an individual, the contempt jurisdiction would not be available. However, when the statement is made against a judge as a judge and which has an adverse effect in the administration of justice, the Court would certainly be entitled to invoke the contempt jurisdiction. No doubt, that while exercising the right of fair criticism under Article 19(1), if a citizen bonafidely exceeds the right in the public interest, this Court would be slow in exercising the contempt jurisdiction and show magnanimity. However, when such a statement is calculated in order to malign the image of judiciary, the Court would not remain a silent spectator. When the authority of this Court is itself under attack, the Court would not be a onlooker. The word 'authority' as explained by Wilmot, C.J. and approved by the Constitution Bench of this Court in Baradakanta Mishra (supra) does not mean the coercive power of the judges, but a deference and respect which is paid to them and their acts, from an opinion of their justice and integrity."

8. After going through the record and the submissions made on behalf of the contemnor, we find that he has made frivolous and baseless complaint dated 30.04.2016 describing therein that while deciding Writ Petition No.7137 (MB) of 2016 filed by him, Hon'ble Judges dealt with corrupt, dishonest and traitor culprit officials through Mr. Jaideep Narain Mathur and taken money for dismissing the aforesaid writ petition and as per deal with corrupt, dishonest and traitor, Writ Petition No.7137 (MB) of 2016 has been dismissed with cost on the very first day of the hearing of the case. The aforesaid act scandalises and lowers the authority of the Court and such act is contemptuous in conformity with the provisions of Section 2(c) of the Act, 1971. It is also relevant to mention here that contemnor has not made any request or file an affidavit tendering his apology.

9. In view of the aforesaid discussion, we hold contemnor-Devendra Kumar Dixit, resident of E-627/F, L.D.A. Colony, Kanpur Road, Lucknow guilty of having committed criminal contempt of this Court as envisaged under Section 2(c)(i) of the Act, 1971, but looking to his old age and the fact that this is his first offence, we impose only a fine of Rs.2,000/- to be deposited by him before the Senior Registrar, High Court, Lucknow within a period of one month from today, failing which he will undergo simple imprisonment of one week.

10. Criminal contempt application is decided accordingly.

11. Senior Registrar of this Court is directed to ensure necessary compliance.

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(Brij Raj Singh, J.) (Vivek Chaudhary, J.)

Order Date :- 24th March, 2025

Rao/-