



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

D.B. Criminal Contempt Petition No. 3/2018

ADJ, Gulabpura, Bhilwara.

----Petitioner

Versus

Rameshchandra, Aged About 27 Years, Police Constable No.227,
P.S. Badnor, District Bhilwara.

----Respondent



For Petitioner(s) : Mr. Sandeep Shah, AAG-cum-Sr.
Advocate with Ms. Akshiti Singhvi,
Asstt. to AAG

Mr. Mridul Jain, Mr. K.C. Sharma

For Respondent(s) : Mr. J.S. Choudhary, Sr. Advocate with
Mr. Pradeep Choudhary, Ms. Sampatti
Choudhary

Mr. Ramesh Chandra, respondent-
contemnor

**HON'BLE MR. JUSTICE VIJAY BISHNOI
HON'BLE MR. JUSTICE FARJAND ALI**

Judgment / Order

21/10/2022

सत्यमेव जयते

This contempt petition is registered on the basis of a complaint filed by the Additional District Judge, Gulabpura, District Bhilwara, wherein it is stated that on 8.8.2018, the respondent-contemnor Shri Ramesh Chandra was deposing as a witness in Sessions Case No.39/17 and during his cross-examination, he became agitated and slapped the defence



lawyer. It is further stated in the complaint that by such act of the respondent-contemnor, the judicial work was interrupted as well as obstructed. Along with the reference letter, the Additional District Judge, Gulabpura, District Bhilwara has forwarded a certified copy of the statement of the respondent-contemnor dated 8.8.2018 wherein, a pertinent note is marked by the court that the defence counsel put a question to the witness (respondent-contemnor) in reference to Ex.P/1, but the witness became agitated and slapped the defence counsel and on account of that, the statement of the witness could not be completed and proceedings had to be deferred.

Pursuant to the notice issued by this Court, the respondent-contemnor has filed reply to the contempt petition, wherein he has justified his act while stating therein that he was one of the witnesses i.e. (PW-1) in Sessions Case No.39/17 – State of Rajasthan Vs. Bhupendra & Ors. and his examination-in-chief was done on 8.8.2018 and, thereafter, the defence lawyer commenced his cross-examination. It is stated that prior to that, before entering into the court, the respondent-contemnor was threatened by the said defence lawyer and was pressurized to dance to the tune of the said lawyer, however, the respondent-contemnor has refused to succumb to pressure exerted by the said lawyer, but still during the course of examination, the said lawyer was constantly trying to influence the respondent-contemnor to



get the desired answers from him and not only this, while cross-examining the respondent-contemnor, the said lawyer was constantly hitting his legs and tried to provoke him though the respondent-contemnor time and again requested the said lawyer not to misbehave with him, but the said lawyer did not pay any heed to the request so made by the respondent-contemnor and at the time when there was a power cut, taking advantage of that, the said lawyer kicked the legs of the witness with force, as a result of which, the witness got his legs hurt and suffered the deep pain and as a result whereof he lost his mental equilibrium and he just gave a very soft slap to the said defence lawyer.

It is further stated that the respondent-contemnor had no intention to slap and, therefore, in fact did not slap the said lawyer. It is stated that the said lawyer has exaggerated the story and threatened the respondent-contemnor to face the dire consequences in the court itself. After stating this in the reply, it is further stated that even if assuming but not admitting that the act which has been complained of in the reference and attributed to the respondent-contemnor was there on his part, he tenders his unconditional apology for any such act if at all been done.

Thereafter, again the respondent-contemnor has filed an additional reply wherein, he has denied the allegations made in the reference and has claimed that since the Additional District Judge, Gulabpura, District Bhilwara has filed a



complaint under Section 228 IPC against him and the same is pending consideration in the court of ACJM, Gulabpura, District Bhilwara, the present contempt proceedings filed against the respondent-contemnor be dropped till the matter is finally adjudicated by the concerned court under Section 228 IPC.

This Court vide order dated 21.8.2019 has read over the formal accusation of offence under Sections 2(c)(ii) and (iii) read with Section 12(1) of the Contempt of Courts Act to the respondent-contemnor. In the said order, this Court has also observed that the case as against the respondent-contemnor is a summons case and has to be tried in a summary manner. The respondent-contemnor denied the same and claimed trial and, as such, this Court granted him time to file affidavit in support of his defence.

The respondent-contemnor filed an additional affidavit in support of his defence before this Court on 30.9.2019 wherein, while submitting his defence, he again tendered unconditional apology, but at the same time, again claimed that in view of pendency of the proceedings under Section 228 IPC, the present contempt proceedings initiated against him be dropped. The respondent-contemnor has also produced a list of witnesses with a prayer to summon them for giving their evidence as per the procedure provided under Section 251 to 259 CrPC.



The final arguments were heard in the said case by a Coordinate Bench of this Court on 12.12.2019 and the order was reserved, however, on 2.7.2020, the Coordinate Bench of this Court was of the view that in respect of the incident in question an FIR No.245/18 was registered at Police Station Gulabpura, District Bhilwara against the respondent-contemnor for the offences under Sections 352, 341 and 323 IPC wherein, the police after investigation has filed a negative report, but the present status of the final report filed by the police has not come on record. It was also observed by the Coordinate Bench that the Additional District Judge, Gulabpura, District Bhilwara has preferred a complaint under Section 228 IPC before the ACJM, Gulabpura, District Bhilwara, which is pending consideration. The Court was of the view that it is to be examined whether in view of the pendency of the proceedings for offence under Section 228 IPC before the criminal Court of competent jurisdiction, the present contempt petition would be maintainable. The Court, thereafter, has adjourned the matter so that counsel appearing for the parties may make further submissions.

On 26.7.2022, learned counsel for the respondent-contemnor has submitted that the respondent-contemnor is ready to tender his unconditional fresh apology before this Court and is ready to furnish written apology to Mr. Kamal Kast, Advocate, who has been allegedly slapped by the respondent-contemnor.



Taking into consideration the above facts, the Court has requested Mr. Kamal Kast, Advocate to remain present before this Court on 28.7.2022. Mr. Kamal Kast, Advocate appeared before this Court on 24.8.2022 and submitted that he is not ready to accept the unconditional apology from the respondent-contemnor.

Taking into consideration the above fact, this Court has posted the contempt petition for final hearing on 19.9.2022. Thereafter, the matter was listed on 28.9.2022 and now the same is listed for final hearing on 18.10.2022.

At the outset, Mr. J.S. Choudhary, Sr. Advocate assisted by Mr. Pradeep Choudhary and Ms. Sampatti Choudhary, learned counsel appearing for the respondent-contemnor has submitted that he does not want to argue the case on merits and has further submitted that the respondent-contemnor has already filed a fresh apology in the form of additional affidavit on 28.7.2022 and requested that the same may be accepted and the contempt proceedings initiated against him may be dropped.

Mr. Choudhary has further submitted that though in the additional affidavit filed by the respondent-contemnor in his defence, he has prayed for summoning some of the witnesses but now he is not pressing that prayer. Mr. Choudhary has further submitted that the respondent-contemnor has filed a complaint under Section 156(3) CrPC against Mr. Kamal Kast,



Advocate in the court of ACJM, Gulabpura, District Bhilwara, but now he does not want to press the same.

Mr. Choudhary has submitted that the respondent-contemnor is belonging to a poor agriculturist family and is serving in the police department from last seven years as a constable. It is also submitted that the respondent-contemnor has appeared before a court of law for the first time in Sessions Case No.39/17 for the purpose of giving evidence and since he was not having any experience of the court proceedings, the unfortunate incident happened. It is further submitted that parents of the respondent-contemnor are old aged and they are living in their native village with wife and minor children of the respondent-contemnor aged about 3 and 5 years. Learned counsel for the respondent-contemnor, therefore, has submitted that taking into consideration the facts and circumstances of the case, the unconditional apology tendered by the respondent-contemnor may kindly be accepted.

Mr. Mridul Jain, learned counsel appearing for Mr. Kamal Kast, Advocate has argued that the action of the respondent-contemnor of slapping the defence lawyer is highly condemnable and cannot be pardoned in any case. It is submitted that the offence of criminal contempt is clearly made out against the respondent-contemnor, therefore, he is liable to be punished suitably.

Heard learned counsel for the parties.



The allegation levelled against the respondent-contemnor of unruly behaviour in the trial court on 8.8.2018 is though contradicted by him, but from a careful scrutinizing of the replies filed by him in response to this contempt petition, it is clear that the respondent-contemnor has more or less admitted the fact that he slapped Mr. Kamal Kast, Advocate while he was cross-examining him in Sessions Case No.39/17. Though, the respondent-contemnor has tried to justify his act on the ground that Mr. Kamal Kast, Advocate, by his action made him annoyed and even alleged that he had kicked him due to which, he suffered minor injuries, but the same is not convincing because if the defence lawyer Mr. Kamal Kast had kicked or injured him in any manner, he could very well complain about the same to the Presiding Officer at the very moment. The defence submitted by the respondent-contemnor, therefore, seems to be an afterthought.

Be that as it may, since the counsel for the respondent-contemnor has categorically stated before this Court that the respondent-contemnor does not want to press his defence and is praying for accepting his unconditional apology, we do not want to go into the merits of the case and presume that the allegations levelled in the reference submitted by the Additional District Judge, Gulabpura, District Bhilwara are true.



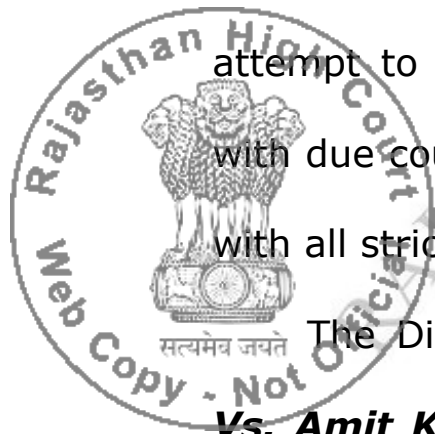
The respondent-contemnor, in his initial reply to the contempt petition, had tendered unconditional apology and thereafter again, he has tendered unconditional apology in the additional affidavit filed in support of his defence on 30.9.2019. The respondent-contemnor has thereafter filed another additional affidavit in October, 2020 and again tendered unconditional apology while making other submissions. In the affidavit filed in October, 2020, it is mentioned that the respondent-contemnor joined the police service on 29.8.2011 as a constable and is presently posted in District Bhilwara. It is also mentioned in the affidavit that wife of the respondent-contemnor is a housewife and residing in his native village with minor son and daughter. It is also mentioned that mother and father of the respondent-contemnor are agriculturists and they are residing with his younger brother, who is unemployed and his elder brother is serving in Indian Army as *Sipahi* and he is residing separately.

Thereafter, on 28.7.2022, the respondent-contemnor has again filed an additional affidavit wherein, he has tendered his unconditional apology to this Court, the trial court as well as to Mr. Kamal Kast, Advocate.

The criminal contempt is defined in Section 2(c) of the Contempt of Courts Act, 1971, which provides that any contempt by a person scandalises or tends to scandalise, or lowers or tends to lower the authority of any court or



obstructs in the administration of justice would amount to criminal contempt. The majesty of courts of law is very important and is paramount for the purpose of proper administration of justice and to create a sense of confidence in general public. Any attempt on the part of a person to obstruct in the process of administration of justice and any attempt to scandalise the court or any attempt to interfere with due course of judicial proceedings is required to be dealt with all strictness.



The Division Bench of this Court in **Rajeshwar Singh Vs. Amit Kalyan & Anr.**, reported in **2014 2 RLW (Raj.)**

1077 while interpreting the definition of criminal contempt as given in the Contempt of Courts Act, 1971 has observed as under :

“From a bare perusal of the definition of criminal contempt, it is amply clear that dignity and majesty of law Courts is paramount for the purposes of securing a feeling of confidence of people in general and for due and proper administration of justice in the country, and any attempt to scandalize the Court, or obstruction in the process of administration of justice is to be dealt with sternly.”

However, in the very same judgment, the Hon'ble Division Bench while considering the question of accepting unconditional apology has observed as under :

“It is trite that respect is to be commanded and not to be demanded and the contempt of Court is not to be used as a lethal weapon to penalize someone on trivial issues like hot altercations during judicial proceedings. Repentance is a tool which condones all sorts of



misdemeanors and if the apology tendered by the contemnor is coming from the heart, it is not in fitness of things to continue with the contempt proceedings against the erring individual.”

Taking into consideration the observations made by this Court in the above referred case, we are of the opinion that unconditional apology tendered by the respondent-contemnor can be treated as bonafide and keeping in view the fact that at the time of incident, the respondent-contemnor was having service period of around seven years only and he was appearing as a witness in the court for the first time, we are of the opinion that the unconditional apology tendered by the respondent-contemnor is liable to be accepted. The respondent-contemnor is a young person having two minor children and looking to the background of his family, a lenient view is taken in the matter.

However, we made it clear that the proceedings initiated against him under Section 228 IPC, which are pending consideration in the court of ACJM, Gulabpura, District Bhilwara shall continue but the complaint filed by the respondent-contemnor under Section 156(3) CrPC in the court of ACJM, Gulabpura, District Bhilwara for the offences under Sections 384, 504, 332, 353, 195A, 186 and 189 IPC is hereby quashed and set aside and all the proceedings initiated pursuant to the said complaint are also quashed and set aside.



As we found that the respondent-contemnor is guilty of unruly behaviour in the trial court and this Court while dealing with the instant contempt petition has devoted its precious time, we deem it appropriate to direct the respondent-contemnor to deposit a sum of Rs.25,000/- with the District Legal Services Authority, Bhilwara within a period of one month from today.

In case, the said amount is not deposited by the respondent-contemnor within the stipulated time, the same shall be reported by the District Legal Services Authority, Bhilwara immediately to this Court.

The contempt petition is disposed of accordingly.

Notice of contempt issued to the respondent-contemnor is discharged.

Let a copy of this order be sent to the District Legal Services Authority, Bhilwara forthwith.

(FARJAND ALI),J

(VIJAY BISHNOI),J

ms rathore