

**In Re: Jagmohan Parashar**

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**SooperKanoon Citation :** [sooperkanoon.com/500095](http://sooperkanoon.com/500095)

**Court :** Madhya Pradesh

**Decided On :** Mar-13-2007

**Reported in :** 2007CriLJ2079; 2007(3)MPLJ238

**Judge :** Abhay Gohil and ;S.A. Naqvi, JJ.

**Appellant :** In Re: Jagmohan Parashar

**Judgement :**

**Abhay Gohil, J.**

1. This is a reference under Section 15(2) of the Contempt of Courts Act, 1971 by Special Judge (Atrocities) and Additional District and Session Judge and Additional Session Judge, Gwalior.

2. Brief facts of the reference are that Shri Rajendra Mahajan, Special Judge (Atrocities) and Additional Sessions Judge, Gwalior was presiding over the session trial No. 330/04 in the matter of State of Madhya Pradesh, through police station Kotwali, Gwalior against one accused Jagmohan. On 19-1-2007 the aforesaid session trial was listed for final judgment. At about 12 o'clock in the noon, the learned Judge called the case. Accused Jagmohan was present along with his Advocate Shri Shailendra Singh. Susendra Singh Parihar, Assistant Public Prosecutor was also present on behalf of the State. Learned Assistant Public Prosecutor was also assisted by Shri M.S. Yadav, Advocate. Accused Jagmohan' was under custody. The judgment was pronounced and accused Jagmohan was

found guilty under Section 302 read with Section 338 of IPC and thereafter, the learned Judge heard both the parties on the question of awarding the sentence. After hearing on the question of sentence, the learned Judge dictated the order of sentence and imposed sentence of life imprisonment and also imposed fine of Rs. 50,000/- (Rupees fifty thousand). He also imposed two years rigorous imprisonment for the offence under Section 338 of IPC.

3. After hearing the sentence, the accused Jagmohan started abusing the Judge and took out his both the sandals which he was wearing and hurled them towards the Judge, which fell on dias. At the time of this incident, the Judge was on dias. Lawyers Jitendra Singh, Raja Yadav, Anant Bansal and Somveer Singh were present in the Court. The Court employees Arun Kadam, Girraj Verma, J.P. Namdeo, Sanjay Soni, Khuman Singh, Indrapal Singh Tomar (Court Moharar) and Smt. Nisha Bhatta were present, who had witnessed the incident. Thereafter, contempt proceedings were initiated against the accused Jagmohan and the matter was also reported to Police Station Inderganj, Gwalior and thereafter the Special Judge (Atrocities) has referred this matter to this Court under Section 15(2) of the Contempt of Courts Act for taking appropriate action.

4. After receiving the aforesaid reference, the same was placed before the Division Bench and on 29-1-2007 this Court directed to issue notice to respondent/accused Jagmohan. On 19-2-2007 this Court again directed the Superintendent Jail to produce the contemner Jagmohan in the Court. On 12-3-2007 contemner Jagmohan was present in the Court. He has filed his reply and in the reply he has indirectly admitted his guilt and tendered unconditional apology. In the reply it has been mentioned that a false case was registered and report was lodged against him. He is not guilty of any offence. It is mentioned that after hearing the sentence he lost his mental balance and innocently without any intention he committed the aforesaid incident. It is further stated that at that time, the contemner was under mental stress and he fell down, became unconscious and thereafter he was admitted in Neurology department. He has also submitted that he has respect for the Court. He has explained his family conditions in the reply and has prayed that unconditional apology be accepted and he be granted pardon.

5. We have heard and perused the allegations mentioned in the reference matter and we have also perused the reply and unconditional apology submitted by the contemner Jagmohan. It is not in dispute that the contemner Jagmohan was a police constable. He was an accused in a criminal case and was prosecuted in S.T. No. 330/04 for offence under Sections 302 and 338 of IPC. The allegation against him was that on 16-8-2004 Suman (P.W. 7) wife of deceased Gijju lodged FIR that four-five years back her husband had purchased one house from one Pinki and thereafter Gijju constructed new house in place of old house thereon and it was the allegation that Jagmohan was pressurizing deceased Gijju to return the house to Pinki, who was keep of Jagmohan and Gijju returned the house to Pinki. Thereafter, Jagmohan started pressurizing Gijju to pay some amount to Pinki and when Gijju refused to pay the amount to Pinki, Jagmohan took out his pistol and fired at Gijju. From the aforesaid incident it also appears that Jagmohan, who was constable, was illegally pressurizing one Gijju. He was also having one keep Pinki and Government pistol was used in the commission of crime. It has also come in the impugned judgment that he was absconding and Jagmohan could be arrested only on 16-3-2005 and he remained absconding from 16-8-2004 to 16-3-2005 i.e., around seven months.

6. Firstly, we have to consider whether unconditional apology of the contemner should be accepted or not under the aforesaid background of facts that he was a police constable and keeping one lady Pinki as a keep. He remained absconding for more than seven months. Initially he has denied the allegations. In this case his only defence was that he was mentally disturbed and he lost his mental balance, but in our opinion, this is no defence. When he was facing a criminal trial, he was aware of its consequences. It was not expected from a police constable to behave in such an indecent manner in the Court. We have also not found proved this contention that he lost mental balance and after hearing the sentence, he fell down and became unconscious. On the contrary, after hearing sentence he took out his both the sandals and hurled them towards the Judge and he has not submitted any unconditional apology to the Judge concerned. Therefore, on all these grounds the apology tendered by the contemner cannot be accepted. In the cases where the person interferes or tends to interfere with, or obstruct or tends to obstruct, the administration of Justice in any other manner will be guilty of criminal

contempt as defined Clause (c) of Section 2 of the Contempt of Courts Act, 1971. From the conduct of the contemner it appears that it is a case of willful contempt and comes within the purview of criminal contempt. The entire conduct of the contemner shows that neither he was mentally under shock nor it cannot be held that he committed the offence unknowingly without any intention. The purpose of the law of Contempt of Courts is for keeping the administration of justice pure and undefiled. The dignity of the Court is to be maintained at all costs. No doubt the contempt jurisdiction, which is of a special nature, should be used sparingly. But, abusing the Judge and thereafter throwing sandals towards the Judge aiming to hit him is clearly a serious kind of criminal contempt and the contemner cannot be simply acquitted from the allegations on tendering an apology. According to us, the unconditional apology which has been tendered by the contemner is also not acceptable as he has first furnished explanation of his family conditions which has no bearing on the misconduct committed by him and thereafter tendered apology in the High Court and not before the Judge concerned. Therefore, in such circumstances neither the apology can be accepted nor he can be pardoned. He has deliberately committed the criminal contempt of Court by abusing the Courts and by hurling the sandals towards the Judge.

7. In a case of similar facts of R.K. Garg Advocate v. State of Himachal Pradesh C/0099/1981', '1')';> : 1981 CriLJ1029 where a practicing lawyer had hurled his shoe at the Judge in order evidently to overawe him and to bully him into accepting his submission. Supreme Court has upheld the conviction but considering his over all conduct reduced the sentence from six months to one month and the reason was that he tendered an unconditional apology to the Supreme Court as well as to the Court where the offence was committed. The Supreme Court found that a long sentence of imprisonment was not called for. It was also considered that the appellant-lawyer was present in the Supreme Court and it was visible that he had suffered enough in mind and reputation and no greater purpose was going to be served by subjecting him to long bodily suffering.

In that case the Supreme Court has held that 'The conduct of the contemner was highly unbecoming of a practicing lawyer. The Court cannot adequately condemn the contemner's behaviour which was most reprehensible, remembering that, as a

practicing lawyer, he was an officer of the Court, such incidents can easily multiply considering the devaluation of respect for all authority, whether in law, education or politics.'

8. In the above referred case R.K. Garg Advocate before the High Court, who was appearing for the appellant, told the learned Judges of the High Court : 'Better part of discretion is to ignore it instead of fanning it. It is a tussal between legal profession and judiciary'. In that context the Supreme Court observed:

Those who are informed of the question and think deeply upon it entertain no doubt that the Bar and the Bench are an integral part of the same mechanism which administers justice to the people. Many members of the Bench are drawn from the Bar and their past association is a source of inspiration and pride to them. It ought to be a matter of equal pride to the Bar. It is unquestionably true that courtesy breeds courtesy and just as charity has to begin at home, courtesy must begin with the Judge. A discourteous Judge is like an ill-tuned instrument in the setting of a courtroom. But members of the Bar will do well to remember that such flagrant violations of professional ethics and cultured conduct will only result in the ultimate destruction of a system without which no democracy can survive.

9. In the case of C.K. Daphtary, Sr. Advocate v. Shri O.P. Gupta 0065/1971 : 1971 CriLJ844 a Constitution Bench of the Supreme Court has held that 'even assuming that a judgment contains errors but that can be no excuse for imputing dishonesty to the Judge, or that Judge has committed errors even gross error cannot amount his misbehaviour'.

It was further held that 'we are unable to agree with him that a scurrilous attack on a Judge in respect of a judgment or past conduct has no adverse effect on the due administration of Justice, This sort of attack in a country like ours has the inevitable effect of undermining the confidence of the police in the Judiciary. If confidence in the Judiciary goes, the due administration of justice definitely suffers.'

10. Rule of law is our constitutional philosophy. Under the Constitution, judiciary is not only independent but is placed on high pedestal Duty of the Court is to enforce

law and to do justice according to law. The people of this country, by an large having faith and confidence in the Courts, Judges and administration of Justice. In the words of Justice O. Chinnappa Reddy--

In a democracy founded on the Rule of Law, the public policy demands that nothing should be allowed to be done to undermine the system of fearless administration of justice by Courts of law or to shake public confidence in it. No democratic institution can flourish in an atmosphere of fear and suspicion.

A Court of law cannot function freely and fairly if it is to be thwarted in the discharge of its duties by contumacious and wilful flouting or disobedience of its orders or if the parties that come before it seeking justice or the advocates that appear before it or the Court itself are to be subjected to threat and abuse.

11. It is the duty of every citizen to maintain dignity and respect of the Courts as well as discipline in the Courts as without which public confidence in administration of justice cannot be maintained. In these days the public may not treat the Courts as Temple of Justice but certainly the Courts command respect and are being treated as exalted place of justice where majesty of law is upheld and justice is administered. We realised, those old days have gone when Courts were treated as temple and Judges as priest now we are in open democratic society and exposed to fair criticism but certainly there is no dispute in this established fact that even as on today if the people of this country is having any faith in any institution, that is first in the Judiciary, Courts and administration of justice. Therefore, it is expected that there cannot be anything of greater consequences than to keep the stream of justice clear and pure.

12. The course of Justice must not be deflected or interfered with. Those, who strike at it strikes at the very foundation of our society. It is expected that every person coming to the Court either as party or witness or employee working in the Court or the lawyers appearing in the Courts those who are also treated as Officer of the Court are bound to maintain discipline, prestige and dignity of the Courts and it is expected from them to also extend and observe normal courtesy due to the Courts and Judges. It is the need of the day that prestige and dignity of the Courts of law have to be preserved at all costs.

13. If the litigants are having privilege to say that the judgment is wrong and Judge has committed mistake or error by delivering the judgment, such a privilege has to be used in a descent manner without any vilificatory criticism adverse and unwarranted comments or without scandalising the Courts and Judges. In such matter about the criticism of judiciary the following observation of Lord Atkin in case of *Andre Paul v. Attorney-General of Tribunal* AIR 1936 PC 141 is a classic to be quoted here:

The path of criticism is a public way; the wrongheaded are permitted to err therein : provided that members of the public abstain from imputing improper motives to those taking part in the administration of justice, and are genuinely exercising a right of criticism and not acting in malice or attempting to impair the administration of justice, they are immune. Justice is not a cloistered virtue : she must be allowed to suffer the scrutiny and respectful, even though, outspoken comments of ordinary men.

14. In a Special Reference Matter before the Supreme Court AIR 1965 SC 745, speaking for Seven Judges Bench the then Chief Justice Gajendragadkar J. made an important comment on contempt and as to how the Judges should act wisely. It is a very important advice to the Judges, which we would like to quote, as the Judges are also required to observe the judicial conduct. He observed as under:

Wise Judges never forget that the best way to sustain the dignity and status of their office is to deserve respect from the public at large by the quality of their judgments, the fearlessness, fairness and objectivity of their approach, and by the restraint, dignity and decorum which they observe in their judicial conduct. What is true of the judicature is equally true of the Legislatures.

15. After considering the entire episode, facts and circumstances of the case, we do not see any justification of the aforesaid conduct of the respondent, which was totally unwarranted, unscrupulous and cannot be ignored merely on the ground of tendering the apology. In our considered view, in such cases severe kind of punishment should be awarded to the contemner so that it may be a lesson to the others and such kind of incident may not be repeated in future. If such kind of persons are allowed to do such act and to hurl sandals, chappals or any other kind

of material or to misbehave in such a rude manner and if such persons are not punished for their such kind of notorious act or acquitted simply on the ground of tendering apology, there will be no fear or respect in future in the mind of litigants towards the Courts or Judges. We are also of the view that where reputation, respect and dignity of the Courts is at stake, such an act cannot be termed to be a normal kind of act on the part of the accused. Such acts have to be dealt with severally and with heavy hand.

16. Thus, considering the totality of the facts and circumstances of the case, we find that the contemner is guilty of committing criminal contempt of the Court of Special Judge (Atrocities) and Additional Sessions Judge, Gwalior, we reject the apology tendered by him before this Court, not before the Judge concerned. Thus, we impose punishment of simple imprisonment for a term of three months with fine of Rs. 1000/- (Rupees one thousand only), in default of payment of fine, further one month's simple imprisonment. Contemner is already in custody, he will also serve the aforesaid jail sentence.

17. With the aforesaid direction, this contempt reference is disposed of.

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