

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE MR. JUSTICE ANIL K.NARENDRAN
&
THE HONOURABLE MR. JUSTICE G.GIRISH

Thursday, the 30th day of May 2024 / 9th Jyaishta, 1946
CONTEMPT CASE (CRL.) NO. 2 OF 2023(S)

SUO MOTU

SRI.S. SREEKUMAR (SENIOR ADVOCATE)

RESPONDENT :

SRI.YESHWANTH SHENOY, ADVOCATE, 951, 9TH FLOOR,
KHCAA CHAMBER COMPLEX, HIGH COURT OF KERALA CAMPUS,
ERNAKULAM, KERALA - 682 031.

BY ADVS.YESHWANTH SHENOY(Party-In-Person)

This Contempt of case (criminal) having come up for orders on
30.05.2024, the court on the same day passed the following:



P.T.O.

"C.R"

ANIL K. NARENDRAN & G. GIRISH, JJ.**Contempt Case (Crl.) No.2 of 2023****Dated this the 30th day of May, 2024****ORDER****Anil K. Narendran, J.**

This Contempt Case is registered suo motu, under Section 15(1) of the Contempt of Courts Act, 1971 [for brevity 'the Act'] read with Rule 7(i) of the Contempt of Courts (High Court of Kerala) Rules, 1971 [for brevity 'the Rules']. The letter dated 09.02.2023 written by Mrs. Justice Mary Joseph, to the Honourable the Chief Justice is regarding an incident that happened on 09.02.2023 in Court No.2D, about the conduct of the respondent - Adv. Yashwant Shenoy in Court. When that letter was placed before the then Chief Justice on the administrative side, along with a 'note' of the Registrar General, the Chief Justice considered it expedient to place the matter before the Division Bench dealing with contempt matters. Accordingly, the Registrar General prepared the synopsis, statement of facts and a draft memo of charges, supported by an affidavit dated 27.02.2023. That petition was numbered as Contempt Case (Crl.)No.2 of 2023 and listed before the Division Bench dealing with contempt matters, on 28.02.2023.

2. On 28.02.2023, the Division Bench issued notice to the respondent. By the order dated 28.02.2023, the Division Bench appointed under Rule 15 of the Rules Sr.Adv. V.P.Seemanthini as the

Cont. Case (Crl)No.2 of 2023

counsel to assist the Court to conduct the proceedings against the respondent.

3. On 03.04.2023, the respondent entered appearance and sought two weeks' time to file objections. Sr. Adv. V.P.Seemanthini expressed her unwillingness to continue for the reason that she is a Senior Counsel in the panel of Lawyers for the High Court. Before the Division Bench Sr.Adv. S.Sreekumar agreed to assist the Court, under Rule 15 of the Rules, in the place of Sr.Adv. V.P.Seemanthini. By the order dated 03.04.2023, the Division Bench directed the Registry to show the name of Sr.Adv. S.Sreekumar in the cause list, in the place of Sr.Adv. V.P.Seemanthini.

4. On 22.05.2023, the respondent filed a counter affidavit, wherein it was pointed out that he is in the process of filing a separate application for discharge. On 25.05.2023, the respondent appeared online and a counsel representing the respondent handed over to the Division Bench a physical copy of the application filed for recusal of Mrs.Justice Sophy Thomas, one of the members of the Division Bench, from hearing the matter. Such an application was filed on 07.06.2023, which was numbered as I.A.No.2 of 2023, in which that Division Bench passed a detailed order on 30.06.2023, whereby that application stands rejected for the reasons stated therein.

5. Thereafter, the respondent filed a detailed counter affidavit dated 25.09.2023, producing therewith Annexures R1(1) to R1(42)

Cont. Case (Crl)No.2 of 2023

documents. One of the contentions raised in that counter affidavit is that the respondent has not been furnished with a copy of the letter dated 09.02.2023 of Justice Mary Joseph, referred to in the statement of facts of this contempt case. In the order dated 11.10.2023, this Court noticed that the said letter is not seen incorporated in the Judges papers of this contempt case. In such circumstances, the Registry was directed to incorporate that letter along with connected records in the Judges papers of this contempt case and to furnish copy of the same to the respondent and to the learned Senior Counsel appointed under Rule 15 of the Rules.

6. After the receipt of those documents, the respondent filed an additional affidavit dated 01.01.2024, producing therewith Annexure R1(45) letter dated 09.02.2023 of Justice Mary Joseph and Annexure R1(46) 'note' of the Registrar General, which was placed before the then Chief Justice, on administrative side, which contains an endorsement dated 21.02.2023 of the then Chief Justice.

7. We heard detailed arguments of the respondent, who appeared in person, and Sr.Adv. S.Sreekumar, the learned Senior Counsel appointed under Rule 15 of the Rules, for conducting the proceedings against the respondent. The respondent has submitted argument notes on the procedural violations pointed out during the course of arguments. The learned Senior Counsel has also submitted argument notes on those aspects. Thereafter, further arguments were

Cont. Case (Crl)No.2 of 2023

heard on the procedural violations pointed out and also on the request of the respondent to drop the proceedings and to discharge him under Rule 14(b)(ii) of the Rules.

8. Procedural violation No.1 pointed out by the respondent is that he was not given the 'information' along with the notice issued under Rule 9 of the Rules. The respondent would contend that though cognizance was taken by the then Chief Justice on the basis of the 'information', i.e., the letter dated 09.02.2023 written by Justice Mary Joseph to the then Chief Justice, the communication between the Registry and the Chief Justice and also the order of the Chief Justice, were not annexed to the contempt petition filed on 27.02.2023. Consequently, the respondent was not given a copy of the 'information' along with the notice in Form No.I, which is in clear violation of Rule 9(ii)(b) of the Rules. The word used in Rule 9(ii)(b) is 'shall', which makes it mandatory that the 'information' ought to have been given to the respondent along with the notice in Form No.I. The respondent was forced to file his counter affidavit in the absence of the said mandatory documents, which was specifically brought to the attention of this Court in the counter affidavit. This Court, by the order dated 11.10.2023, directed the Registry to furnish a copy of the said documents to the respondent, which were furnished on 04.11.2023. According to the respondent, the non-furnishing of documents in accordance with Rule 9(ii)(b) of the Rules, along with the notice in Form No.I, is not a 'curable

Cont. Case (Crl)No.2 of 2023

defect' as it interfered with his substantial right. In support of the said contention, the respondent would rely on the decision of the Apex Court in **Muthu Karuppan v. Parithi Ilamvashuthi [(2011) 5 SCC 496 : AIR 2011 SC 1645]**, wherein it was held that any deviation from the prescribed rules should not be accepted or condoned lightly and must be deemed to be fatal to the proceedings taken to initiate the action for contempt.

8.1. The learned Senior Counsel appointed under Rule 15 of the Rules to conduct proceedings against the respondent would argue that when the respondent raised a contention in the counter affidavit that he was not given a copy of the 'information' along with the notice in Form No.I, this Court by the order dated 11.10.2023 directed the Registry serve him a copy of the letter dated 09.02.2023 along with the connected records and also to the Senior Counsel appointed under Rule 15. In pursuance of that order, the Registry served a copy of that letter and connected records to the respondent and to the Senior Counsel. Hence, the requirements of Rule 9(ii)(b) have been complied with. The learned Senior Counsel would argue that non-supply of 'information' is only a curable defect. The decision of the Apex Court in **Muthu Karuppan [(2011) 5 SCC 496]** relied on by the respondent has no application.

8.2. Rule 7 of the Rules deals with the initiation of suo motu proceedings, on information. As per Rule 7(i), any information other

Cont. Case (Crl)No.2 of 2023

than a petition under Rule 3 or reference or any petition for initiation of criminal contempt other than those mentioned in Section 15 of the Contempt of Courts Act shall, in the first instance, be placed before the Chief Justice on the administrative side. As per Rule 7(ii), if the Chief Justice, or such other Judge as may be designated by him for the purpose, considers it expedient or proper to take action under the Act, he shall direct that the said information be placed for preliminary hearing. As per the proviso to Rule 7(ii), if action for contempt of court is directed to be taken by any Judge or Judges in any proceedings before the High Court, the same shall be placed before the appropriate Bench. As per Rule 7(iii), when suo motu action is taken by the High Court, the statement of facts constituting the alleged contempt and the copy of the draft charges shall be prepared and signed by the Registrar.

8.3. Rule 9 of the Rules deals with preliminary hearing and notice. As per Rule 9(i), every petition, reference, information or direction shall be placed for preliminary hearing before the appropriate Bench. As per Rule 9(ii)(a), the Court, if satisfied that a prima facie case has been made out, may direct issue of notice to the respondent; otherwise, it shall dismiss the petition or drop the proceedings. As per Rule 9(ii)(b), the notice shall be in Form No.I and shall be accompanied by a copy of the petition, reference, information or direction and annexures, if any, thereto. The notice in Form No.I shall be as follows;

“Whereas information is laid/a petition or reference or direction is made by that you (here mention the

Cont. Case (Crl)No.2 of 2023

gist of the accusation made in the information, petition, reference or direction); and whereas a case has been registered against you for action being taken against you under the Contempt of Courts Act, 1971.

You are hereby required to

*appear before this Court in person on the day of

*appear before this Court in person or by Advocate duly instructed on the day of

and shall continue to attend the Court on all days thereafter to which date the case against you stands adjourned subject to orders passed by the Court from time to time and show cause why such action as is deemed fit should not be taken against you.

*Delete whichever is not applicable." (underline supplied)

8.4. In the instant case, as provided under Rule 7(iii) of the Rules, the statement of facts constituting the alleged contempt and the copy of the draft charges are prepared and signed by the Registrar. In the statement of facts constituting the alleged contempt, it is stated as follows;

"The Honourable Mrs. Justice Mary Joseph, vide letter dated 09.02.2023 has reported an incident that happened on 09.02.2023 in Court 2D of High Court of Kerala, whereby Advocate Sri. Yeshwanth Shenoy, who is not a counsel for the parties in the revision, appearing on behalf of the petitioner in Crl.M.A.No.1 of 2023 in R.P.(FC)No.189 of 2019 shouted at the Court and harassed the Court. The counsel compelled the court to record his submission. The Court has directed the counsel not to shout in the Court. The counsel again shouted and repeated the same submission in a louder

Cont. Case (Crl)No.2 of 2023

voice, stating "I will see that your Ladyship is expelled from the seat."

8.5. The draft charges prepared and signed by the Registrar, as provided under Rule 7(iii) of the Rules, read thus;

'That you, Yeshwanth Shenoy, Advocate, 951, 9th Floor, KHCAA Chamber Complex, High Court of Kerala Campus, Ernakulam on 09.02.2023 in Court 2D of the High Court of Kerala had shouted at the Court and harassed the Court. You compelled the Court to record your submission even though the Court directed you not to shout. You have shouted in a louder voice as follows;

"I will I will see that your Ladyship is expelled from the seat."

Your act amounts to scandalizing the authority of the Court and interference in the due course of judicial proceedings. Such behaviour is intended to lower the authority of this Court and you have thus committed criminal contempt, which is punishable under Section 12 of the Contempt of Courts Act, 1971.'

8.6. In **Muthu Karuppan [(2011) 5 SCC 496]**, a decision relied on by the respondent, the Apex Court was dealing with a Criminal Appeal filed against the final judgment and order dated 29.10.2004 of a Division Bench of the Madras High Court in Contempt Petition No.397 of 2001, whereby the High Court held the respondents therein guilty of criminal contempt as defined under Section 2(c) of the Contempt of Courts Act, punishable under Section 12, and sentenced to undergo simple imprisonment for 7 days under Section 12 of the Act. The 1st respondent before the Apex Court - Parithi Ilamvashuthi - a sitting MLA

Cont. Case (Crl)No.2 of 2023

of Egmore Constituency, Chennai filed Contempt Petition No.397 of 2001 against the appellant - Muthu Karuppan - who assumed charge as the Commissioner of Police, Greater Chennai, on 17.05.2001, the date on which the 1st respondent was arrested and remanded to judicial custody in Crime No.960 of 2001 registered in connection with large-scale violence and booth capturing reported in the elections held on 10.05.2001 to Tamil Nadu State Legislative Assembly. On 21.05.2001, the 1st respondent moved Crl. M.P.No.1379 of 2001 for bail, before the Metropolitan Magistrate-XIV, which was dismissed on the same day. On 22.05.2001, he moved Crl. M.P.No. 6277 of 2001 for bail before the Principal Sessions Court, Chennai, mainly on the ground that he has to attend the Assembly which commenced on 22.05.2001, to take oath as MLA. On 23.05.2001, he was granted conditional bail by the Sessions Judge. On 24.05.2001, the 2nd respondent before the Apex Court - Rajendra Kumar - who was the Inspector of Police (Law and Order), Tamil Nadu filed Crl. O.P.No.9352 of 2001 for cancellation of bail before the High Court of Madras and sought for a stay of the bail granted to the 1st respondent. On the same day, the learned Single Judge stayed the order granting bail and ordered notice to the 1st respondent on the ground that the victim - David - is in a serious condition and the accused is in police custody. On 28.05.2001, on receipt of the notice, the 1st respondent filed a counter affidavit stating that the statement of the 2nd respondent regarding police custody was false. On 29.05.2001, the

Cont. Case (Crl)No.2 of 2023

2nd respondent filed a reply affidavit admitting that it was a mistake by oversight and the same is neither willful nor wanton. On 30.05.2001, the petition for cancellation of bail was dismissed by the High Court holding that no ground was made out for cancellation of the bail. After the order dated 30.05.2001, the 1st respondent filed Contempt Petition No. 397 of 2001 before the High Court stating that on the direction, supervision and knowledge of the appellant, the 2nd respondent moved an application to cancel the bail granted to him on the basis of a false statement, thereby preventing him from attending the Assembly. On 29.10.2004, the Division Bench of the High Court held the respondents therein guilty of criminal contempt defined under Section 2(c) of the Contempt of Courts Act, punishable under Section 12, and sentenced them to undergo simple imprisonment for 7 days.

8.7. In **Muthu Karuppan [(2011) 5 SCC 496]**, the Apex Court noticed that, after preliminary examination, the Division Bench of the High Court, by order dated 20.06.2001, issued notice to the 2nd respondent before the Apex Court to show cause as to why contempt proceeding against him should not be initiated for having made a false statement with intent to mislead the Court. In the same proceedings, the Division Bench directed issuance of notice to the appellant before the Apex Court – the Commissioner of Police - as to the averments of an elected MLA being in police custody could not reasonably have been made prima facie without the knowledge of the Commissioner, more so,

Cont. Case (Crl)No.2 of 2023

when the election had just taken place and the elected member was required to take oath, but by reason of his detention was prevented from taking oath. In the same paragraph, it was further stated that the extent to which the Commissioner had knowledge about the filing of the petition for cancellation of bail, the instructions, if any, he had given in that regard, the persons to whom such instructions had been given and the nature of instructions shall also be disclosed by the Commissioner in his affidavit. Based on the notice issued by the Division Bench, the appellant and the 2nd respondent filed separate affidavits before the High Court explaining their stand. In paragraph 39 of the decision [Page 506 of SCC], on an analysis of affidavits of the Inspector of Police, the Assistant Commissioner and the Deputy Commissioner of Police, the Apex Court found that there was no acceptable material that the affidavit containing wrong information filed by the 2nd respondent - Rajendra Kumar - for cancellation of bail and stay of bail order was made at the instance of the appellant - Muthu Karuppan.

8.8. In **Muthu Karuppan [(2011) 5 SCC 496]**, the Apex Court noticed that giving false evidence by filing a false affidavit is an evil which must be effectively curbed with a strong hand. Prosecution should be ordered when it is considered expedient in the interest of justice to punish the delinquent, but there must be a prima facie case of 'deliberate falsehood' on a matter of substance and the Court should be satisfied that there is a reasonable foundation for the charge. As

Cont. Case (Crl)No.2 of 2023

held in a series of decisions, the enquiry/contempt proceedings should be initiated by the Court in exceptional circumstances where the Court is of the opinion that perjury has been committed by a party deliberately to have some beneficial order from the Court. There must be grounds of a nature higher than mere surmise or suspicion for initiating such proceedings. There must be distinct evidence of the commission of an offence by such a person, as mere suspicion cannot bring home the charge of making a false statement; more so, the Court has to determine as on facts whether it is expedient in the interest of justice to enquire into an offence which appears to have been committed. The Apex Court observed that the contempt proceedings being quasi-criminal in nature, burden and standard of proof is the same as required in criminal cases. The charges have to be framed as per the statutory rules framed for the purpose and proved beyond reasonable doubt, keeping in mind that the alleged contemner is entitled to the benefit of doubt. Law does not permit imposing any punishment in contempt proceedings on mere probabilities, equally, the Court cannot punish the alleged contemner without any foundation merely on conjectures and surmises. The contempt proceedings being quasi-criminal in nature, require strict adherence to the procedure prescribed under the rules applicable in such proceedings.

8.9. In **Muthu Karuppan [(2011) 5 SCC 496]**, after referring to the provisions under Section 15 of the Contempt of Courts Act, the

Cont. Case (Crl)No.2 of 2023

Apex Court observed that the whole object of prescribing procedural mode of taking cognizance is to safeguard the valuable time of the Court from being wasted by frivolous contempt petitions. As held in **State of Kerala v. M.S. Mani [(2001) 8 SCC 82]**, the requirement of obtaining prior consent of the Advocate General in writing for initiating proceedings of criminal contempt is mandatory and the failure to obtain prior consent would render the motion non-maintainable. In case a party obtains consent subsequent to the filing of the petition, it would not cure the initial defect and thus, the petition would not become maintainable. In **Bal Thackrey v. Harish Pimpalkhute [(2005) 1 SCC 254]**, it was held that in the absence of the consent of the Advocate General in respect of a criminal contempt filed by a party under Section 15 of the Act, taking suo motu action for contempt without a prayer, was not maintainable. However, as held in **Amicus Curiae v. Prashant Bhushan [(2010) 7 SCC 592]**, in a rare case, even if the cognizance is deemed to have been taken in terms of Rule 3(c) of the Rules to Regulate Proceedings for Contempt of the Supreme Court, 1975, without the consent of the Attorney General or the Solicitor General, the proceedings must be held to be maintainable in view of the fact that the issues involved in the proceedings had far-reaching greater ramifications and impact on the administration of justice and on the justice delivery system and the credibility of the court in the eyes of general public.

Cont. Case (Crl)No.2 of 2023

8.10. In **Muthu Karuppan [(2011) 5 SCC 496]**, the Apex Court noticed that Section 15 of the Contempt of Courts Act as well as the Madras High Court Contempt of Court Rules, 1975, insist that, particularly for initiation of criminal contempt, consent of the Advocate General is required. Any deviation from the prescribed Rules should not be accepted or condoned lightly and must be deemed to be fatal to the proceedings taken to initiate action for contempt. On the facts of the case on hand, the Apex Court noticed that the above provisions have not been strictly adhered to, and even the notice issued by the Division Bench merely sought for explanation from the appellant about the allegations made by the 1st respondent (before the Apex Court). The 2nd respondent (before the Apex Court), who made an incorrect/false statement for cancellation of bail, has been rightly punished by the Division Bench of the High Court and the Apex Court affirmed the same by dismissing his Special Leave Petition. Therefore, the Apex Court allowed the Criminal Appeal filed by the appellant and set aside the order of the High Court convicting him for criminal contempt, as defined under Section 2(c) of the Contempt of Courts Act, and sentencing him under Section 12 to undergo simple imprisonment for 7 days.

8.11. In the instant case, the letter dated 09.02.2023 written by Justice Mary Joseph to the Chief Justice does not form part of the contempt petition presented by the Registrar General, as provided under Rule 7(iii) of the Rules. However, the contents of that letter are

Cont. Case (Crl)No.2 of 2023

there in the statements of facts constituting the alleged contempt and also in the draft charges prepared and signed by the Registrar General, which we have extracted hereinbefore at paragraphs 8.4 and 8.5. On receipt of notice in this contempt case, the respondent entered appearance and filed a counter affidavit. After the order of the Division Bench dated 30.06.2023 in I.A.No.2 of 2023, which was one filed for recusal of Mrs.Justice Sophy Thomas, one of the members of that Division Bench, from hearing the matter, the respondent filed a detailed counter affidavit in which he raised a contention that he has not been furnished with a copy of the letter dated 09.02.2023 of Justice Mary Joseph, referred to in the statement of facts of this contempt case. By the order dated 11.10.2023, this Court directed the Registry to incorporate that letter along with connected records in the Judges papers of this contempt case and to furnish a copy of the same to the respondent and also to the learned Senior Counsel appointed under Rule 15 of the Rules. After the receipt of those documents, the respondent filed an additional affidavit dated 01.01.2024, producing therewith a copy of that letter as Annexure R1(45) and the 'note' of the Registrar General as Annexure R1(46).

8.12. In **J.R. Parashar v. Prasanth Bhushan [(2001) 6 SCC 735]**, after referring to the provisions under Section 15(1) of the Act, the Apex Court held that the underlying rationale of clauses (a), (b) and (c) appears to be that when the court is not itself directly aware of

Cont. Case (Crl)No.2 of 2023

the contemptuous conduct, and the actions are alleged to have taken place outside its precincts, it is necessary to have the allegations screened by the prescribed authority so that the court is not troubled with frivolous matters. The actual proceedings for contempt are quasi-criminal and summary in nature. Two consequences would follow from this. First, the acts for which proceedings are intended to be launched must be intimated to the person against whom action is proposed to be taken with sufficient particularity so that the person charged with having committed the offence can effectively defend themselves. It is for this reason Section 15 requires that every motion or reference made under this Section must specify the contempt of which the person charged is alleged to be guilty. The second consequence, which follows from the quasi-criminal nature of the proceedings, is that if there is reasonable doubt on the existence of the state of facts, that doubt must be resolved in favour of the person or persons proceeded against. In addition to this, Rules to Regulate the Proceedings for the Contempt of the Supreme Court, 1975 provides in detail the procedure to be followed by the Court and its Registry.

8.13. In **J.R. Parashar [(2001) 6 SCC 735]**, the contempt petition relates to an incident, which alleged to have occurred on 30.12.2000, in front of the Apex Court. In the petition, it was alleged that a huge crowd led by the respondents held a 'dharna' in front of the Court and shouted abusive slogans against the Court, including slogans

Cont. Case (Crl)No.2 of 2023

ascribing lack of integrity and dishonesty to the institution. On the facts of the case on hand, the Apex Court noticed that the petition was shabbily drafted and procedurally grossly defective. The procedural flaws in the petition, which are noted by the Apex Court in paragraphs 23 onwards, are not mere technicalities. They are vital to the acceptability of the petition and its contents. The allegations of shouting abusive slogans cannot be accepted merely on the basis of the statements in the petition. When there is no other legally admissible evidence before the Court and the only material which the Court can take into account are the statements contained in the petition, the petition assumes a particular importance. The Apex Court noticed that the notice issued to the respondents did not specify the contemptuous acts which the respondents were charged in terms of Rule 6 of the Supreme Court Rules read with Form No.I. Only a copy of the petition had been served on the respondents along with the notice. Though the Apex Court dismissed the proceedings initiated against the respondents based on the said petition, directed the Registry to issue a notice in the prescribed form to the 3rd respondent as to why she should not be proceeded against for contempt for the statements in the three paragraphs of her affidavit, which are extracted in paragraph 7 of the decision of the Apex Court [@ page 740 of SCC].

8.14. In the instant case, the respondent has a case that the notice issued in Form No.I do not mention the gist of the accusation

Cont. Case (Crl)No.2 of 2023

made in the 'information'. The first and 2nd paragraphs of the notice dated 28.02.2023 issued to the respondent read thus;

"Whereas a suo motu contempt of court case (criminal) is initiated under Section 2(c) of the Contempt of Courts Act, 1971 r/w Rule 7 of the Contempt of Courts (High Court of Kerala Rules that you have committed criminal contempt of this Honourable Court and whereas the suo motu case has been registered against you for action being taken against you under the Contempt of Courts Act, 1971;

You are hereby required to appear before this Court (Court 7E) in person on Wednesday, the 22nd day of March, 2023 at 10.15 A.M. and shall continue to attend the Court on all days thereafter to which date the case against you stands adjourned subject to the orders passed by the Court from time to time and show cause why such action as is deemed fit should not be taken against you." (underline supplied)

8.15. As per Section 15(3) of the Act, every motion or reference made under Section 15 shall specify the contempt of which the person charged is alleged to be guilty. As per Rule 9(ii)(b) of the Rules, the notice shall be in Form No.I and shall be accompanied by a copy of the petition, reference, information or directions and annexures, if any, thereto.

8.16. In **Suo motu v. Nandlal Thakkar [2013 CrI.L.J. 3391]**, a Division Bench of the Gujarat High Court was dealing with a case in which the alleged contemner-respondent was a practising lawyer of that High Court. On 29.09.2005, during the course of the hearing of SCA No.4685 of 2004, there was a heated exchange of words between the

Cont. Case (Crl)No.2 of 2023

respondent and the learned Single Judge. On certain queries pertaining to the subject matter being put to the alleged contemner, he stated that the Court is hearing the matter with a pre-determined mind and if the Court is pre-determined about the matter, he would not proceed further with his arguments. The learned Single Judge directed his Private Secretary to record the exact words uttered by the alleged contemner in open Court. After extracting those words, the learned Single Judge passed an order dated 29.09.2005, whereby the Registry was directed to place the matter before the appropriate Court for initiating proceedings under the Contempt of Courts Act, against the alleged contemner. Pursuant to that order the Registry placed the papers of SCA No.4685 of 2004 before the Chief Justice for appropriate orders. On 13.10.2005, the Chief Justice directed the Registry to place the suo motu proceedings, i.e., Misc. Civil Application No.2251 of 2005 before the learned Single Judge who passed the order dated 29.09.2005. By the order dated 18.10.2005, the learned Single Judge directed the Registry to place the matter before the Court taking up the contempt matters. In that order, the learned Single Judge observed that, in view of the statement made by the learned Advocate, it would not be appropriate for him to take up the matter. After that order, the Registry placed the matter before the Division Bench. On 30.11.2005, the Division Bench issued notice to the alleged contemner, returnable by 20.12.2005, which was admittedly not a notice in Form No.I, as

Cont. Case (Crl)No.2 of 2023

required by Rule 13 of the Contempt of Courts (Gujarat High Court) Rules, 1984.

8.17. In **Nandlal Thakkar [2013 CrI.L.J 3391]** it was contended that assuming for the moment that the contempt which is alleged is not contempt under Section 14 of the Act, but is criminal contempt under Section 15 of the Act, even then the proceedings deserve to be dropped as there is a clear violation of Section 15(3) of the Act, and Rule 13 of the Contempt of Courts (Gujarat High Court) Rules, 1984. It was submitted that Section 15(3) of the Act states that "every motion or reference made under this Section shall specify the contempt of which the person is alleged to be guilty". Rule 13 says that "every notice issued by the High Court shall be drawn as far as may be, in the model form, Form No.I, annexed to this Rules". Rule 13(b) says that "every such notice shall be accompanied by a copy of petition, motion or reference made under Rules 4(a), 4(b), 4(c), 5(b), 5(c), 5(d) and 5(e) as the case may be, with copies of its annexures, if any". It was contended that neither notice in Form No.I was issued to the respondent, nor did the suo motu proceedings specify the contempt of which the respondent charged was alleged to be guilty. To fortify this contention, the respondent relied on the decision of the Apex Court in **Muthu Karuppan [(2011) 5 SCC 496]**.

8.18. In **Nandlal Thakkar [2013 CrI.L.J 3391]** the learned Amicus Curiae contended that even though the Division Bench order

Cont. Case (Crl)No.2 of 2023

dated 30.11.2005 directing issuance of notice upon the respondent-contemner was not modeled in Form No.I, as required by Rule 13 of the Contempt of Courts (Gujarat High Court) Rules, 1984, the oral order dated 29.09.2005 along with the papers of the suo motu proceedings were furnished to the contemner after 20.12.2005 and the contemner had in response thereto filed his written submissions on 29.06.2006. Therefore, applying not the per se rule but the rule of prejudice, there was no violation of due procedure. The learned Amicus Curiae appearing for the Gujarat High Court conceded that no notice at any point of time was issued in model Form No.I as prescribed under the Rules. The only notice which was received by the respondent in the suo motu proceedings was that of the Division Bench on 30.11.2005, which was in the following words;

"Notice returnable on 20th December, 2005."

8.19. In **Nandlal Thakkar [2013 Cri.L.J 3391]** the Division Bench noticed that neither did the suo motu proceedings specify the contempt of which the opponent was alleged to be guilty nor did the High Court notice dated 30.11.2005 call upon the respondent to show cause why he should not be committed to prison or otherwise penalised or dealt with for the acts or conduct that he was charged with. Therefore, the Division Bench found that the contention of the respondent that there is a violation of Section 15 of the Act and Rule 13 of the Rules merits consideration, which is going to the root of the

Cont. Case (Crl)No.2 of 2023

matter. What can be deduced from the judgment of the Apex Court in the case of **Muthu Karuppan [(2011) 5 SCC 496]** is that any violation or deviation from the Rules which are framed by the High Court in the exercise of the powers under Section 23 of the Act should not be accepted or condoned lightly and must be deemed to be fatal to the proceedings taken to initiate action for contempt. Since no notice at any point of time was drawn and served upon the respondent in the model form, Form No.I, as provided in the Schedule to the Rules, the Division Bench held that there is a gross violation of the Rules, 1984.

8.20. In **Nandlal Thakkar [2013 Cri.L.J 3391]** the Division Bench considered the effect of the words 'as far as may be' as provided in Rule 13 clause (1) of the 1984 Rules. The Division Bench noticed that the expression 'as far as may be' at the first brush would suggest that it is not mandatory but directory. However, this would not save the situation because, if it is held to be directory then in that case, the simple notice without the requisite and necessary particulars will be bereft of the charge of the acts for which proceedings are intended to be launched against the alleged contemner. Even if it is believed that the Rule is directory and not mandatory, keeping in mind the nature of the proceedings, the Rule needs to be interpreted very strictly. After referring to the law laid down by the Apex Court in **J.R. Parashar [(2001) 6 SCC 735]** and **Anup Bhushan Vohra v. Registrar General, High Court of Judicature at Calcutta [(2011) 13 SCC**

Cont. Case (Crl)No.2 of 2023

393] in which the Apex Court has placed much emphasis on the procedural aspects and the law laid down in **Muthu Karuppan [(2011) 5 SCC 496]**, the Division Bench ordered discharge of the notice issued upon the respondent for contempt.

8.21. In **Muthu Karuppan [(2011) 5 SCC 496]** the Apex Court was dealing with a contempt petition filed by the 1st respondent therein, before the High Court, under Section 15 of the Act, for making a false statement with an intent to mislead the Court. The said contempt petition was filed without obtaining the required consent of the Advocate General. In **J.R. Parashar [(2001) 6 SCC 735]** the Apex Court was dealing with a case in which the contempt petition relates to an incident alleged to have occurred on 30.12.2000, in front of the Apex Court, in which a huge crowd led by the respondents held a 'dharna' in front of the Court and shouted abusive slogans against the Court, including lack of integrity and dishonesty to the institution. The Apex Court noticed that the petition was shabbily drafted and procedurally grossly defective. The procedural flaws in the petition, which are noted by the Apex Court in paragraphs 23 onwards, are not mere technicalities. The notice issued to the respondents did not specify the contemptuous acts which the respondents were charged in terms of Rule 6 of the Supreme Court Rules read with Form No.I. Only a copy of the petition had been served on the respondents along with the notice. In **Nandlal Thakkar [2013 Cr.L.J 3391]** the Division Bench of the

Cont. Case (Crl)No.2 of 2023

Gujarat High Court was dealing with a case in which, on 29.09.2005, during the course of the hearing of SCA No.4685 of 2004, there was a heated exchange of words between the respondent-contemner and the learned Single Judge. The learned Single Judge directed his Private Secretary to record the exact words uttered by the alleged contemner in open Court. After extracting those words, the learned Single Judge passed an order dated 29.09.2005, whereby the Registry was directed to place the matter before the appropriate Court for initiating proceedings under the Contempt of Courts Act. The Division Bench noticed that neither did the suo motu proceeding specify the contempt of which the opponent was alleged to be guilty nor did the High Court notice dated 30.11.2005 call upon the respondent to show cause why he should not be committed to prison or otherwise penalised or dealt with for the acts or conduct that he was charged with. The oral order dated 29.09.2005, along with the papers of the suo motu proceedings, were furnished to the contemner after 20.12.2005.

8.22. In the instant case, though the notice issued to the respondent, which we have extracted hereinbefore at paragraph 8.14, is one in Form No.I, the gist of the accusation made in the 'information' finds no place in that notice. However, the contents of that letter dated 09.02.2023 are there in the statements of facts constituting the alleged contempt and also in the draft charges prepared and signed by the Registrar General, which we have extracted hereinbefore at paragraphs

Cont. Case (Crl)No.2 of 2023

8.4 and 8.5. After the order of this Court dated 11.10.2023, the Registry furnished a copy of the letter dated 09.02.2023 and connected records to the respondent. Thereafter, the respondent has filed an additional affidavit dated 01.01.2024.

8.23. Having considered the arguments advanced by the respondent and also the learned Senior Counsel appointed under Rule 15 of the Rules, we are of the view that the legal issues on account of the letter dated 09.02.2023 not forming part of the contempt petition, when it was filed on 27.02.2023, and the notice issued in Form No.I not containing the gist of accusations made in the 'information' are matters which require detailed consideration with specific reference to the provisions under the Act and the Rules and also the law on the point, which has to be dealt with in detail in the later stage of the proceedings in this contempt case.

9. Procedural violation No.2 pointed out by the respondent is that how the letter dated 09.02.2023 written by Justice Mary Joseph addressed to the then Chief Justice reached the Registrar General to put up 'note' is not known. When the letter dated 09.02.2023 does not disclose any 'contemptuous act' or seek any action under the Contempt of Courts Act, the Registrar General cannot add his own version or explain how the contempt would lie.

9.1. The learned Senior Counsel appointed under Rule 15 of the Rules would argue that even if the information is received by the Chief

Cont. Case (Crl)No.2 of 2023

Justice, by virtue of Rule 7(i) of the Rules, the matter shall, in the first instance, be placed before the Chief Justice on the administrative side. The Registrar General will put up a 'note' and place the matter before the Chief Justice on the administrative side. Therefore, the procedure adopted by the then Chief Justice is not in violation of any rules.

9.2. The letter dated 09.02.2023 written by Justice Mary Joseph addressed to the then Chief Justice, which is placed on record as Annexure R1(45) along with the additional affidavit filed by the respondent dated 01.01.2024, reads thus;

'9th February, 2023

Respected Chief,

Today when item No.1 [R.P.(FC)No.189 of 2019] is called, the counsel Mr. Yeshwant Shenoy, appearing on behalf of the petitioner in Crl.M.A.No.1 of 2023 in R.P.(FC)No.189 of 2019, who is not a counsel for the parties in the revision, has shouted at the Court and harassed the Court. He compelled the Court to record his submission. The Revision is disposed recording the statement made by the counsel for the revision petitioner through memo dated 07.04.2022. In the Revision some other counsel has represented the respondent. Court has directed him not to shout in the Court and if has any grievance, he can take remedial measures available to him. But again he shouted and repeated the same submission in a louder voice stating, "he will see that your Ladyship is expelled from the seat".

Reported for taking necessary action.

Justice Mary Joseph'

(underline supplied)

Cont. Case (Crl)No.2 of 2023

9.3. A copy of the 'note' placed before the then Chief Justice by the Registrar General is marked as Annexure R1(46) along with the additional affidavit dated 01.01.2024 filed by the respondent. The first paragraph of that 'note' reads thus;

"Kind attention of Your Lordship is invited to the letter dated 09.02.2023 from Hon'ble Mrs. Justice Mary Joseph, placed at page 1 c.f. for kind perusal." (underline supplied)

In the second paragraph of the 'note', the Registrar General has stated that Justice Mary Joseph has reported the matter for taking necessary action in accordance with law. The second paragraph of that 'note' reads thus;

'Her Ladyship states that on 09.02.2023 when item No.1 [R.P.(FC)No.189 of 2019] was called, Advocate Sri. Yeshwant Shenoy, who is not a counsel for the parties in the revision, appearing behalf of the petitioner in Crl.M.A.No.1 of 2023 in R.P.(FC)No.189 of 2019, shouted at the Court and harassed the Court. It is also stated that the counsel compelled the Court to record his submission and even though the Court directed the counsel not to shout in the Court, the counsel again shouted and made submission in a louder voice stating that "he will see that your Ladyship is expelled from the seat". Her Ladyship has reported the matter for taking necessary action in accordance with law.'

(underline supplied)

9.4. As per Rule 7(i) of the Rules, any information other than a petition under Rule 3 or reference or any petition for initiation of criminal contempt other than those mentioned in Section 15 of the

Cont. Case (Crl)No.2 of 2023

Contempt of Courts Act shall, in the first instance, be placed before the Chief Justice on the administrative side. In view of the provisions under Rule 7(i), the Registrar General has to place before the Chief Justice, on the administrative side, the letter dated 09.02.2023 written by Justice Mary Joseph, addressed to the Chief Justice, since it was reported to the Chief Justice for taking necessary action. As the letter is one addressed to the Chief Justice, it can be reasonably presumed that Justice Mary Joseph handed over or sent the letter dated 09.02.2023 to the then Chief Justice, which was forwarded to the Registrar General for placing the file on the administrative side. As already noticed hereinbefore, Annexure R1(46) 'note' of the Registrar General was placed before the then Chief Justice along with Annexure R1(45) letter dated 09.02.2023 of Justice Mary Joseph, which is evident from the first paragraph of that 'note'. The said letter was placed at page 1 c.f. of that 'note', for the perusal of the Chief Justice. Therefore, it can be reasonably presumed that the then Chief Justice considered it expedient to place the matter before the Bench dealing with contempt matters, after perusing the letter dated 09.02.2023, though it is written in the 'note' by the then Chief Justice that "Gone through the notes furnished by the Registry". Considering the facts stated in the letter dated 09.02.2023, it cannot be said that the said letter does not disclose any 'contemptuous act' and the then Chief Justice, while taking such a decision on the administrative side, relied on the version of

Cont. Case (Crl)No.2 of 2023

Registrar General in the 'note'. We make it clear that we are not rendering any conclusive finding on the above aspects, which have to be dealt with in detail in the later stage of the proceedings in this contempt case.

10. Procedural violation No.3 pointed out by the respondent is that the letter dated 09.02.2023 written by Justice Mary Joseph gave no explanation as to why no action as envisaged under Section 14 of the Act was initiated against the respondent or why no direction was made to the Registry under the proviso to Rule 7(ii) of the Rules. If the Court did not proceed in the manner prescribed under Section 14 of the Act, the procedure prescribed in Section 15 could not be availed of. In support of the said contention, the respondent would rely on the decision of a Division Bench of the Calcutta High Court in **Smt. Manisha Mukherjee v. Asoke Chatterjee [1985 Crl.L.J. 1224]**, wherein it was held that if the Court did not proceed in the manner prescribed under Section 14 of the Act, procedure prescribed in Section 15 of the Act could not be availed of. The respondent would point out that the letter dated 09.02.2023 does not even make a whisper of the 'contempt' or that the act or the conduct of the respondent was 'contemptuous'. The letter only carries "Reported for taking necessary action". The allegations made in the letter do not even reveal how the authority of Court was imperilled or how the respondent interfered with the administration of Justice. The respondent would rely on the decision

Cont. Case (Crl)No.2 of 2023

in **Supreme Court Bar Association v. Union of India [(1998) 4 SCC 409]**, wherein the Apex Court held that the purpose of contempt jurisdiction is to uphold the majesty and dignity of the courts of law. This jurisdiction is not exercised to protect the dignity of an individual Judge but to protect the administration of justice from being maligned.

10.1. The learned Senior Counsel appointed under Rule 15 of the Rules would argue that Section 14 of the Act, which enables the Judge to initiate contempt when it appears that a person has been guilty of contempt committed in his presence or hearing, does not mandate the Judge to mandatorily initiate contempt proceedings. It is only an enabling provision for the Supreme Court or the High Court to initiate contempt proceedings for the contempt committed in its presence or hearing. There is no mandate that any contempt committed in the presence or hearing shall necessarily to be proceeded under Section 14 of the Act. If the Judge does not feel to proceed under Section 14 of the Act, it cannot be said that no suo motu proceedings can be initiated by the High Court under Section 15 of the Act. By the letter dated 09.02.2023 written by Justice Mary Joseph, the learned Judge only brought to the notice of the Chief Justice as to what transpired in the Court. It is after receiving the said 'information', the Chief Justice on the administrative side recorded his satisfaction that a suo motu proceedings have to be initiated. The learned Senior Counsel would submit that the decision of the Division Bench of the Calcutta High Court

Cont. Case (Crl)No.2 of 2023

in **Smt. Manisha Mukherjee [1985 Cr.L.J. 1224]**, relied on by the respondent, has no application in the case on hand.

10.2. As per Article 215 of the Constitution of India, every High Court shall be a Court of record and shall have all the powers of such a Court including the power to punish for contempt of itself.

10.3. Section 14 of the Contempt of Courts Act, which deals with the procedure where contempt is in the face of the Supreme Court or a High Court, reads thus;

“14. Procedure where contempt is in the face of the Supreme Court or a High Court.-

(1) When it is alleged, or appears to the Supreme Court or the High Court upon its own view, that a person has been guilty of contempt committed in its presence or hearing, the Court may cause such person to be detained in custody, and, at any time before the rising of the Court, on the same day, or as early as possible thereafter, shall -

- (a) cause him to be informed in writing of the contempt with which he is charged;
- (b) afford him an opportunity to make his defence to the charge;
- (c) after taking such evidence as may be necessary or as may be offered by such person and after hearing him, proceed, either forthwith or after adjournment, to determine the matter of the charge; and
- (d) make such order for the punishment or discharge of such person as may be just.

(2) Notwithstanding anything contained in sub-section (1), where a person charged with contempt under that sub-

Cont. Case (Crl)No.2 of 2023

section applies, whether orally or in writing, to have the charge against him tried by some Judge other than the Judge or Judges in whose presence or hearing the offence is alleged to have been committed, and the Court is of opinion that it is practicable to do so and that in the interests of proper administration of justice the application should be allowed, it shall cause the matter to be placed, together with a statement of the facts of the case, before the Chief Justice for such directions as he may think fit to issue as respects the trial thereof.

(3) Notwithstanding anything contained in any other law, in any trial of a person charged with contempt under sub-section (1) which is held, in pursuance of a direction given under sub-section (2), by a Judge other than the Judge or Judges in whose presence or hearing the offence is alleged to have been committed, it shall not be necessary for the Judge or Judges in whose presence or hearing the offence is alleged to have been committed to appear as a witness and the statement placed before the Chief Justice under sub-section (2) shall be treated as evidence in the case.

(4) Pending the determination of the charge, the Court may direct that a person charged with contempt under this section shall be detained in such custody as it may specify: Provided that he shall be released on bail, if a bond for such sum of money as the Court thinks sufficient is executed with or without sureties conditioned that the person charged shall attend at the time and place mentioned in the bond and shall continue to so attend until otherwise directed by the Court:

Provided further that the Court may, if it thinks fit, instead of taking bail from such person, discharge him on his

Cont. Case (Crl)No.2 of 2023

executing a bond without sureties for his attendance as aforesaid.”

10.4. Section 15 of the Act, which deals with cognizance of criminal contempt in other cases, reads thus;

“15. Cognizance of criminal contempt in other cases.-

(1) In the case of a criminal contempt, other than a contempt referred to in Section 14, the Supreme Court or the High Court may take action on its own motion or on a motion made by--

- (a) the Advocate-General, or
- (b) any other person, with the consent in writing to the Advocate-General, or
- (c) in relation to the High Court for the Union territory of Delhi, such Law Officer as the Central Government may, by notification in the Official Gazette, specify in this behalf, or any other person, with the consent in writing of such Law Officer.

(2) In the case of any criminal contempt of a subordinate court, the High Court may take action on a reference made to it by the subordinate court or on a motion made by the Advocate-General or, in relation to a Union territory, by such Law Officer as the Central Government may, by notification in the Official Gazette, specify in this behalf.

(3) Every motion or reference made under this section shall specify the contempt of which the person charged is alleged to be guilty.

Explanation.- In this section, the expression "Advocate General" means-

- (a) in relation to the Supreme Court, the Attorney General or the Solicitor-General;

Cont. Case (Crl)No.2 of 2023

- (b) in relation to the High Court, the Advocate General of the State or any of the States for which the High Court has been established;
- (c) in relation to the Court of a Judicial Commissioner, such Law Officer as the Central Government may, by notification in the Official Gazette, specify in this behalf.”

10.5. The provisions under Section 15(1) of the Act empower the Supreme Court or the High Court to take action on its own motion in the case of a criminal contempt, other than a contempt referred to in Section 14. As per Rule 7(i) of the Rules, any information other than a petition under Rule 3 or reference or any petition for initiation of criminal contempt other than those mentioned in Section 15 of the Contempt of Courts Act shall, in the first instance, be placed before the Chief Justice on the administrative side.

10.6. In **Smt. Manisha Mukherjee [1985 Cr.L.J. 1224]**, a decision relied on by the respondent, the Division Bench of the Calcutta High Court was dealing with a contempt petition filed with the consent of the Advocate General given under Section 15(1)(b) of the Act, with an allegation that the statement the alleged contemner - opposite party made before the Division Bench on 17.09.1981, in connection with the hearing of Criminal Appeal No.382 of 1979, to the effect that he had no confidence in the Bench constituted by the Judges named, without disclosing any reason or materials in support thereof, amounts to contempt, inasmuch as, it scandalized or lowered the authority of the

Cont. Case (Crl)No.2 of 2023

Court, interfered with the course of judicial proceedings and obstructed the administration of justice. Before the Division Bench, after referring to the provisions under Sections 14 and 15 of the Act, the learned counsel for the contemner contended that the Bench before which the alleged contempt was committed, not having adopted the exclusive procedure prescribed by Section 14 of the Act, no one else can avail himself of the general procedure laid down by Section 15 of the Act. The Supreme Court or the High Court has the solemn duty and responsibility to punish for the contempt committed in its presence or hearing. This cannot be delegated to a third party nor such a party can take upon itself the said duty or responsibility. If the concerned Bench did not start proceedings under Section 14 of the Act against the opposite party, in spite of the conduct attributed to the opposite party, the inference is permissible that the Court was satisfied that the opposite party was not motivated by a desire to scandalize the Court or to lower its authority; or that consistent with its dignity the Court considered it to be improper to take a vindictive attitude. Per contra, the learned counsel for the petitioner contended that a third party may make allegations of contempt committed in the presence or hearing of the Court and in the event of such allegations being made the procedure laid down in Section 15 of the Act may be followed with impunity. As per Section 22 of the Act, the provisions of the Act shall be in addition to and not in derogation of the provisions of any other law relating to

Cont. Case (Crl)No.2 of 2023

contempt of courts. Under Article 215 of the Constitution of India, every High Court shall be a Court of record and shall have all the powers of such a Court including the power to punish for contempt of itself.

10.7. In **Smt. Manisha Mukherjee [1985 Crl.L.J. 1224]**, after quoting the provisions under Section 14(1) and 15(1) of the Contempt of Courts Act, the Division Bench noticed that two different procedures have been prescribed for the conduct amounting to contempt indulged in two broadly different circumstances. When the offending conduct has been indulged in the presence or hearing of the Supreme Court or the High Court, the Court will follow the procedure laid down in Section 14 of the Act. In all other cases, that is to say, when offending conduct was resorted to at places outside the presence or hearing of the Supreme Court or High Court, the procedure prescribed by Section 15 of the Act is to be followed. Section 14 occurs first and Section 15 that occurs subsequently expressly mentions "In cases of criminal contempt, other than criminal contempt referred to in Section 14". Section 15 thus excludes from its ambit the cases covered by Section 14. So, conclusion is unavoidable that two Sections are mutually exclusive and apply to two different types of cases, otherwise, there was no necessity for prescribing two different procedures for two different types of cases under the Act. Paragraphs 11 and 12 of the decision read thus;

"11. Comparing the above provisions, we find that two different procedures have been prescribed for conduct

Cont. Case (Crl)No.2 of 2023

amounting to contempt indulged in two broadly different circumstances. When the offending conduct has been indulged in the presence or hearing of the Supreme Court or High Court, the Court will follow the procedure laid down in Section 14. In all other cases, that is to say, when offending conduct was resorted to at places outside the presence or hearing of the Supreme Court or High Court, the procedure prescribed by Section 15 of the Act is to be followed. Section 14 occurs first and Section 15 coming subsequently expressly mentions "In cases of criminal contempt, other than criminal contempt referred to in Section 14". Section 15 thus excludes from its ambit the cases covered by Section 14. So, the conclusion is unavoidable that two Sections are mutually exclusive and apply to two different types of cases, otherwise, there was no necessity for prescribing two different procedures for two different types of cases under the Act.

12. Under Section 14, when it appears to the Supreme Court or High Court that the contemner has been guilty of contempt committed in its presence or hearing the Court may draw up proceedings as prescribed suo motu. When a third party makes an allegation of such conduct against anybody, even then, the Court may adopt the procedure prescribed by Section 14 only if the conduct has been indulged in close proximity of the courtroom, namely in its presence or hearing unnoticed by the Court itself. The character of the procedure under Section 14 is summary and requires the detention of the offender in custody immediately. The procedure under Section 15 of the Act is not summary nor does it require the offender to be detained in custody immediately. Section 14 applies to gross and

Cont. Case (Crl)No.2 of 2023

desperate conduct and arms the Court with the power to deal with such conduct, in summary and peremptory fashion for its own protection and protection of its dignity. Section 15, on the other hand, contemplates a detailed enquiry, because the contempt has been committed away from the court premises. Now the question is, even if contempt has been committed close to the courtroom, is a third party precluded from resorting to the procedure prescribed by Section 15 of the Act? We are tempted to answer the question in the negative. The use of the expression "other than a contempt referred to in Section 14" in Section 15 excluded the application of the procedure to such cases. Further proceedings under Section 14 are summary. A third party may make allegations regarding the conduct of a contemner contemplated in Section 14 unnoticed by the Court itself, but as soon as such allegation has been made the person to be proceeded against is required to be detained in custody, informed of the charge, and he is to take his defence immediately. The implication of the above is that the allegation is to be made soon after the conduct has been indulged in before the offender has left the precincts of the Court. But allegations may be made under Section 15 of the Act within a reasonable time after the impugned conduct was indulged in, and at the time of making the allegation, the offender may be away from the Court for which he is to be personally served with notice under Section 17 of the Act. Service of notice personally required under Section 17 does not apply to proceedings under Section 14. In the present case no allegation was made against the contemner on 17.09.1981 when he was within the Court premises. So, he could not be detained in

Cont. Case (Crl)No.2 of 2023

custody under Section 14 of the Act. We, therefore, reach the conclusion that the proceedings under Sections 14 and 15 of the Contempt of Courts Act contemplate two entirely different types of contempt of court with mutually exclusive procedures. In the present case, the conduct complained of was indulged in, in the presence and hearing of the High Court. Still, the Court did not proceed in the fashion prescribed by Section 14. In the circumstances, the procedures prescribed by Section 15 could not be availed of because of the words used in the Section.”

(underline supplied)

10.8. In **Nandlal Thakkar [2013 Cri.L.J. 3391]**, before the Division Bench, the respondent-contemner contended that having regard to the tenor of the order dated 29.09.2005, the learned Single Judge came to the conclusion that the respondent is guilty of contempt. Though learned Single Judge may not have said so in so many words, but impliedly learned Single Judge tried to convey that the contempt was on the face of the High Court. If that be so, the learned Single Judge ought to have proceeded to issue notice on the very same day and should have followed the procedure as laid down under Section 14(1) of the Act. The respondent contended that if the Court did not proceed in the manner prescribed under Section 14, the procedure prescribed in Section 15 of the Act could not be availed of. Sections 14 and 15 of the Act contemplate two entirely different types of contempt with mutually exclusive procedures. Two different procedures have been prescribed for the conduct amounting to contempt indulged in two

Cont. Case (Crl)No.2 of 2023

broadly different circumstances. When the offending conduct has been indulged in the presence or hearing of the High Court, the Court will follow the procedure prescribed in Section 14 of the Act, whereas in all other cases, that is to say, when offending conduct was resorted to at places outside the premises or hearing of the High Court, the procedure prescribed by Section 15 of the Act is to be followed. Section 14 occurs first, and Section 15 coming subsequently expressly mentions "In cases of criminal contempt, other than criminal contempt referred to in Section 14". Section 15 thus excludes from its ambit the cases covered by Section 14. In order to fortify the said contention, the respondent relied on the Division Bench decision of the Calcutta High Court in **Smt. Manisha Mukherjee [1985 Cri.L.J. 1224]**.

10.9. In **Nandlal Thakkar [2013 Cri.L.J. 3391]**, before the Division Bench, the learned Amicus Curiae argued that Article 215 of the Constitution of India confers on every High Court the power to punish for contempt of itself. This power is wide enough to cover cases of ex-facie criminal contempt, as well as every act or omission which amounts to contempt of the High Court. In short, whether the contempt of the High Court alleged to have been committed by anyone is of the description referred to in Section 14 or Section 15 of the Act, it is competent for the High Court to punish the alleged contemner in the exercise of its power under Article 215 of the Constitution of India. Such an action could be taken by the High Court under Article 215, either on

Cont. Case (Crl)No.2 of 2023

its own motion if it is brought to the notice of the High Court by the learned Single Judge, or on a motion made by the Advocate General or by any other person.

10.10. In **Nandlal Thakkar [2013 Crl.L.J. 3391]**, after referring to the provisions under the Contempt of Courts Act and the Contempt of Courts (Gujarat High Court) Rules, the Division Bench found that the contention canvassed by the respondent-contemner that the learned Single Judge, having not proceeded as per Section 14(1) of the Act, even after holding that the respondent was guilty of contempt, the procedure prescribed in Section 15 thereafter could not be availed of in a suo motu proceeding said to have been initiated by the High Court, on the face of it, is without any merit. It is true that Sections 14 and 15 of the Act contemplate two entirely different types of contempt with mutually exclusive procedures. It is also true that Section 14 comes first and Section 15 coming subsequently expressly mentions "in cases of criminal contempt, other than criminal contempt referred to in Section 14". However, just because the learned Single Judge did not deem it fit to proceed in accordance with the procedure as laid down under Section 14(1) of the Act, it will not operate as a bar for the High Court to initiate suo motu proceedings against the respondent under Section 15 of the Act. It appears that, though the learned Single Judge was of the view that the contempt alleged was on the face of the Court, he might have thought it fit and proper to refer the matter to the Chief

Cont. Case (Crl)No.2 of 2023

Justice of the High Court, as the learned Single Judge would not have liked to be a prosecutor, a witness and the judge himself in the matter.

As a matter of fact, such a procedure has been approved by the Apex Court in the case of **In Re: Vinaychandra Mishra [(1995) 2 SCC 584]**. In the said case, the contemner was a practicing Senior Advocate in the High Court of Allahabad, against whom the learned Single Judge alleged contempt on the face of the High Court. The learned Judge addressed a letter to the Acting Chief Justice bringing to his notice the contemptuous act and mis-happening in the Court and requested the learned Acting Chief Justice to do something for the restoration of the dignity of the judiciary. The Acting Chief Justice forwarded the said letter of the learned Judge to the then Chief Justice of India, by his letter dated 05.04.1994, and the Apex Court took suo motu cognizance of the said letter of the Acting Chief Justice and issued show cause notice upon the alleged contemner, calling upon him to show cause as to why he should not be punished for his contemptuous behaviour under the Contempt of Courts Act. It is in this background that the Apex Court held that the procedure which has been adopted cannot be said to be in any manner illegal or in conflict with the provisions of the Contempt of Courts Act. Para 26 of the said judgment read as under;

“The contemner has further contended that it will be necessary to hold an inquiry into the allegations made by the learned Judge by summoning the learned Judge for examination to verify the version of the incident given by

Cont. Case (Crl)No.2 of 2023

him as against that given by the contemner. According to him, in view of the conflicting versions of the incident given by him and the learned Judge, it would be necessary for him to cross-examine the learned Judge. As the facts reveal, the contempt alleged is in the face of the Court. The teamed Judge or the Bench could have itself taken action for the offence on the spot. Instead, the learned Judge probably thought that it would not be proper to be a prosecutor, a witness and the Judge himself in the matter and decided to report the incident to the learned Acting Chief Justice of his Court. There is nothing unusual in the course the learned Judge adopted, although the procedure adopted by the learned Judge has resulted in some delay in taking action for the contempt. See: **Balogh v. Crown Court at St. Albans [(1975) QB 73 : (1974) 3 All ER 283]**. The criminal contempt of court undoubtedly amounts to an offence, but it is an offence sui generis and hence for such offence, the procedure adopted both under the common law and the statute law even in this country has always been summary."

10.11. In **Nandlal Thakkar [2013 CrI.L.J. 3391]**, the Division Bench noticed that Section 14 of the Act empowers the High Court to take immediate and emergent action when contempt is on the face of the Court, whether civil or criminal. This power of the Court is a summary power and, therefore, should be exercised by the Court only when no other procedure will do, if the ends of justice are to be met, for when this power is exercised by the Judge, he appears to be prosecutor acting in his own cause. As held by the Division Bench of

Cont. Case (Crl)No.2 of 2023

the Gujarat High Court in **Suo motu v. S.B. Vakil, Advocate [2006 (3) GLR 2684]** summary power under Section 14 of the Act indicates that the same can be exercised in rare cases and when there is urgent necessity to take action against the person concerned for preventing him from disturbing the proceedings of the Court. Explaining the scheme of Section 14 of the Act, the Division Bench in **S.B. Vakil [2006 (3) GLR 2684]** held as under;

“The Scheme of Section 14 of the Act is such that it empowers the Court to take action against the person who has been guilty of contempt committed in its presence or hearing. Taking of action under Section 14 would be justified only if the Court comes to the conclusion that the judicial proceedings would continue to be disrupted and not otherwise.”

“A conjoint and meaningful reading of the provision of Section 14(1) of the Act and Rules 4 and 11 of the Rules makes it very clear that normally contempt proceedings under Section 14(1) can be initiated only when (a) the contempt is clear, (b) the contempt affects a trial in progress or about to start, (c) it is urgent and imperative to act immediately in order to prevent justice being obstructed and undermined and to preserve the integrity of the trial, and (d) no other procedure can be resorted to, to meet the ends of justice.”

10.12. In **Nandlal Thakkar [2013 CrI.L.J. 3391]**, the Division Bench noticed that the procedure prescribed in Section 14 of the Contempt of Courts Act only requires that the party concerned be afforded a reasonable opportunity of hearing, by making the alleged

Cont. Case (Crl)No.2 of 2023

contemner aware of precisely what the charge against him is and that he be given a full and fair opportunity of defending himself. There is a reason for this so far as unlike other categories of contempt, where the contempt is on the face of the Court, it would be the highest form of contempt and requires to be virtually dealt with on the spot. This is absolutely essential in order to maintain the decorum of the Court, the dignity of the Judges and the unobstructed working of the administration of justice. If a party, whosoever he is, is permitted to commit acts of contempt on the face of the Court and if thereafter the usual procedure prescribed by the rules, which is almost like a trial is required to be adopted, the situation becomes grossly aggravated because of the time lag between the date when the incident took place and the period of time that elapsed before the party is punished. This is the essence of Section 14 of the Act and this is precisely the object of the provision of Section 14 of the Act. In the case of **M.S. Sheriff v. State of Madras [AIR 1954 SC 397]**, the Apex Court pointed out that it is very necessary from the point of view of criminal justice that the guilty must be punished when the facts are fresh in the public mind. It is this principle that is embodied in Section 14 of the Act, which is why the elaborate procedure does not have to be resorted to.

10.13. In **Nandlal Thakkar [2013 CrI.L.J. 3391]**, the Division Bench found that when contempt is on the face of the Court, then it is very essential for that Court to follow the procedure as prescribed in

Cont. Case (Crl)No.2 of 2023

Section 14 of the Act. But for any reason, if the concerned Court does not proceed in accordance with Section 14 of the Act and refers the matter to the Chief Justice of the High Court informing about the alleged contempt, then, in that case, it is always open and within the powers of the High Court to take suo motu cognizance of the same and proceed against the alleged contemner in accordance with the procedure as laid down under Section 15 of the Act. Therefore, to say that, since the learned Single Judge failed to adopt the procedure as laid down under Section 14 of the Act, even after holding that the respondent is guilty of contempt, will not operate as a bar for the High Court to take suo motu cognizance of the same in the exercise of the powers under Article 215 of the Constitution, read with Section 15 of the Act. When the High Court decided to suo motu initiate the proceedings against the respondent-contemner, it did so not to vindicate the dignity and honour of the learned Single Judge, who complained of indecent behaviour and contemptuous act on the part of the respondent, but to uphold the majesty of law and the administration of justice. In a given case, despite the fact that the contempt is on the face of the Court and even then, if the concerned Court does not proceed to punish the contemner after following the procedure prescribed under Section 14 of the Act, then can it be said that the High Court on its own should not do anything and remain silent? The concerned Court for many reasons may not deem fit to proceed in accordance with the procedure as laid down under Section

Cont. Case (Crl)No.2 of 2023

14 of the Act, but that by itself will not prevent the High Court in suo-motu exercise of powers under Article 215 of the Constitution, as a Court of Record, and Section 15 of the Act to proceed against the alleged contemner.

10.14. In **Nandlal Thakkar [2013 Cr.L.J. 3391]**, the Division Bench noticed that the Apex Court in **Arundhati Roy, in Re [(2002) 3 SCC 343]**, after quoting the decision in the case of **In Re: Vinaychandra Mishra [(1995) 2 SCC 584]**, reiterated the position of law relating to the powers of contempt and opined that the judiciary is not only the guardian of the rule of law and the third pillar but in fact the central pillar of the democratic State. The Apex Court held as under;

"If the judiciary is to perform its duties and functions effectively and true to the spirit with which they are sacredly entrusted, the dignity and authority of the courts have to be respected and protected at all costs. Otherwise, the very cornerstone of our constitutional scheme will give way, and with it will disappear the rule of law and civilized life in the society. It is for this purpose that the courts are entrusted with extraordinary powers of punishing those who indulge in acts, whether inside or outside the courts, which tend to undermine the authority of law and bring it in disrepute and disrespect by scandalising it. 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. The foundation of the judiciary is the trust and the confidence of the people in its ability to

Cont. Case (Crl)No.2 of 2023

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.”

10.15. In **Nandlal Thakkar [2013 Cri.L.J. 3391]** the Division Bench held that Article 215 of the Constitution confers on every High Court the powers to punish the contempt of itself. This power is wide enough to cover ex-facie criminal contempt as also every act or omission which amounts to contempt of the High Court. Therefore, where contempt of the High Court alleged to have been committed by anyone is of the description referred to in Section 14 or Section 15 of the Act, it is competent for the High Court to punish the alleged contemner in the exercise of its power under Article 215 of the Constitution, read with Section 15(1) of the Act after following the due procedure of law as laid down under the Act and the Rules governing the same.

10.16. In **Nandlal Thakkar [2013 Cri.L.J. 3391]**, the Division Bench did not subscribe to the view which has been taken by the Division Bench of the Calcutta High Court in **Smt. Manisha Mukherjee [1985 Cri.L.J. 1224]** for more than one reason. Firstly, the view of the Calcutta High Court is not in consonance with the subsequent judgment of the Apex Court in the case of **In Re: Vinaychandra Mishra [(1995) 2 SCC 584]** and **Arundhati Roy, in Re [(2002) 3 SCC 343]**. Secondly, the case before the Calcutta High Court was not

Cont. Case (Crl)No.2 of 2023

one of suo motu proceedings initiated by the High Court under Section 15(1) of the Act, but it was at the instance of one of the parties, after obtaining the consent of the Advocate General given under Section 15(1)(b) of the Act. Thirdly, the Division Bench took the view that if contempt is on the face of the Court, and if such Court does not take any action and proceed under Section 14 of the Act, then a third party is precluded from resorting to the procedure prescribed by Section 15 of the Act. Thus, the case at hand stands on an entirely a different footing. If the High Court decides to take suo motu cognizance of a criminal contempt on the face of the Court, then 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 the administration of justice. Therefore, if what the learned Single Judge observed in his order dated 29.09.2005 is believed to be true, and even then, the High Court keeps quiet and does nothing to the alleged contemner, it would be nothing short of giving premium to such a person who has no respect for the supremacy of law, as held by the Apex Court in **Arundhati Roy, in Re [(2002) 3 SCC 343]**. That, whoever the person may be, however high he or she is, no one is above the law notwithstanding how powerful and how rich he or she may be. It is only through the Courts that the rule of law unfolds its contents and establishes its concept. The confidence in the Courts on justice, which the people possess, cannot, in any way, be allowed to be

Cont. Case (Crl)No.2 of 2023

tarnished, diminished or wiped out by the contumacious behaviour of any person. The only weapon of protecting itself from the onslaught on the institution is the long hand of contempt of court left in the armoury of the judicial repository, which, when needed, can reach any neck, how-so-ever high or far it may be. Paragraphs 5 and 6 of the decision read thus;

“5. We shall also look into the Division Bench judgment of Calcutta High Court in the case of **Smt. Manisha Mukherjee [1985 Cri.L.J. 1224]**, which has been relied upon by the respondent. In the case before the Division Bench of the Calcutta High Court, a petition was preferred complaining of contempt of Court with the consent of the Advocate General given under Section 15(1)(b) of the Contempt of Courts Act, 1971. As per the facts of the said case, the petitioner alleged that the statement of the contemner made before a Division Bench in connection with the hearing of a criminal appeal amounted to contempt inasmuch as it scandalise or lower the authority of the Court. The facts of the case are to a certain extent identical with the present case. It appears that the Division Bench before whom the alleged act of contempt was committed, for some reason, did not deem fit to proceed under Section 14 of the Act in spite of the fact that the contempt was on the face of the Court. One of the parties in the said Criminal Appeal therefore, thought fit to file a petition for contempt after obtaining consent of the Advocate General. In this background, it was argued before the Division Bench of the Calcutta High Court that if the concerned Bench did not start proceedings under Section 14 of the Act against the

Cont. Case (Crl)No.2 of 2023

opposite party in spite of the conduct attributed to the opposite party, the inference is permissible that the Court was satisfied that the opposite party was not motivated by a desire to scandalise the Court or to lower its authority. The Division Bench after comparing Sections 14(1) and 15(1) of the Act, took the view and held as under;

“10. Comparing the above provisions, we find that two different procedures have been prescribed for conduct amounting to contempt indulged in two broadly different circumstances. When the offending conduct has been indulged in the presence or hearing of the Supreme Court or High Court, the Court will follow the procedure laid down in Section 14. In all other cases, that is to say, when offending conduct was resorted to at places outside the presence or hearing of the Supreme Court or High Court, the procedure prescribed by Section 15 of the Act is to be followed. Section 14 occurs first, and Section 15 coming subsequently, expressly mentions “In cases of criminal contempt other than criminal contempt referred to in Section 14”, Section 15 thus excludes from its ambit the cases covered by Section 14. So, the conclusion is unavoidable that two sections are mutually exclusive and apply to two different types of cases, otherwise, there was no necessity for prescribing two different procedures for two different types of cases under the Act.”

“11. Under Section 14, when it appears to the Supreme Court or High Court that the contemner has been guilty of contempt committed in its presence or hearing the Court may draw up proceedings as prescribed suo motu. When a third party makes an allegation

Cont. Case (Crl)No.2 of 2023

of such conduct against anybody, even then the Court may adopt the procedure prescribed by Section 14 only if the conduct has been indulged in close proximity of the courtroom, namely, in its presence or hearing unnoticed by the Court itself. The character of the procedure under Section 14 is summary and requires the detention of the offender in custody immediately. The procedure under Section 15 of the Act is not summary nor does it require the offender to be detained in custody immediately. Section 14 applies to gross and desperate conduct and arms the Court with the power to deal with such conduct, in summary and peremptory fashion for its own protection and protection of its dignity. Section 15, on the other hand, contemplates a detailed enquiry, because the contempt has been committed away from the court premises. Now the question is, even if contempt has been committed close to the courtroom, is a third party precluded from resorting to the procedure prescribed by Section 15 of the Act? We are tempted to answer the question in the negative, the use of the expression "other than a contempt referred to in Section 14" in Section 15 excluded the application of the procedure to such cases. Further proceedings under Section 14 are summary. A third party may make allegations regarding the conduct of a contemner contemplated in Section 14 unnoticed by the

Cont. Case (Crl)No.2 of 2023

Court itself, but as soon as such allegation has been made the person to be proceeded against is required to be detained in custody, informed of the charge, and he is to take his defence immediately. The implication of the above is that the allegation is to be made soon after the conduct has been indulged in before the offender has left the precincts of the Court. But allegations may be made under Section 15 of the Act within a reasonable time after the impugned conduct was indulged in and at the time of making the allegation, the offender may be away from the Court for which he is to be personally served with notice under Section 17 of the Act. Service of notice personally required under Section 17 does not apply to proceedings under Section 14. In the present case no allegation was made against the contemner on 17.09.1981 when he was within the Court premises. So, he could not be detained in custody under Section 14 of the Act. We, therefore, reach the conclusion that proceedings under Sections 14 and 15 of the Contempt of Courts Act contemplate two entirely different types of contempt of Court with mutually exclusive procedures. In the present case, the conduct complained of was indulged in, in the presence and hearing of the High Court. Still, the Court did not proceed in the fashion prescribed by Section 14. In the circumstances, the procedures prescribed by Section 15 could

Cont. Case (Crl)No.2 of 2023

not be availed of because of the words used in the section.”

6. We are unable to subscribe to the view which has been taken by the Division Bench of the Calcutta High Court for more than one reason. Firstly, the view is not in consonance with the subsequent judgment of the Apex Court in the case of **In Re: Vinaychandra Mishra [(1995) 2 SCC 584]** and **Arundhati Roy, in Re [(2002) 3 SCC 343]**. Secondly, the case before the Calcutta High Court was not one of suo motu proceedings initiated by the High Court under Section 15(1) of the Act, but it was at the instance of one of the parties after obtaining the consent of the Advocate General given under Section 15(1)(b) of the Act of 1971. Thirdly, the Division Bench took the view that if contempt is on the face of the Court, and if such Court does not take any action and proceed under Section 14 of the Act, then a third party is precluded from resorting to the procedure prescribed by Section 15 of the Act. Thus, the present case stands on an entirely different footing. We once again at the cost of repetition state that if the High Court decides to take suo motu cognizance of a criminal contempt on the face of the Court, then 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 the administration of justice. Therefore, if what the learned Single Judge observed in his order dated 29.09.2005 is believed to be true, and even then, the High Court keeps quiet and does nothing to the alleged contemner, it would be nothing short of giving premium to such a person who has no respect for the supremacy of law, as held by the Supreme Court

Cont. Case (Crl)No.2 of 2023

in **Arundhati Roy, in Re [(2002) 3 SCC 343]**. That, whoever the person may be, however high he or she is, no one is above the law notwithstanding how powerful and how rich he or she may be. It is only through the Courts that the rule of law unfolds its contents and establishes its concept. The confidence in the Courts on justice, which the people possess, cannot, in any way, be allowed to be tarnished, diminished or wiped out by the contumacious behaviour of any person. The only weapon of protecting itself from the onslaught on the institution is the long hand of contempt of Court left in the armoury of the judicial repository, which, when needed, can reach any neck how-so-ever high or far it may be. Thus, we are not convinced in any manner with the first contention of the respondent for the purpose of dropping suo motu proceedings of contempt.”

10.17. In **In Re: Vinaychandra Mishra [(1995) 2 SCC 584]** the Apex Court was dealing with a case in which the contemner was a practicing Senior Advocate in the High Court of Allahabad, against whom the learned Single Judge alleged contempt on the face of the High Court. The learned Judge addressed a letter to the Acting Chief Justice bringing to his notice the contemptuous act and mis-happening in the Court and requested the learned Acting Chief Justice to do something for the restoration of the dignity of the judiciary. The Acting Chief Justice forwarded the said letter to the then Chief Justice of India, by his letter dated 05.04.1994, and Apex Court took suo motu cognizance of the said letter of the Acting Chief Justice and issued show cause notice upon the alleged contemner, calling upon him to show

Cont. Case (Crl)No.2 of 2023

cause as to why he should not be punished for his contemptuous behaviour under the Contempt of Courts Act. It is in this background that the Apex Court held that the procedure which has been adopted cannot be said to be in any manner illegal or in conflict with the provisions of the Contempt of Courts Act.

10.18. As held by the Division Bench of the Gujarat High Court in **Nandlal Thakkar [2013 Cr.L.J 3391]** just because the learned Single Judge did not deem it fit to proceed in accordance with the procedure as laid down under Section 14(1) of the Act, it will not operate as a bar for the High Court to initiate suo motu proceedings against the respondent under Section 15 of the Act. By writing Annexure R1(45) letter dated 09.02.2023 to the Chief Justice, the learned Single Judge might have thought it fit and proper to refer the matter to the Chief Justice for proceeding with the matter under Section 15(1) of the Act. Such a procedure cannot be said to be illegal, going by the law laid down by the Division Bench of the Gujarat High Court in the aforesaid decision.

10.19. When contempt is on the face of the Court, then it is very essential for the Court to follow the procedure as prescribed in Section 14 of the Act. If, for any reason, the concerned Court does not proceed in accordance with Section 14 of the Act and refers the matter to the Chief Justice informing about the alleged contempt, then, in that case, it is always open and within the powers of the High Court to take suo

Cont. Case (Crl)No.2 of 2023

motu cognizance of the same and proceed against the alleged contemner in accordance with the procedure as laid down under Section 15 of the Act. Therefore, it cannot be contended that, since the learned Single Judge failed to adopt the procedure as laid down in Section 14 of the Act, it will operate as a bar for the High Court to take suo motu cognizance of the contempt in the exercise of the powers under Article 215 of the Constitution, read with Section 15 of the Act.

11. Procedural violation No.4 pointed out by the respondent is that in the 'note' made by the Registrar General on 16.02.2023 [Annexure R1(46)], the facts not mentioned in the letter dated 09.02.2023 of Justice Mary Joseph [Annexure R1(45)] are incorporated. In the 'note' submitted before the Chief Justice reference was made to the decision of the Apex Court in **State v. Rajeshwari Prasad [AIR 1966 All 588]**, wherein it was held that a criticism which attributes 'improper motives' to a Judge in the conduct of his judicial work not only transgresses 'the limits of fair and bona fide criticism' but has a clear tendency to affect the dignity and prestige of the Court and consequently amounts to gross contempt of Court. The respondent would argue that, in the letter dated 09.02.2023, Justice Mary Joseph has no case that the respondent made the remotest allegations of 'improper motives'. It is not known how the letter dated 09.02.2023 reached the Registrar General and under what provisions of law he was

Cont. Case (Crl)No.2 of 2023

entitled to supplement the letter written by the concerned Judge in his 'note'.

11.1. The learned Senior Counsel appointed under Rule 15 of the Rules would argue that the 'note' made by the Registrar General on 16.02.2023 [Annexure R1(46)] is only for the purpose of placing the information, i.e., the letter dated 09.02.2023 of Justice Mary Joseph [Annexure R1(45)] before the Chief Justice as contemplated by Rule 7(i) of the Rules. This has been clarified by a Full Bench of this Court in **Rehim v. M.V. Jayarajan and others [2010 (4) KLT 286]**.

11.2. The provisions under sub-section (1) of Section 15 of the Act empower the Supreme Court or the High Court to take action on its own motion in the case of a criminal contempt, other than a contempt referred to in Section 14. As per Rule 3 of the Rules, every petition/proceeding for initiating action for contempt shall, subject to Rule 7, be received in the Registry of the High Court and registered as 'Contempt of Court Case'. As per Rule 7(i) of the Rules, any information other than a petition under Rule 3 or reference or any petition for initiation of criminal contempt other than those mentioned in Section 15 of the Contempt of Courts Act shall, in the first instance, be placed before the Chief Justice on the administrative side.

11.3. In **In Re: M.V. Jayarajan [2011 (4) KHC 585]**, a Division Bench of this Court noticed that Rule 7 of the Rules provides for the initiation of suo motu proceedings on 'information' other than a

Cont. Case (Crl)No.2 of 2023

petition under Rule 3. A petition under Rule 3 is the one envisaged by Section 15 of the Act. If the petition under Rule 3 is by a private person, then it has to be with the consent of the Advocate General. On the facts of the case at hand, the Division Bench noticed that, since the petition for initiating action for contempt was filed by the petitioner, a private person, without the consent of the Advocate General, it was strictly not a petition under Rule 3. Hence, the 'information' provided by the said petition alone could be made use of and indeed was made use of for initiation of contempt proceedings, as detailed in paragraph 2 of the said decision. After the Judge designated by the Chief Justice directed the information to be placed for a preliminary hearing under Rule 7(ii), the matter came before the Division Bench. The preliminary hearing for which Rule 7(ii) directs the 'information' to be placed, is the one envisaged by Rule 9(i). Rule 9(ii) then gives the Court the option either to issue notice to the respondent or to dismiss the petition or to drop the proceedings depending upon the adequacy or otherwise of a prima facie case.

11.4. In view of the provisions under Rule 7(i) of the Rules, the Registrar General made Annexure R1(46) 'note' to place before the Chief Justice, on the administrative side, the 'information', i.e., Annexure R1(45) letter dated 09.02.2023 written by Justice Mary Joseph. In the said 'note' of the Registrar General, reference has been made to the law laid down by the Allahabad High Court in **Rajeshwari**

Cont. Case (Crl)No.2 of 2023

Prasad [AIR 1966 All 588], wherein it was held that a criticism which attributes 'improper motives' to a judge in the conduct of his judicial work not only transgresses 'the limits of fair and bona fide criticism' but has a clear tendency to affect the dignity and prestige of the Court and consequently amounts to gross contempt of court.

11.5. The 'information', i.e., Annexure R1(45) letter dated 09.02.2023 written by Justice Mary Joseph alone could be made use of for initiating contempt proceedings suo motu, under Section 15(1) of the Act. When the 'information' contained in the said letter makes out a prima facie case for initiating contempt proceedings against the respondent, it can be reasonably presumed that the said information alone was made use of by the then Chief Justice, for initiation of contempt proceedings against the respondent. We make it clear that we are not rendering any conclusive finding on the above aspect, which has to be dealt with in detail at a later stage of the proceedings in this contempt case.

12. Procedural violation No.5 pointed out by the respondent is that Annexure R1(45) letter dated 09.02.2023 written by Justice Mary Joseph addressed to the Chief Justice cannot be treated as an 'information' other than a petition under Rule 3, for initiation of suo motu proceedings under Rule 7(i) of the Rules. The respondent would contend that the letter written by a Judge regarding an incident that happened in Court can by no stretch of imagination be taken as

Cont. Case (Crl)No.2 of 2023

'information'. The Judge has every authority to proceed under Section 14 of the Contempt of Courts Act or at least issue a direction to the Registry under the proviso to Rule 7(ii) of the Rules. When either of the courses was not followed, a letter written by the Judge to the Chief Justice cannot be treated as 'information'. Even if the letter is taken as 'information', then the Contempt of Courts Act does not give any special privilege to a Judge and therefore, the consent of the Advocate General is mandatory. In support of the said contention, the respondent would place reliance on the decision of a Full Bench of this Court in **Rehim [2010 (4) KLT 286]**. When a sitting Judge of the High Court having powers under Section 14 of the Act or to pass directions to the Registry under the proviso to Rule 7(ii) of the Rules writes a letter to the Chief Justice in which no allegations of contempt are made, such a letter cannot fall within the meaning of 'information'.

12.1. The learned Senior Counsel appointed under Rule 15 of the Rules would argue that Section 14 of the Act does not mandate the judge to mandatorily initiate contempt proceedings when it appears to the Judge that a person has been guilty of contempt committed in his presence or hearing. It is only an enabling provision. If the Judge does not feel to proceed under Section 14 of the Act, it cannot be said that no suo motu proceedings can be initiated under Section 15 of the Act. By the letter dated 09.02.2023, the learned Judge only gave 'information' regarding what transpired in the Court on 09.02.2023. The

Cont. Case (Crl)No.2 of 2023

learned Judge did not make an observation that the act of the respondent amounts to contempt. In that letter, the learned Single Judge did not ask for any action against the respondent for contempt of court. That was taken as 'information' under Section 15 of the Act to initiate contempt proceedings suo motu. After receiving the 'information', the Chief Justice, on the administrative side, was satisfied that suo motu proceedings for criminal contempt had to be initiated against the respondent. When the Chief Justice, on the administrative side, was satisfied on the basis of 'information' that criminal contempt has to be initiated, the same cannot be defeated on the ground that no proceedings under Section 14 have been initiated. As held by the Apex Court in **Supreme Court Bar Association v. Union of India [(1988) 4 SCC 409]**, the purpose of contempt jurisdiction is to uphold the majesty and dignity of the Courts of law. This jurisdiction is not exercised to protect the dignity of an individual Judge, but to protect the administration of justice from being maligned. Relying on the law laid down in the said decision, the learned Senior Counsel would contend that when the Chief Justice, on the administrative side, was satisfied on the basis of the 'information' that suo motu proceedings for criminal contempt have to be initiated, the said proceedings cannot be defeated by contending that proceedings under Section 14 of the Act was not initiated by the concerned Judge. The Registrar General put up a 'note' on 16.02.2023 and submitted to the Chief Justice only for

Cont. Case (Crl)No.2 of 2023

information, as contemplated under Rule 7(i) of the Rules. The position on this aspect has been clarified by the Full Bench of this Court in **Rehim [2010 (4) KLT 286]**.

12.2. The contention of the respondent that the letter dated 09.02.2023 cannot be treated as 'information' other than a petition under Rule 3, for initiation of suo motu proceedings under Rule 7(i) of the Rules, since such a letter written by a sitting Judge of the High Court having powers under Section 14 of the Act to issue direction to the Registry under proviso to Rule 7(ii) of the Rules, cannot be sustained in view of the findings already rendered on procedural violation No.3, hereinbefore at paragraph 10.19, that when contempt is on the face of the Court, then it is very essential for the Court to follow the procedure as prescribed in Section 14 of the Act. If, for any reason, the concerned Court does not proceed in accordance with Section 14 of the Act and refers the matter to the Chief Justice informing about the alleged contempt, then, in that case, it is always open and within the powers of the High Court to take suo motu cognizance of the same and proceed against the alleged contemner in accordance with the procedure as laid down under Section 15 of the Act.

13. Procedural violation No.6 pointed out by the respondent is that even assuming that the letter dated 09.02.2023 of Justice Mary Joseph was treated as 'information', the Chief Justice was bound to

Cont. Case (Crl)No.2 of 2023

apply his mind and record reason for his decision. The Full Bench decision of this Court in **Rehim [2010 (4) KLT 286]** require the Chief Justice or a Judge designated by him to apply his mind over the 'information' before taking a decision. Such a decision-making process requires consideration of various factors like the basic trustworthiness of the information, a prima facie satisfaction that the allegations, if proved, constitute contempt of the Court, and whether it is expedient or proper to take action for contempt having regard to the facts and circumstances of the case. Upon such a consideration, if it is found expedient or proper to take action under the Act, the Chief Justice is required to direct the information to be placed for a preliminary hearing. In Annexure R1(46) 'note' the Registrar General had clearly brought the attention of the then Chief Justice that "However, Her Ladyship has not specifically directed to invite any action for contempt in the proceedings before the Court or in the said letter". The words 'or in the said letter' seem to have been cut off. The respondent would argue that the then Chief Justice did not apply his mind at all, which is very clear from his noting that "Gone through the notes furnished by the Registry. I consider it expedient to place the matter before the Hon'ble Bench dealing with criminal contempt". Though the notes of the Registry cited case law on allegations of 'improper motives' alleged against the Judge, in the letter dated 09.02.2023 written by Justice Mary Joseph, there was not the slightest hint of any such allegations

Cont. Case (Crl)No.2 of 2023

made by the respondent. The trustworthiness of the information cannot be based on who forwards the 'information'. Just because the information was forwarded by a Constitutional Authority cannot alone qualify for 'trustworthiness'. The then Chief Justice ought to have asked one basic question as to why the concerned Judge did not act under Section 14 of the Act or direct the Registry under the proviso to Rule 7(ii) of the Rules. Moreover, the allegations made in the letter dated 09.02.2023 do not even reveal how the authority of the Court was imperilled or how the respondent interfered with the administration of justice. As nothing mentioned in that letter lowered the authority of the Court, interfered with the administration of justice or scandalised any Court, even if the contents of the letter are proved right, it will not constitute contempt.

13.1. The learned Senior Counsel appointed under Rule 15 of the Rules would argue that Section 15 of the Act enables the Supreme Court or High Court for the initiation of contempt proceedings suo motu. Rule 7 of the Rules prescribes the procedure for initiation of suo motu proceedings under Section 15 of the Act. It is the subjective satisfaction of the Chief Justice, on the administrative side, to act under Rule 7(ii) of the Rules, on the 'information' received. The Chief Justice on the administrative side need not pass a speaking order to invoke the jurisdiction under Rule 7(ii) of the Rules. The Chief Justice has given his subjective satisfaction to proceed under Rule 7(ii) of the Rules.

Cont. Case (Crl)No.2 of 2023

13.2. In **Rehim [2010 (4) KLT 286]** the Full Bench held that a decision-making process under Rule 7 requires consideration of various factors, like the basic trustworthiness of the information, a prima facie satisfaction that the allegations, if proved, constitute contempt of the court and whether it is expedient or proper to take action for contempt, having regard to the facts and circumstances of the case. The decision on the question of expediency or propriety depends greatly on the facts and circumstances of each and every case. After the above mentioned examination, if the Chief Justice or the Judge designated by the Chief Justice considers it necessary to take action, then *suo motu* contempt of court proceedings are to be initiated. Upon such consideration, if it is found expedient or proper to take action under the Act, the Chief Justice is required to direct the information to be placed for preliminary hearing. ★

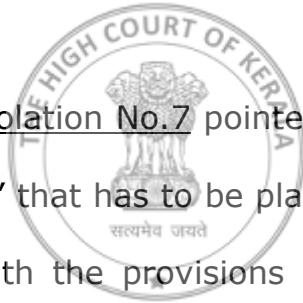
13.3. As held by the Apex Court in **Supreme Court Bar Association v. Union of India [(1998) 4 SCC 409]**, the purpose of contempt jurisdiction is to uphold the majesty and dignity of the courts of law. This jurisdiction is not exercised to protect the dignity of an individual Judge but to protect the administration of justice from being maligned.

13.4. In the instant case the initiation of *suo motu* contempt by the Chief Justice, invoking the provisions under Section 15(1) of the Act is based on Annexure R1(45) letter dated 09.02.2023 of Justice Mary

Cont. Case (Crl)No.2 of 2023

Joseph regarding an incident that happened in the Court of that Judge on 09.02.2023. Considering the facts stated therein, it cannot be contended that there is total non-application of mind by the then Chief Justice while considering it expedient to place the matter before the Court dealing with criminal contempt, invoking his powers under Rule 7(ii) of the Rules. We make it clear that we are not rendering any conclusive finding on the above aspect and the question as to whether the information contained in the letter dated 09.02.2023 is sufficient to proceed against the respondent for contempt of court is an issue, which has to be decided in the later stage of the proceedings in this contempt case.

14. Procedural violation No.7 pointed out by the respondent is that it is the 'information' that has to be placed before the appropriate Bench, in accordance with the provisions under Rule 7(ii) and Rule 9(ii)(b) of the Rules and not a petition filed by the Registrar General. The procedure prescribed under Rule 7(iii) is for taking suo motu action on the basis of the 'information' that comes to the notice of the Court through media reports, etc. and not on the basis of a letter of a sitting Judge. On 28.02.2023, when the matter was placed for preliminary hearing, the Division Bench had only a petition drafted by the Registrar General before it and that too without any annexures. As per Rule 7(ii) and Rule 9(i) of the Rules, it is the 'information' that ought to have been placed for preliminary hearing. The letter dated 09.02.2023 written by



Cont. Case (Crl)No.2 of 2023

Justice Mary Joseph or the 'note' of the Registrar General in which the then Chief Justice directed initiation of suo motu proceedings was not placed before the Bench for preliminary hearing. The petition filed by the Registrar General is on hearsay, and on that ground alone the Division Bench ought to have dismissed the same. The law laid down in the decision of a Full Bench in **Rehim [2010 (4) KLT 286]** clearly requires the 'information' to be placed before preliminary hearing.

14.1. The learned Senior Counsel appointed under Rule 15 of the Rules would argue that the preliminary hearing contemplated under Rule 9(i) of the Rules and prima facie case is only a judicial consideration of the whole matter and does not contemplate a hearing, as held by the Division Bench of this Court in the case of **In Re: M.V. Jayarajan [2011 (4) KHC 585]**. Only when the Bench hearing the matter is prima facie satisfied that a case has been made out, notice is issued to the respondent. On a reading of the provisions under Rule 9 of the Rules, it is evident that the Court can either issue notice to the respondent or dismiss the petition or drop the proceedings, if no prima facie case has been made out. Rule 9 does not even contemplate any hearing before issuing notice under Rule 9(ii)(a). Rule 7(iii) of the Rules mandates the Registrar General to prepare a statement of facts constituting the alleged contempt and a copy of the draft charges. When the Chief Justice, on the administrative side, passes an order

Cont. Case (Crl)No.2 of 2023

under Rule 7(ii), it is mandatory on the part of the Registrar General to comply with Rule 7(iii).

14.2. In the instant case, though the letter dated 09.02.2023 of Justice Mary Joseph does not form part of the contempt petition filed by Registrar General under Rule 7(iii) of the Rules, the contents of that letter are there in the statements of facts constituting the alleged contempt and also in the draft charges prepared and signed by the Registrar General, which we have extracted hereinbefore at paragraphs 8.4 and 8.5. As already noticed hereinbefore, after the order of this Court dated 11.10.2023, the Registry furnished a copy of the letter dated 09.02.2023 and connected records to the respondent. Thereafter, the respondent has filed an additional affidavit dated 01.01.2024. Having considered the arguments advanced by the respondent and also the learned Senior Counsel appointed for conducting the proceedings against the respondent, we are of the view that the legal issues on account of the letter dated 09.02.2023 not forming part of this contempt petition when it was filed on 27.02.2023 is a matter which requires detailed consideration with specific reference to the provisions under the Act and the Rules and also the law on the point, which can be dealt with in detail in the later stage of the proceedings in this contempt case.

15. Procedural violation No.8 pointed out by the respondent is regarding non-appearance of the Advocate General for preliminary

Cont. Case (Crl)No.2 of 2023

hearing. Though the Registry had served the copy of the contempt petition on the Advocate General on 20.02.2023, instead of the Advocate General, two Government Pleaders had appeared on 28.02.2023, when the matter was placed for preliminary hearing before the Bench. This was in direct violation of Rule 15 of the Rules as well as the law laid down by the Division Bench of this Court in **Aloysius v. Sarada Muraleedharan [1995 (2) KLT 741]**. The Government Pleaders did not bring to the attention of this Court that it was the 'information' that had to be placed before the Court and not the 'petition'. In fact, the petition did not contain the alleged letter written by Justice Mary Joseph as well as the orders of the Chief Justice as annexures. This Court, without any deliberation and in a mechanical manner and in violation of the procedures directed the issuance of notice to the respondent. On the above aspects, the learned Senior Counsel appointed to appear and conduct the proceedings against the respondent would point out the provisions under Rules 8A and 15 of the Rules.

15.1. As per Rule 8A of the Rules, in suo motu proceedings and references by subordinate courts, the Registry shall, unless otherwise directed, serve a copy of the relevant papers, on the Advocate-General/Central Government Standing Counsel/Standing Counsel of the Public Authority concerned before sending the matter to Court for preliminary hearing. As per Rule 15, the Advocate-General, or any other

Cont. Case (Crl)No.2 of 2023

Advocate as may be designated by the Court shall appear and conduct the proceedings against the respondent.

15.2. In **Aloysius [1995 (2) KLT 741]**, a decision relied on by the respondent, a Division Bench of this Court was dealing with a contempt petition filed by the petitioners in O.P.No.11081 of 1990 alleging wilful disobedience of the directions contained in the judgment dated 21.11.1994. One of the contentions raised by the petitioners was that the Advocate General of the State should not and cannot defend the contemner legally and contrary to the rules and spirit of the provisions. After referring to the provisions under Rule 15 of the Rules, it was contended that it is the duty of the Advocate General or any other Advocate as designated by the Court to appear and conduct the proceeding against the respondent who had pleaded not guilty and against whom charges had been framed. The Additional Advocate General, who appeared for the respondent contended that he is entitled to defend the respondent. In that context, the Division Bench observed that Section 15 of the Act contemplates taking cognizance or criminal contempt only on its own motion or on a motion made by the Advocate General. It is for the Advocate General to look into the contempt petition before launching criminal contempt against the respondent. In these circumstances, it will not be proper for the Additional Advocate General to appear and defend the respondent. It

Cont. Case (Crl)No.2 of 2023

will be against the letter and spirit of the rules framed under the Contempt of Courts Act and the Contempt of Courts Act itself.

15.3. In the instant case, the Division Bench before which this contempt case was listed for preliminary hearing and notice, under Rule 9(i) of the Rules, has chosen to issue notice to the respondent, as provided under Rule 9(ii)(a), and to appoint a Senior Advocate under Rule 15 to appear and conduct the proceedings against the respondent. It is not discernible from the proceedings dated 28.02.2023 as to whether the 'information', i.e., the letter dated 09.02.2023 of Justice Mary Joseph was placed before the Division Bench. As already noticed hereinbefore, the contents of that letter are there in the statements of facts constituting the alleged contempt and also in the draft charges prepared and signed by the Registrar General, which we have extracted hereinbefore at paragraphs 8.4 and 8.5. Since the Division Bench before which the matter was posted for preliminary hearing and notice on 28.02.2023, under Rule 9(i) of the Rules, has chosen to issue notice to the respondent under Rule 9(ii)(a), an inference can reasonably be drawn that the Division Bench was satisfied that a prima facie case has been made out. Invoking the provisions under Rule 15, the Division Bench appointed a Senior Advocate to appear and conduct the proceedings against the respondent, instead of the learned Advocate General. The legal issues on account of the letter dated 09.02.2023 not forming part of this contempt petition, when it was filed on 27.02.2023,

Cont. Case (Crl)No.2 of 2023

is a matter which requires detailed consideration at a later stage of the proceedings in this contempt case, with specific reference to the provisions under the Act and the Rules and also the law on the point.

16. Procedural violation No.9 pointed out by the respondent is regarding the non-recording of the names of the Government Pleaders who appeared on 28.02.2023, who orally requested the Court for the appointment of an Advocate under Rule 15 of the Rules. Further, in the order dated 28.02.2023, the Division Bench wrongly recorded the presence of Sr.Adv. V.P.Seemanthini in the Court.

16.1. In view of the provisions under Rule 15, the Division Bench before which the contempt case was listed on 28.02.2023 for preliminary hearing and notice was well within its powers to appoint a Senior Advocate to appear and conduct the proceedings against the respondent, instead of the learned Advocate General. In the order dated 28.02.2023, the Division Bench did not notice the presence of Sr.Adv. V.P.Seemanthini in the Court, though in the cause title of the order dated 28.02.2023, the Registry noted the name of Sr.Adv. V.P.Seemanthini.

17. Procedural violation No.10 pointed out by the respondent is that by placing the matter for preliminary hearing before the Division Bench, the respondent lost his one right of appeal. Annexure R1(45) letter dated 09.02.2023 clearly points out that the contempt proceedings were initiated for the occurrences inside Court 2D on

Cont. Case (Crl)No.2 of 2023

09.02.2023. The Court was presided over by a Single Judge. The procedure under Section 14 requires the Single Judge to initiate proceedings. Even if there was a reference, the same ought to have been placed before another Single Judge, in accordance with the procedure under Section 14. Even assuming that the letter dated 09.02.2023 of the Judge was on 'information', the Chief Justice, while deciding to take action under the Contempt of Courts Act ought to have directed the Registry to place the matter before a Single Judge. By placing the matter before a Division Bench, one 'right to appeal' which would otherwise have been available to the respondent was taken away, thereby violating his constitutional rights guaranteed under Articles 14 and 21 of the Constitution of India. If the proper procedure was followed, the respondent ought to have been tried by a single Judge and the appeal would have lied before the Division Bench of this Hon'ble Court and then to the Apex Court. However, by not placing the proceedings before the Single Judge, the respondent was deprived of his right to appeal before the Division Bench and he has to directly appeal to the Apex Court. The respondent would rely on the decision of the Apex Court in **A.R. Antulay v. R.S. Naik [(1988) 2 SCC 602]**, wherein it was held that deprivation of the statutory right of appeal would amount to denial of procedure established by the law.

17.1. Section 18 of the Act deals with the hearing of cases of criminal contempt. As per Section 18(1), every case of criminal

Cont. Case (Crl)No.2 of 2023

contempt under Section 15 shall be heard and determined by a Bench of not less than two Judges. In view of the findings already rendered on procedural violation No.3, hereinbefore at paragraph 10.19, when contempt is on the face of the Court, then it is very essential for the Court to follow the procedure as prescribed in Section 14 of the Act. If, for any reason, the concerned Court does not proceed in accordance with Section 14 of the Act and refers the matter to the Chief Justice informing about the alleged contempt, then, in that case, it is always open and within the powers of the High Court to take suo motu cognizance of the same and proceed against the alleged contemner in accordance with the procedure as laid down under Section 15 of the Act. Therefore, it cannot be contended that, since the learned Single Judge failed to adopt the procedure as laid down in Section 14 of the Act, it will operate as a bar for the High Court to take suo motu cognizance of the contempt in the exercise of the powers under Article 215 of the Constitution, read with Section 15 of the Act. In view of the provisions under Section 18(1) of the Act, when cognizance of the contempt has been taken in the exercise of the powers under Section 15 of the Act, it shall be heard and determined by a Bench of not less than two Judges. Therefore, the respondent cannot contend that the hearing of this contempt case by a Bench of two Judges would amount to denial of procedure established by the law.

Cont. Case (Crl)No.2 of 2023

18. In the above circumstances, we find that the request made by the respondent to drop the proceedings and discharge him under Rule 14(b)(ii) of the Rules cannot be considered. As already noticed hereinbefore, the legal issues on account of the letter dated 09.02.2023 not forming part of this contempt petition, when it was filed on 27.02.2023, and the notice issued in Form No.I not containing the gist of accusations made in the 'information' are matters which require detailed consideration at a later stage of the proceedings in this contempt case, with specific reference to the provisions under the Act and the Rules and also the law on the point.

List on 10.06.2024 at 2.00 pm before the Division Bench dealing with contempt matters for further orders in this contempt case.



Sd/-

ANIL K. NARENDRAN, JUDGE

Sd/-

G. GIRISH, JUDGE

bkn/-

APPENDIX OF CONT.CAS.(CRL.) 2/2023

Annexure R1(1)	A copy of the order dated 9 June 2022 in RPFC No.189 of 2019
Annexure R1(2)	Copy of Crl.M.A No.1 of 2022 in RPFC No.189 of 2019
Annexure R1(3)	A copy of Crl.MA No.2/2022 in RP(FC)No.189/2019 dated 27-05-2022
Annexure R1(4)	Copy of Crl.M.A No.1 of 2023 in RPFC No.189 of 2019
Annexure R1(5)	A copy of the order dated 9 February 2023 in Crl.M.A No. 1 of 2023 in RPFC No.189 of 2019
Annexure R1(6)	The friends list of Adv.Gisa Susan Thomas in Facebook
Annexure R1(7)	A copy of in-house complaint against Justice Mary Joseph
Annexure R1(8)	Copy of the Counter Affidavit filed by the Registrar General in W.P (C) 6912 of 2023
Annexure R1(9)	Facebook post of the then President of Kerala High Court Advocates Association
Annexure R1(10)	Copy of the complaint filed with the Registrar (Vigilance)
Annexure R1(11)	A copy of the order passed in W.P (Crl) No. 742 of 2022
Annexure R1(12)	Copy of the Counter Affidavit filed by the Registrar General in W.P (C) 8750 of 2023
Annexure R1(13)	A copy of the order dated 27 March 2023 in W.P (C) 10334 of 2023 of this Hon'ble Court
Annexure R1(14)	The copy of article written by the Respondent and published in LinkedIn titled A wake up call to the Judiciary
Annexure R1(15)	The copy of article written by the Respondent and published in LinkedIn titled Hanging Justice to Justify the Unjustifiable
Annexure R1(16)	A copy of the letter addressed to the Attorney General
Annexure R1(17)	A copy of the W.P (C) 13221 of 2022 filed by the State
Annexure R1(18)	Copy of the the order of the Hon'ble Supreme Court in Civil Appeal 4643 of 2021
Annexure R1(19)	Copy of the order of the Hon'ble Supreme Court in Review Petition (C) No. 1285 of 2021
Annexure R1(20)	Copy of the interim order dated 15 June 2022 in W.P (C) 13221 of 2022
Annexure R1(21)	Copy of the I.A 1 of 2023 in W.P (C) 13221 of 2022
Annexure R1(22)	Copy of the written arguments in I.A 1 of 2023 in W.P (C) 13221 of 2022
Annexure R1(23)	Copy of the order dated 17.02.2023 in I.A 1 of 2023 in W.P (C) 13221 of 2022
Annexure R1(24)	Copy of the order dated 24 March 2023 of the Hon'ble Supreme Court in SLP (Civil) 5563 of 2023
Annexure R1(25)	The extract of the causelist dated 31 March 2023 before Justice Viju Abraham
Annexure R1(26)	A copy of the interim order dated 31 March 2023 in W.P 17340 and 13221 of 2022
Annexure R1(27)	A copy of the interim order passed on 13 April 2023 in W.P (C) 35120 of 2022

Annexure R1(28)	A copy of the order dated 16 November 2022 in W.P (C) 35120 of 2022
Annexure R1(29)	Copy of the Counter Affidavit filed by the State of Kerala in SLP Civil 5563 of 2023
Annexure R1(30)	Copy of the Counter affidavit filed by Respondent No.6 in SLP 5563 of 2023
Annexure R1(31)	Copy of the show cause notice issued by the Bar Council of Kerala to the Respondent
Annexure R1(32)	Copy of the letter dated 27 February 2023 written by the Respondent to the Bar Council of Kerala
Annexure R1(33)	Copy of the letter dated 27 February 2023 written by the Respondent to the Registrar General
Annexure R1(34)	Copy of the interim order dated 28 February 2023 in Con Cas (Crl) 2 of 2023
Annexure R1(35)	Copy of the order dated 7 March 2023 in W.P (C) 7660 of 2023
Annexure R1(36)	Copy of the order dated 9 June 2023 in W.P (C) 6912 of 2023
Annexure R1(37)	Copy of the in-house complaint against Justice P.V.Kunhikrishnan
Annexure R1(38)	Copy of the order in Unnumbered I.A 1 of 2022 in W.P (C) 9816 of 2021
Annexure R1(39)	The video transcript of the proceeding in W.P(C) 6912 of 2023 before Justice P.V.Kunhikrishnan
Annexure R1(40)	Copy of the order dated 8 September 2023 in W.A 1316 of 2023
Annexure R1(41)	Copy of the order dated 09-08-2023 in unnumbered Con. Cas (C) 948 of 2023
Annexure R1(42)	Copy of the order in Con.Cas (C) 1756 of 2022
Annexure R1(45)	Letter written by Justice Mary Joseph
Annexure R1(46)	The communication between Registrar General and the then Chief Justice