

GAHC010159442022



**THE GAUHATI HIGH COURT**  
**(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)**

**Case No. : Cont.Case(Crl)(Suo Moto)/1/2022**

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VERSUS

IN RE - UTPAL GOSWAMI  
ADVOCATE, JORHAT BAR ASSOCIATION, R/O ROWRIAH, P.O.-CHALIHA,  
JORHAT

**Advocate for the Petitioner** : SC, GHC

**Advocate for the Respondent** : MR Z KAMAR

**BEFORE**  
**HONOURABLE MR. JUSTICE KALYAN RAI SURANA**  
**HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

**ORDER**

**Date : 21.04.2023**  
*(K.R. Surana, J)*

Heard Mr. T.J. Mahanta, learned senior counsel, and standing counsel for this Court, assisted by Mr. A. Baruah, learned counsel. Also heard Mr. Ziaul Kamar, learned senior counsel, who is the amicus curiae in the matter, assisted

by Mr. R.K.D. Choudhury, learned counsel. Also heard Mr. Utpal Goswami, the respondent-contemnor who has appeared in- person.

2. The respondent-contemnor, who is an Advocate by profession, was charged with criminal contempt under Section 14 of the Contempt of Courts Act, 1971. On his appearance, the respondent had filed an affidavit in support of his defence on 17.01.2023 and in paragraph 5 and 6 thereof the respondent contemnor has pleaded guilty of the charge. Some of the statement made by the respondent- contemnor in the said affidavit are extracted below:-

*“3. That, I am the accused herein and understand the charge against me as I am a practicing advocate.*

*4. That, I make my statement whilst in my sound mind and sober senses and make it freely and voluntarily without any undue influence while in sober senses.*

*5. That I beg to plead guilty in respect of the charges as per the reference made under Section 15(2) of the Contempt of Courts Act, 1971, by the District and Session Judge, Jorhat as stated in the complaint petition in the case in the case Cont. Case (Crl) (Suo Moto): 1/2022 as I came to realize that the respect of the Judges and Magistrates of any Court should be preserved and protected for the establishment of peace, order, harmony and tranquility of human society.”*

3. The background facts of the case is that on 30.03.2021, the respondent-contemnor had filed a petition under Section 24 of the CPC for transferring some cases pending in the Court of learned Addl. District Judge (Educational Tribunal), Jorhat to the Court of learned District Judge, Jorhat. In the said petition, the respondent-contemnor had impleaded the then Addl. District Judge, Jorhat by name. When it came to the notice of the learned District Judge, Jorhat that a judicial officer was made a party in the said proceeding, the learned District Judge had interacted with the respondent-contemnor so as to ascertain if any genuine mistake was committed in arraying the concerned judicial officer by name. To the said query, the respondent-

contemnor had admitted that he had impleaded the judicial officer concerned by name. The *Sheristadar* i.e. Head Assistant of the Court of learned District Judge, Jorhat had put up an administrative note along with the case filed as per Rule 49(3) of the Civil Rules and Orders of Gauhati High Court, referring to the provision of Section 3 of the Judges (Protection) Act, 1985. Accordingly, the learned District Judge, Jorhat had passed an order on the administrative side, thereby deferring registration of any miscellaneous case and had asked the respondent-contemnor to make necessary corrections in the petition.

4. It would be pertinent to mention that the said petition filed under Section 24 CPC, contains several wherein personal insinuations were made against the Court staff of the concerned judicial officer and against the process server. Moreover, insulting personal insinuations were made upon the concerned judicial officer and above all, *ex facie* derogatory remark has made against the judiciary in general and the concerned officer in particular. Some of such statements are verbatim extracted below:-

*Ground No. (iii)*

*“That the Additional District Judge Jorhat (name withheld) has been derogating the decorum of the honourable court of Additional District Judge as*

*a) That Additional District Judge Jorhat (name withheld) has been presiding the Court by wearing Jewelry like a Model in Ramp.*

*b) That Additional District Judge Jorhat (name withheld) at each and every occasion tries to overpower/ depress the Advocates by citing unnecessary case laws and Sections of statutes without hearing the Advocates pleasantly.*

*c) That the Additional District Judge Jorhat (name withheld) always tries to control the court room behaving like a leader of a Gangue.*

*d) That on 22<sup>nd</sup> February 2021 when the present petitioner had filed a petition U/O 39 Rule 1 & 2 for Sri Bolen Doley she asked her typist (name withheld) from her chair in open court whether this petition can be registered as a Misc. (J) Case or not just to show that (name withheld) is something special to her.*

*e) That it is alleged through hearsay complaints that Additional District Judge Jorhat (name withheld) when goes to Majuli District to execute her official duty as*

*on 19<sup>th</sup> February 2021 she compels her office assistants to collect fresh and local Mastered oil, Fish, Curd, vegetables etc. and those officials use Government vehicle to collect the items from the house of the local people in Majuli. This allegation is to be enquired into and if it is really happening then action has to be taken against Additional District Judge Jorhat (name withheld).*

*f) That it is alleged that Additional District Judge Jorhat (name withheld) use official driver and car for her private use on holiday as on 28<sup>th</sup> March at around 11.45 AM she went to Big Bazar at K.B. Road Jorhat on official vehicle without allowing her official driver to avail holiday which is harassment on office staff of Junior Grade. This allegation is to be enquired into and if it is really happening then action has to be taken against Additional District Judge Jorhat (name withheld).*

\* \* \*

*iv) That the Additional District Judge Jorhat (name withheld) practicing Chamber hearing, violates the law of Natural Justice in absence of party to a suit/ proceeding and by taking bribe or undue advantages modulates and tries to modulate/ manipulate case laws to provide benefit to the parties she likes as –*

\* \* \*

*v) That the Additional District Judge Jorhat (name withheld) does not seems to possess minimum knowledge of Jurisprudence of Law and its application during adjudications of cases by her ...*

\* \* \*

*vii) That the work and practice of the Additional District Judge Jorhat (name withheld) in her court put the question on scrutiny of Academic and Mental qualifications and abilities required for selection and appointment of a Judge and Magistrate in Subordinate Judiciary in Assam by the selection and appointment committee/ Board. Though not to be mentioned here lot of people who experienced the court of Additional District Judge Jorhat (name withheld) whimsically talked about the power of Money, Mal- administration, taking of undue advantages, unlawful relationship, predominance of illegal Love and affections and other wrong practices during selection and appointment of Judges and Magistrates of Subordinate Judiciary in Assam which is definitely derogating the status and position of neat and clean Judicial practices in Assam. This fact as explained above also tries to establish the entire judiciary in Assam as to the "Vashmasur" who got his power from our Constitution but trying to show its power by burning the justice. This really establishes the need of independent and impartial Judicial appointment Commission like UPSC in India.*

*viii) That the above description strongly advocates the need of filing complaint against the Additional District Judge Jorhat (name withheld) to the Honourable*

*Chief Justice of Guwahati High Court so as to direct the Vigilance Department of honourable Guwahati High Court to take action against Additional District Judge Jorhat (name withheld) and to pass permission to prosecute Additional District Judge Jorhat (name withheld) by the victims in proper court and the petitioner prays this honourable court to take necessary action in this regard.*

*ix) That the above description shows that there is urgent need of removal of Additional District Judge Jorhat (name withheld) from her service on the ground of incompetency and inefficiency to preserve the position and status of the judiciary intact and the petitioner prays this honourable court to take necessary action in this regard.”*

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5. Thus, the respondent-contemnor has not only made unfounded vitriolic attack on the integrity and impartiality of the learned judicial official concerned, but has also embarked upon character assassination of the said judicial officer. Moreover, the petitioner had also attacked this Court by making disparaging remarks on the selection process of judicial officer by questioning the sanctity of the selection process. The respondent- contemnor has questioned the sanctity of the selection of the judicial officer in the District Judiciary of the State by the Selection Committee of the Gauhati High Court by specifically referring to the “power of money”, “mal-administration”, “taking of undue advantages”, “unlawful relationship”, “predominance of illegal love and affections” and “other wrong practices” during “selection and appointment of judges and magistrates of the district judiciary in Assam”. Thus, the petitioner has interfered with the administration of justice by casting aspersion on the Judges of this Court, Registry and the officials connected with the Appointment Section of this Court. Thus, the judiciary in general has been under direct attack by the respondent- contemnor.

6. Therefore, it is apparent that the respondent-contemnor had made scathing and vitriolic attack on the judiciary in general and the concerned

judicial officer in particular, which amounts to character assassination of one and all. Such character assassination has been done only to make out a case for transfer of a judicial proceeding from one Court to another Court, which amounts to forum hunting.

7. The learned District Judge, Jorhat had directed the respondent-contemnor to make necessary correction in the petition, which was apparently refused by the respondent-contemnor. Instead, the respondent-contemnor, in order to brow-beat the learned District Judge, Jorhat issued an advocate's notice under reference No. LN/03/04/21 dated 06.04.2021, under Section 80 CPC seeking permission to prosecute the *Sheristadar* as well as the learned District and Sessions Judge, Jorhat. The said notice was addressed to (i) the then Deputy Commissioner, Jorhat, (ii) the then Registrar General of this Court, and (iii) the then Registrar Vigilance of this Court. Amongst others, in the said advocate's notice issued under Section 80 CPC, the respondent-contemnor had questioned the power of the *Sheristadar* to refer to legal provision by stating that no administrative officer/ assistant having no legal degree and power can cite law point/ argument on law/ rules. Furthermore, the respondent-contemnor had also alleged in the said advocate's notice that the actions of the then learned District Judge and the *Sheristadar* were not only illegal and immoral, but had also caused social economic loss with mental agony to the clients of the respondent-contemnor and he had justified the necessity of prosecuting the then learned District Judge and the *Sheristadar*.

8. Therefore, on the ground that the respondent-contemnor had overstepped the limit of fair and bona fide or reasonable criticism, the then learned District Judge, Jorhat had made a reference to this Court under Section

15(2) of the Contempt of Courts Act, 1971 for initiating a contempt proceeding against the respondent-contemnor. Resultantly, this contempt petition had been registered and process had has been initiated by issuing show cause notice to the respondent-contemnor.

9. As already referred to herein before, on receipt of the notice of initiation of contempt proceeding, the respondent-contemnor had filed his affidavit on 17.01.2023 and in paragraph 5 thereof, he had pleaded guilty of the charges. The plea of guilty has been extracted herein before. This matter listed on 20.01.2023 and this Court after taking note of the fact that the respondent-contemnor was appearing in person, had appointed Mr. Ziaul Kamar, learned senior counsel, as amicus curiae in the matter along with Mr. R.K.D. Choudhury, learned counsel to assist him.

10. Thereafter, in course of hearing on 09.03.2023, after taking into account the plea of guilty taken by the respondent-contemnor, the consequences of which upon being explained by this Court, a further opportunity was provided to the respondent-contemnor of being heard. However, in course of hearing, the respondent- contemnor had confirmed his plea of guilty. Accordingly, by order dated 09.03.2023, the respondent-contemnor was convicted as per the provision of Section 14 of the Contempt of Courts Act, 1971.

11. On 20.03.2023, when this matter was listed again for sentence hearing, although the respondent-contemnor had orally expressed his remorse and repentance, but such expression of remorse and repentance could not be culled out from his initial affidavit-in-opposition filed on 17.02.2023. Accordingly, on the prayer made by the respondent- contemnor, the Court was inclined to

grant time to him to file an additional affidavit to bring on record his statement, which he had made at before the Court. On 27.03.2023, the respondent-contemnor had filed his additional affidavit. The relevant paragraphs 4 to 7 thereof are verbatim quoted below:-

*“4. That I have tendered my unconditional apology in this case.*

*5. That I was unaware that the Facebook post including the sort story, news etc. having a character of a Judicial Officer or Judiciary lead to the Contempt of Court. I sincerely do offer my unconditional apology for the same and pray that the Hon'ble Court may accept my apology drop the proceeding in this regard.*

*6. That I pray for a chance to refine myself as I assure the court that I shall not published any facts, news, pleadings, sort stories regarding Judicial Officer or Judiciary.*

*7. That I assure this Hon'ble Court that I will try to follow all judicial standards as an Advocate and if the Hon'ble Court finds any wrong in near future I shall leave advocacy forthwith.”*

12. This case was listed on 28.03.2023 for sentence hearing. On the said date, the respondent-contemnor had again prayed for some time to file a further affidavit to bring on record his apology towards the concerned judicial officers. On such prayer being allowed, the respondent-contemnor had filed an additional affidavit on 19.04.2023.

13. The statement made by the respondent- contemnor in paragraphs 4, 5, and 6 of his additional affidavit filed on 19.04.2023 are quoted below:-

*“4. That the deponent begs to submit that he has committed the mistake due to insufficient knowledge in law and its practice. He has realised that he has to uphold the majesty of the Hon'ble Court at all cost and he ought not to have made any disparaging remarks against the learned Judges.*

*5. That the deponent begs to offer his unconditional apology to the then*

*Additional District Judge, Jorhat, namely, Ms. Poly Kotoky and Mr. Robin Phukan, the then District Judge, Jorhat for his intemperate language and derogatory remarks employed in his applications preferred under sections 24 and 80 CPC against the aforesaid Judicial Officers and asks for their pardon.*

*6. That the deponent begs to submit that he has realised his absurdity and undertakes to be more mindful in future. The deponent assures this Hon'ble Court that he shall maintain all standards as is expected of an Advocate and uphold the majesty of the Hon'ble Courts and the respect of the Judges. The deponent undertakes to leave the profession henceforth if there be any complaint before the Hon'ble Court similar to the one at hand in future."*

14. In course of sentence hearing, the respondent-contemnor has submitted that he had tendered his unconditional apology at the first appearance before this Court and prays that he should be leniently dealt with. In this regard, we have also heard the learned *Amicus Curiae*, who has also submitted that as the respondent-contemnor has tendered his apology at his first appearance in this contempt proceeding and this being his first offence, he may be leniently dealt with.

15. As indicated herein before, upon a perusal of the application made by the respondent- contemnor in his (i) application filed before the learned District Judge, Jorhat under Section 24 of the CPC, and (ii) notice under Section 80 CPC, a scathing attack has been made by the respondent-contemnor not only against the concerned judicial officer, but also against the judiciary in general and moreover, wild and unfounded derogatory allegations are made against the Committee of Judges of this Court who are in any manner associated in the task of selection of judicial officers. The language used, if not deprecated in the strongest terms, is bound to have a cascading and/or telling effect on the administration of justice. The respondent-contemnor is a practicing

advocate, which is considered to be a noble profession and once he wears the uniform of an advocate and starts practicing in Court, it cannot be acceptable that the respondent-contemnor has no knowledge of law or that he did not know the implication of the words used by him in course of Court proceeding. This was not a case where at the heat of the moment the respondent-contemnor had made some statement before the Court, but in this case disparaging comments and remarks including personal insinuations amounting to character assassination of judicial officers were made by the respondent-contemnor with full knowledge and understanding of the extent of damage or hurt that those words would cause to the concerned judicial officers in particular and judiciary as a whole. Those statements were made in writing in the petition filed under Section 24 CPC.

16. Moreover, when the learned District Judge, Jorhat had asked the respondent-contemnor to make necessary corrections in his petition within stipulated time, the respondent-contemnor did not comply with the same. Rather, the respondent-contemnor issued a notice under reference No. LN/03/04/21 dated 06.04.2021 under Section 80 CPC, addressed to (i) the Deputy Commissioner, Jorhat, (ii) The Registrar General of this Court, and (iii) the Registrar Vigilance of this Court, whereby amongst others, the respondent-contemnor had sought for permission to prosecute the then *Sheristadar* as well as the then learned District and Sessions Judge, Jorhat. In the said notice dated 06.04.2021, issued under Section 80 CPC, the respondent-contemnor had also questioned the power of the *Sheristadar* to refer to legal provision by stating that no administrative officer/ assistant having no legal degree and power can cite law point/ argument on law/ rules. The respondent-contemnor had further alleged in his said advocate's notice dated 06.04.2021, that the actions of the

learned District Judge and the *Sheristadar* were not only illegal and immoral, but had also caused social economic loss with mental agony to the clients of the respondent-contemnor and he had justified the necessity of prosecuting the learned District Judge and the *Sheristadar*.

17. Under such circumstances as mentioned herein before, the unconditional apology tendered by the respondent- contemnor is not found sufficient to dilute/ denude the fierce intensity by which the respondent-contemnor had committed the contempt of Court by using harsh and unacceptable language against the judicial officers concerned, thereby undermining their integrity while discharging their official duty. The petitioner had not only expressed his doubt on the legal knowledge of the judicial officers, but also assassinated their character and questioned the judiciary as a whole, which amounts to gross interference with the administration of justice.

18. It is reiterated that vide order dated 09.03.2023, this Court had held the respondent-contemnor, namely, Sri Utpal Goswami guilty of committing criminal contempt of the Court. We also hold that the respondent- contemnor, by his statement made in (i) petition filed before the learned District Judge under Section 24 CPC, as well as (ii) advocate's notice dated 06.04.2021, had committed an act of interfering with the administration of justice by threatening and brow-beating the Court by using insulting, disrespectful and threatening language and character assassination of judicial officers in particular and entire judiciary in general and moreover, when the learned District Judge had asked the petitioner to make correction in his petition, he had issued an advocate notice under Section 80 CPC, threatening to prosecute the learned District Judge. The respondent-contemnor being citizen of mature age of 52 years, his

action in threatening a Judicial officer is bound to encourage other members of the Bar all over the Country to use disrespectful and threatening language against a judicial officer whenever any unfavourable orders are passed against their interest. Hence, for the reasons discussed above, in our considered opinion, punishment has to be meted out to the respondent-contemnor.

19. Resultantly, by invoking the power and jurisdiction under Section 12(1) of the Contempt of Courts Act read with Article 215 of the Constitution of India, the Court is inclined to impose a suspended sentence of simple imprisonment of the petitioner for a period of 6 (six) months, and also debar the petitioner from appearing as an advocate before this Court and before the District Judiciary under the jurisdiction of this Court for a period of 15 (fifteen) days from today. The sentence against the respondent is as under:

(a) The respondent-contemnor Sri Utpal Goswami is hereby sentenced to undergo simple imprisonment for a period of 6 (six) months. However, to give one opportunity to the respondent- contemnor to mend himself, the sentence will remain suspended. However, if within a period of 4 (four) years the respondent-contemnor is convicted for any other offence under the Contempt of Courts Act, the sentence will be activated.

(b) The respondent is prohibited from appearing as an advocate before this Court and before the District Judiciary under the jurisdiction of this Court for a period of 15 (fifteen) days from today.

(c) The bail bond submitted by the respondent in this case shall remain valid and alive for a further period of 4 (four) years from today.

(d) As a consequence of award of the sentence, as mentioned herein before, if the respondent- contemnor is holding any post in his capacity as an advocate, the respondent will vacate the same forthwith.

20. Let a copy of this order be provided to Sri Utpal Goswami, respondent-contemnor free of charge/cost and let copies of this order be forwarded to the Bar Council of Assam, Nagaland, Mizoram and Arunachal Pradesh, the Jorhat Bar Association and the District Judge, Jorhat for their records.

21. The Registry shall transmit a copy of this order to the then concerned judicial officers and persons against whom denigrative words were used by the respondent-contemnor, wherever they are currently posted.

22. The Court puts on record its appreciation for Mr. Ziaul Kamar, learned senior counsel, who is the amicus curiae in the matter and Mr. R.K.D. Choudhury, learned counsel assisting him. They will be entitled to usual honorarium.

**JUDGE**

**JUDGE**

**Comparing Assistant**