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Suo-Motu Cont.P.No.1592 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.04.2024

CORAM :

THE HONOURABLE MR. JUSTICE M.S. RAMESH
AND
THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Suo-Motu Cont.P.No.1592 of 2015

High Court of Madras,
Madras – 600 104.

... Petitioner

Vs.

1.P.Dharmaraj

2.A.K.Ramasamy

... Contemnors

3.All India Dr.B.R.Ambedkar
Advocate Association,
Rep. by its President,
Mr.Dalit Tiger C.Ponnusamy

... Intervener/
3rd Party

[Intervener impleaded as per order of the Court dated 16.09.2015 made in Sub.A.No.775 of 2015 in Suo-Motu Contempt Petition No.1592 of 2015]

Prayer: Suo Motu Contempt Proceedings initiated against the contemnors herein as per the order made in Office Note R.O.C.No.3596/2015-RG dated 16.07.2015.



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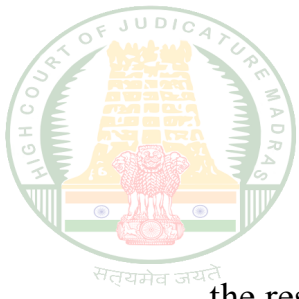
Suo-Motu Cont.P.No.1592 of 2015

For Petitioner : Mr.V.Vijayashankar
For 1st Contemnor : No appearance
For 2nd Contemnor : Mr.N.G.R.Prasad
for Ms.D.Nagasaila
For Intervener/
3rd Party : Mr.Niranjan Rajagopal
for Mr.S.Rajagopalan

ORDER

(Order of the Court was made by *M.S.RAMESH, J.*)

The genesis of this *Suo-Motu* Contempt Petition commences from a letter of the Principal District Judge, Madurai, dated 03.07.2015, addressed to the Registrar General of the High Court, highlighting the resolutions passed by the Madurai Bar Association dated 02.07.2015, in a letter head signed by Mr.P.Dharmaraj and Mr.A.K.Ramasamy, claiming themselves to be the President and Secretary of the Madurai Bar Association respectively. The resolution touches upon a judicial order passed by N.Kirubakaran, J. (as he then was), mandating wearing of helmets by the two-wheeler riders in the State of Tamil Nadu. Some of



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the resolutions which are relevant to this case reads as follows:-

“1)...

2) *We demanded the Tamil Nadu Government and the High Court Judge Kirubakaran to shoulder the responsibility for the death of a woman by name Kanchana on 01.07.2015 because of the accident she met with due to wearing helmet while going in a two wheeler, and to pay compensation of Rs.1 crore to her.*

3) *We condemn the action of unlawful gain by the Tamil Nadu Government, High Court Judge Kirubakaran and Tamil Nadu Police Department by promoting the helmet sale to the tune of Rs.3000 crores and arranged for unlawful hue gain to the sellers.*

4)...

5) *We press the High Court Judge Kirubakaran to wear belt while travelling in car.*

6)...

7) *We press the Chief Minister of Tamil Nadu, all Government officials, all police officials and judges to wear belt while travelling in car. Likewise, they should wear helmets and travel with their family in two wheelers for one month and then to cancel the requirement of wearing helmets after realizing the*



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difficulties involved.

8)...

9)...

10)..."

2. The then Hon'ble Chief Justice had made a reference to a Division Bench of this Court, presided over by Mr.Justice S.Tamilvanan and Mr.Justice C.T.Selvam (as they then were), for initiation of *suo-motu* contempt proceedings.

3. On being satisfied with the records before it, the Division Bench had issued statutory notice to the contemnors namely P.Dharmaraj and A.K.Ramasamy on 27.07.2015. On their appearance before the Division Bench on 24.08.2015, copies of the Contempt Petition were served on them. On 16.09.2015, the following questions were put to the second contemnor/A.K.Ramasamy (since the first contemnor/P.Dharmaraj was absent):-

“1. Have you led or participated in the procession of Advocates from Madurai District campus to the Madurai Bench of the Madras High Court



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premises on 10.09.2015 ?

2. Have you entered the premises of the Madurai Bench of the Madras High Court on 10.09.2015 ?

3. Have you hold meeting immediately outside the Madurai Bench of the Madras High Court premises on 10.09.2015 ?

4. Have you distributed leaflets condemning and making allegations against Judges ?

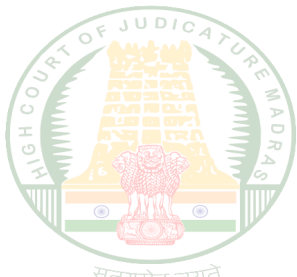
5. Have you been adjudged Insolvent, as per the order, dated 30.10.2006 made in I.P.No.71 of 2002 on the file of the Learned III Additional Sub-Court, Madurai ?

6. As per the information received by the Registry, several criminal cases are pending against you and in many cases, charge sheets were filed against you. Is it true ?

7. Is the communication in Page No.8 of the typed set furnished by the Intervening party addressed by you to other Associations? ”

4. On the request of the second contemnor/A.K.Ramasamy, the

Suo-Motu Contempt Petition came to be adjourned for recording his



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answers to the aforesaid questions.
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5. On 16.09.2015, when it was brought to the notice of the Division Bench that a procession was being organized by some Advocates from the Madurai District Court premises to the Madurai Bench of the Madras High Court premises, the Division Bench had called upon the Director General of Police, Chennai, to inquire and file a report on or before 30.09.2015. Contrary to such directions, Mr.H.M.Jayaram, Inspector General of Police, Welfare, Chennai, filed a Sub Application before the Division Bench for modification of paragraph 8 of the order dated 16.09.2015 and certain remarks made in the Sub Application was found as an act of disobedience of the order passed by the Division Bench. These averments were made by Mr.H.M.Jayaram in the Sub Application No.809 of 2015 in *Suo Motu Cont.P.No.1592 of 2015* in the following manner:-

..... *“10. On the said facts and circumstances, it is seen that Mr.H.M.Jayaram, Inspector General of Police, Welfare, Chennai, has filed this Sub-Application against the Constitutional mandate and his affidavit reads thus :*



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"4. It is submitted that this Hon'ble Court without obtaining any threat assessment reports from the authorities concerned and without hearing this department has given direction to provide security to the said persons, which is against the principles of natural justice. This Hon'ble Court ought to have obtained the threat assessment reports or ought to have heard this department before passing such order.

5. It is submitted that this is a case of Suo-Motu Contempt proceedings initiated by this Hon'ble Court, the reason for allowing the impleading petition filed by the 3rd party, i.e., Tr.Dalit Tiger Ponnusamy and Tr.S.R.Rajagopalan is not proper. Moreover, as per the threat assessment reports, there has been no threat perception to them and also to Tr.K.Arumugam.

6. It is submitted that there are many factions / groups among the advocates. In such circumstances, providing armed escort and security to one group and not to others will further escalate the situation and is fraught with dangers. Such thing will lead to serious consequences and it will also create a bad precedent. There may be more



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such requests from other advocates for providing personal security and it will not be possible to provide 7 security to all such people as our resources are primarily meant to look after law and order matters. Moreover, PSOs with weapons for private persons in High Court premises is not very comfortable state of affairs. Therefore, it is just and necessary that this Hon'ble Court may be pleased to modify / delete para 8 of the order, dated 16.09.2015."

6. In this context, notice came to be issued to Mr.H.M.Jayaram, Inspector General of Police, Welfare, Mylapore, Chennai, calling upon him as to why appropriate action should not be taken for disobeying the order of the Division Bench.

7. On 06.10.2015, the Division Bench had accepted the unconditional apology tendered by Mr.H.M.Jayaram, as well as the regret expressed by him and thereby, closed the Sub Application without any adverse remarks against the Police Officer.



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8. During the pendency of this *Suo-Motu* Contempt Petition, S.Tamilvanan, J., had recused himself from the Division Bench and accordingly, the *Suo-Motu* Contempt Petition came to be taken up by another Co-ordinate Bench presided over by R.Sudhakar, J. and P.N.Prakash, J. (as they then were).

9. On 11.12.2015, the following charges came to be framed against both the contemnors under Section 17 of the Contempt of Courts Act:-



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(N.Kirubakaran,J.) in public places, thereby scandalising and lowering the authority of the Court and interfering with the administration of justice and thereby you are liable for action in terms of Article 215 of the Constitution of India and Section 2(c)(i) and (iii) read with Section 11 of the Contempt of Courts Act, 1971. (Vide information received from the Commissioner of Police, Madurai vide his letter dated IS.C3.No.4036-2/2015 dated 02.07.2015 addressed to the Registrar General, High Court).

CHARGE-3:

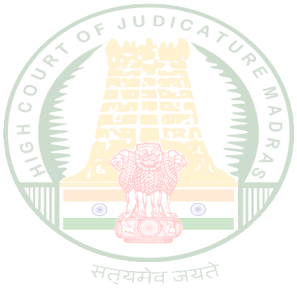
Again on 30.6.2015, you - Mr.P.Dharmaraj and Mr.A.K.Ramasamy, along with other advocates had stopped the rally at five different locations and were heard shouting slogans and the gist of the same were reported as follows:-

“மதுக்கடைகளை மூடாமல் ஹெல்மெட் உத்தரவு ஏன்? பொதுமக்களே ஹெல்மெட் அணிந்தால் ஆண்மை போகும், சக்கரை வியாதி மற்றும் நரம்பு தளர்ச்சி வரும். எனவே ஹெல்மெட் அணியவேண்டாம். போலீஸ் கேஸ் போட்டால் மதுரை வழக்கறிஞர்கள் சங்கம் இலவசமாக வழக்கை நடத்தும். இந்த உத்தரவை போட்ட கிருக்கள் கிருபாகரனையும் சந்திப்போம், அரசு ஆணை வெளியிட்ட அரசையும் சந்திப்போம், காவல்துறையையும் சந்திப்போம்.”

By this act of yours, you scandalized and lowered the dignity and authority of the Court and brought disrepute to the judiciary and thereby you are liable for action in terms of Article 215 of the Constitution of India and Section 2(c)(i) read with Section 11 of the Contempt of Courts Act, 1971.

CHARGE-4:

Again on 1.7.2015, you - Mr.P.Dharmaraj and Mr.A.K.Ramasamy, organized another two wheeler rally, which was taken up to the entry gates of the Madurai Bench of the Madras High Court and you once again raised similar slogans along with other advocates. By this act of yours you



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interfered with and obstructed the administration of justice, whereby public were put to suffering and thereby you are liable for action in terms of Article 215 of the Constitution of India and Section 2(c)(i) and (iii) read with Section 11 of the Contempt of Courts Act, 1971.

CHARGE-5:

On 2.7.2015, you - Mr.P.Dharmaraj and Mr.A.K.Ramasamy, being President and Secretary of the Madurai Bar Association, convened the General Body Meeting, in which the following resolutions were passed:

"பெறுதல்

மேதகு மதுரை மாவட்ட முதன்மை நீதிபதி அவர்கள்

தீர்மானங்கள்

1 இருசக்கர வாகன ஓட்டுநர்கள் தலைக்கவசம் அணிவதால் அவர்களுக்கு பல நோய்கள் உண்டாவதோடு, உயிர்கொல்லியாகவும் விபத்தை ஏற்படுத்துவதாகவும் இருப்பதால் கட்டாவமாக தலைக்கவசம் அணியவேண்டும் என்று கட்டுப்படுத்துவதை தமிழக அரசும் காவல்துறையும் கைவிட்டுவிட்டு மக்களின் உயிர் பறிக்கும் மதுக்கடைகளை ஒழித்துக்கட்டி மது ஒழிப்பை உடனடியாக தமிழக அரசும் காவல்துறையும் உயர்நீதிமன்ற நீதபதிகளும் அமுல்படுத்த வேண்டும்.

2 01.07.2015 அன்று இருசக்கர வாகனத்தில் செல்லும்பொழுது தலைக்கவசம் அணிந்ததால் விபத்துக்குள்ளான காஞ்சனா என்ற பெண்ணிற்கு தமிழக அரசும், உயர் நீதிமன்ற நீதிபதி கிருபாகரணும் பொறுப்பேற்று ரூ.1 கோடி நஷ்ட ஈடு வழங்கவேண்டும் என்று கோருகிறோம்.

3 தலைக்கவச வியாபாரத்தை முனையிரம் கோடி ரூபாய்க்கு விற்பு கொள்ளை லாபம் கொள்ளையடிக்க வழிவகை செய்த தமிழக அரசையும், உயர்நீதிமன்ற நீதிபதி கிருபாகரன், தமிழக காவல்துறை ஆகியோரின் கொள்ளை லாபச் செயலை மிகவும் வன்மையாகக் கண்டிக்கிறோம்.

4 போராட்டக்குழு ஒன்று அமைத்து தொடர்ந்து போராடுவது.

5 உயர்நீதிமன்ற நீதிபதி கிருபாகரன் சிற்றுந்தில் செல்லும்போது பெஸ்ட் அணியவேண்டும் என்று வலியுறுத்துகிறோம்.



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6 தமிழகம் முழுவதும் மேடுபள்ளமாக உள்ள சாலைகளையும் தமிழக அரசு சீரமைக்க வேண்டும்.

7 தமிழக முதல்வரும் அனைத்து அரசு அதிகாரிகளும் அனைத்து காவல்துறையினரும், அனைத்து நீதிபதிகளும் சிற்றுந்தில் செல்லும்போது பெல்ட் அணியவேண்டும் என்று வலியுறுத்துகிறோம். அதேபோன்று அவர்கள் அனைவரும் தலைக்கவசம் அணிந்து குடும்பத்துடன் இருசக்கர வாகனங்களில் ஒருமாத காலம் வந்து அதனால் ஏற்படும் சிரமங்களை உணர்ந்து தலைக்கவசம் அணிவதை கட்டாயப்படுத்துவதை ரத்து செய்ய வேண்டும் என்று வலியுறுத்துகிறோம்.

8 முல்லை பெரியார், காவிரி நீர் பிரச்சினைக்கு தமிழக அரசு உடனடியாக உச்சநீதிமன்ற உத்தரவுப்படி நடவடிக்கை எடுக்கவேண்டும்.

9 தினமலர் பத்திரிக்கை பொய் செய்தி வெளியிடுவதை நிறுத்திக்கொள்ள வேண்டும்.

10 தமிழக வழக்கறிஞர் சபைகளை இணைத்து போராடவேண்டியது.

11 1 முதல் 10 தீர்மானங்களை வலியுறுத்தி கட்டாய தலைக்கவச திட்டத்தை ரத்து செய்யும் வரையிலும் மதுக்கடைகளை ஒழிக்கும்வரையிலும் வழக்கறிஞர்கள் காவலரையற்ற வேலை நிறுத்தம், வேலை நிறுத்தம் முடியும்வரை மதுரை மாவட்ட நீதிமன்றத்திற்கு காவல்துறையினர் வருவதைத் தவிர்த்தும் வற்புறுத்தியும் 03.07.2015 அன்று நீதிமன்றம் முன்பாக பொதுக்கூட்டமும், ஆர்ப்பாட்டமும் 06.07.2015 அன்று உண்ணாவிரதமும் 07.07.2015 அன்று மனிதச்சங்கிலி போராட்டமும் நடைபெறும்.

12 மறுபரிசீலனை பொதுக்குழுக்கூட்டம் 08.07.2015 அன்று மதியம் 2.00 மணி அளவில் நடைபெறும்.

ஓம்/-

ஓம்/-

தலைவர்

சுயலாளர் "

Free English translation of the Resolution;

"Date : 02.07.2015

To
The Principal District Judge,
Madurai.



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RESOLUTIONS

- 1 Wearing of helmets cause many diseases to the two-wheeler riders, besides that, it is also the reason for the occurrence of life-threatening accidents. In order to avoid the same, the Government of Tamil Nadu and the Police Department has to drop the order of wearing helmets compulsorily. The Government of Tamil Nadu, Police Department and the Judges of the High Court shall immediately implement the steps for the closure of Liquour shops and to eradicate the consumption of liquor which causes death to people.
- 2 It is demanded that the Government of Tamil Nadu and Judge Kirubakaran should take responsibility and pay Rs.1 crore as compensation to victim by name Kanchana, who had met with an accident on 01.07.2015 because of wearing helmet while riding two-wheeler.
- 3 We strongly condemn the Government of Tamil Nadu, Judge Kirubakaran and the Police Department for paving the way for helmet business to amass profit of Rs.3,000 crores.
- 4 It is resolved to protest continuously after creating an Agitation Committee.
- 5 We insist that Judge Kirubakaran should wear seat belt while travelling in car.
- 6 The Government of Tamil Nadu should repair all the uneven roads in the State.
- 7 We insist that the Chief Minister, all Government Officials, Police Officials and Judges should wear seat belts while travelling in car. We emphasize that they should ride two-wheelers with their family members by wearing helmets for a



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month and realise the difficulties of wearing helmet so that they would cancel the order of wearing helmets compulsorily.

8 Government of Tamil Nadu should immediately take action to implement the order of the Supreme Court in Mullai Periyar and Cauvery water cases.

9 'Dinamalar' Newspaper should stop the publication of false news.

10 It is resolved to join all the Advocates' Association in Tamil Nadu and protest.

11 In order to emphasize resolution nos.1 to 10, it is resolved that there will be an indefinite boycott of Courts till the helmet rule is withdrawn and liquor shops are closed. It is resolved that a protest meeting will be conducted in front of the Court on 03.07.2015 insisting that police men should refrain from attending the Madurai District Court till the conclusion of boycott. It is also resolved that a Hunger-strike will be held on 06.07.2015 and Human chain protest will be conducted on 07.07.2015.

12 The General Body Meeting for re-consideration shall be convened on 08.07.2015 at 2.00 p.m.

Sd/-

President

Sd/-

Secretary"

The above resolution, per se, tantamounts to act of contempt, thereby liable for action in terms of Article 215 of the Constitution of India and Section 2(c) (i), (ii) and (iii) read with Section 11 of the Contempt of Courts Act, 1971.



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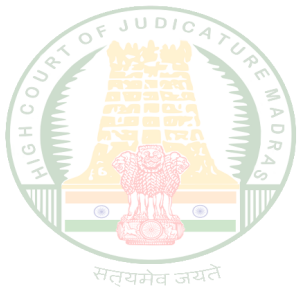
CHARGE-6:

On 14.7.2015, you - Mr.A.K.Ramasamy, being THE Secretary of the Madurai Bar Association, convened the General Body Meeting, in which the following resolutions were passed:

“தீர்மானங்கள்

1. திறந்த நீதிமன்றத்தில் உயர்நீதிமன்ற நீதிபதி கிருபாகரன் அவர்கள் வழக்கறிஞர்களை தேவையில்லாமல் தரக்குறைவாக, சட்டத்திற்கு புறம்பாக பேசுவது நாளிதழ்களில் செய்தியாக வந்துள்ளது. வழக்கறிஞர்கள் மத்தியில் பெரும் பரபரப்பை உண்டாக்குவதோடு ஏழை, எளிய நடுத்தர மக்களுக்காக செயல்படும் வழக்கறிஞர்களை மிகவும் அவமானப்படுத்துவதால் அவர் அவ்வாறு பேசுவதை தவிர்க்குமாறு வலியுறுத்தி கோருகிறோம். ஓய்வு பெறும்வரை விடமாட்டேன் என்ற அவரது சர்வாதிகார பேச்சு ஒருதலைப்பட்ச சர்வாதிகாரப் பேச்சாக இருப்பதால் அவ்வாறு அவர் சட்டத்திற்கும், நீதிக்கும் நீதிபதி பதவிக்கும் புறம்பாக பேசுவதால் அவர் பதவியிலிருந்து உடனடியாக விடுப்பு ஓய்வு பெறுவது அவருக்கும் பொதுமக்களுக்கும் நன்மை பயக்கும் என்று வலியுறுத்துகிறோம்.

2. இருசக்கர வாகன ஓட்டுநர்கள் தலைக்கவசம் அணிந்து ஓட்டினால் முதுகுவலி மற்றும் உபாதைகள் ஏற்படும் என்று முறையிட்டால் அவர்கள் எல்லோரும் இருசக்கர வாகனம் ஓட்டக்கூடாது என்று நீதிபதி கிருபாகரன் அவர்கள் கூறுவது அவர் மனிதநேயமில்லாத நீதிபதி என்பதை காட்டுவதால் நீதிபதி கிருபாகரன்



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அவர்கள் தீர்ப்பில் நீதி நியாயம் இருக்காது என்ற எண்ணத்தை உருவாக்கி நீதிபதி பதவிக்கு களங்கத்தை ஏற்படுத்தியிருக்கிறார் என்பது பொதுமக்கள் மனதில் ஊர்ஜிதமாகிறது.

3. பொதுமக்கள் நலனுக்காக டாஸ்மாக் கடைகளை மூட நீதிமன்றம் உத்தரவிட தயங்குவது ஏன் என்று கேட்கின்ற வழக்கறிஞர்கள் வழக்கறிஞர்களா என்று நீதிபதி கிருபாகரன் அவர்கள் கேட்டிருப்பதை டாஸ்மாக் கடைகளை ஆதரிக்கிறார் என்ற எண்ணம் பொதுமக்களிடையே ஏற்பட்டிருப்பதால் நீதிபதி அவர்கள் அவ்வாறு செயல்படுவதை தவிர்க்கவேண்டும் என்று கோருகிறோம்.

4. தலைக்கவசம் அணியாத இருசக்கர வாகன ஓட்டுநர்கள் 1.30 லட்சம் பேர்கள் மீது வழக்கு பதிவு செய்யப்பட்டு இருப்பதாக நீதிமன்றத்தில் தெரிவிக்கப்பட்டிருப்பதிலிருந்து கட்டாய தலைக்கவசத்திற்கு பொதுமக்கள் ஆதரவில்லை என்பதை நீதிபதி கிருபாகரன் அவர்கள் கருத்தில் எடுத்துக் கொள்ள வேண்டும் என்று வலியுறுத்துகிறோம்.

5. ஏழை எளிய பொதுமக்கள் இருசக்கர வாகனம் மிகவும் அடிமட்ட வாகனம் வைத்திருக்கிறார்கள். அவர்கள் கப்பல், கப்பல் போன்ற கார்களை வைத்திருப்பவர்கள் அல்ல. இந்த சிறிய சங்கதியைக்கூட நீதிபதி கிருபாகரன் அவர்கள் உணராமல் யானை வாங்குபவர்கள் அங்குசம் சேர்த்து வாங்க வேண்டும் என்று கூறியிருப்பது நீதிபதி கிருபாகரன் அவர்கள் ஏழை எளிய நடுத்தர மக்களின் நலனுக்கு எதிராக செயல்படுகிறார் என்பது தெரிவதால் ஏழை எளிய பொதுமக்கள்



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கஷ்டங்களை உணர்ந்து அவர் செயல்பட வேண்டும் என்று வலியுறுத்துகிறோம்.

6. பொதுமக்கள் நலன் கருதி டாஸ்மாக் கடைகளை தமிழகத்தில் மூட உடனடியாக நீதிபதி கிருபாகரன் அவர்கள் உத்தரவிட வேண்டும் என்று கோருகிறோம்.

7. மறுபரிசீலனை பொதுக்குழு கூட்டம் 15.7.2015 அன்று காலை 11.30 மணி அளவில் நடைபெறும்.

8. 1 முதல் 8 தீர்மானங்களை வலியுறுத்தி வழக்கறிஞர்கள் காலவரையற்ற வேலைநிறுத்தம் தொடர்ந்து நடைபெறும்.

9. பொதுமக்கள் நலனுக்கு எதிராக காவல்துறையினர் செயல்படுவதாலும் பொதுவழக்கு போடுவதாலும் அவர்கள் நீதிமன்றத்திற்கு வருவதை தவிர்த்துக் கொள்ள வேண்டும் என்று வலியுறுத்துகிறோம்.

Date : 14.07.2015

Free English translation of the Resolution:

RESOLUTIONS

1 High Court Judge Kirubakaran is speaking unnecessarily against Advocates in a disgraceful and unlawful manner in the open Court, and that has been published in the newspaper and has caused restlessness among the Advocates. He has also humiliated the Advocates who work for the welfare of the poor and middle-class people. Hence, we strongly emphasize that he shall avoid speaking in such manner. His autocratic speech "I shall not leave till my retirement" is dictatorial. Hence, we emphasize that he should retire voluntarily from service, which would be beneficial for him and the



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general public, as his speech is against Law, Justice and to his post as a Judge.

2 The statement of Judge Kirubakaran that, persons riding two wheelers shall not ride them, if they complain that they are suffering from back pain and other discomforts when they ride with their helmets, shows his inhuman nature as a Judge. It has created an impression in the mind of the general public that the judgments rendered by him will not be fair and just and that he has brought dishonour to the post of Judge.

3 The poser of Judge Kirubakaran "Are they Advocates" to Advocates who questioned the reluctance of the High Court to pass orders closing TASMAC wine shops in the State, has created an impression among the general public that he is in favour of TASMAC wine shop. Hence, we are demanding that he should refrain from such acts.

4 It has been informed to the High Court that cases have been filed against 1.30 lakh persons riding two wheelers without wearing helmets. From this, Judge Kirubakaran should bear in mind that there is no support among the public for compulsory wearing of helmets.

5 Two wheelers are owned by poor and middle class people as their basic model vehicles. They do not own ships and ship like extravagant cars. Without realising even this small matter, Judge Kirubakaran has stated that elephant buyers should also buy the goad (used by mahouts) together with the elephant. As it is evident from the said statement of Judge Kirubakaran, that he is acting against the welfare of the poor, and the middle class people, we emphasize that he should realise the difficulties faced by the poor and the middle class people and act accordingly.

6 Considering the welfare of the general public, we demand that Judge Kirubakaran should pass orders immediately for the closure of the TASMAC shops in Tamil Nadu.



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7 The General Body Meeting for re-consideration shall be convened on 15.07.2015 at 11.30 a.m.

8 Indefinite boycott of Courts by Advocates shall continue emphasizing Resolution Nos.1 to 6

9 As the officials of the Police Department are functioning against the welfare of the general public and are lodging false cases against them, we emphasize that they shall refrain themselves from attending the Courts.

Sd/-
Secretary
Madurai Bar Association"

The above resolution, per se, tantamounts to act of contempt, thereby liable for action in terms of Article 215 of the Constitution of India and Section 2(c) (i), (ii) and (iii) read with Section 11 of the Contempt of Courts Act, 1971.

CHARGE -7:

You - Mr.A.K.Ramasamy, had got the resolution dated 14.7.2015 typed in the letterhead of the association and appended your signature; circulated the resolution (vide the covering letter of Principal Dist. Judge (FAC), Madurai in D.No.11403 dated 14.7.2015) and thereby you scandalized, lowered the dignity and authority of the Court, interfered with administration of justice and by such acts you are liable for action in terms of Article 215 of the Constitution of India and Section 2(c)(i), (ii) and (iii) read with Section 11 of the Contempt of Courts Act, 1971.

CHARGE-8:

On 20.7.2015, you - Mr.A.K.Ramasamy, along with several office-bearers of your Association, assembled at the Madurai Bench of the



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Madras High Court and entered the campus. You proceeded through the Court Hall Nos.7,8,2,4,11,12,3,9 & 10 with a chargeable mike and loud speaker. You also distributed handbills. You also subsequently entered the court halls and shouted slogans. The crowd led by you raised slogans against N.Kirubakaran,J. which are as follows:-

“விடமாட்டோம், விடமாட்டோம் கிருக்கன் கிருபாகரனை விடமாட்டோம். அணியமாட்டோம், அணியமாட்டோம், ஹெல்மெட்டை அணியமாட்டோம். அடங்கமாட்டோம், அடங்க மாட்டோம், அடக்குமுறைக்கு அடங்கமாட்டோம், ஓயமாட்டோம், ஓயமாட்டோம் ஹெல்மெட் உத்தரவை திரும்ப பெறும் வரை ஓயமாட்டோம். கிருபாகரனே - கிருக்குபைய கிருபாகரனே நீதிமன்றத்தைவிட்டு வெளியேறு. ஆட்சிக்கு எதிராக செயல்படும் கிருபாகரனே, முதலமைச்சருக்கு எதிரான ஹெல்மெட் சட்டத்தை திரும்ப பெறு.”

The above conduct of yours is a clear violation of Article 215 of the Constitution of India and Sections 2(c)(i), (ii) and (iii) read with Section 11 of the Contempt of Courts Act, 1971.

CHARGE-9:

On 20.07.2015, between 13.40 and 14.30 hrs., you – Mr.A.K.Ramasamy, with several advocates conducted a meeting in the Madurai Bar Association hall and adopted several resolutions, including the following resolutions:-

1. Decided to continue their boycott in Madurai District Court upto 27.07.2015 and not to allow Police personnel into the District Court Campus.
2. Decided to conduct a Special Meeting on 21.07.2015 to give a reply for which show cause notice issued by the Registrar General, Madras High Court, Chennai

(These two incidents were informed by Commissioner of Police, Madurai vide his letter no. IS.C3.No.4036-



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4/2015 dated 22.07.2015 received by the Registrar (Administration), Madurai Bench of Madras High Court, Madurai on 23.7.2015).

The above resolution amounts to exhorting the members of the Bar to prevent the entry of the police into the District Court Campus, which will undoubtedly paralyse the administration of criminal justice system and thereby you are liable for action under Article 215 of the Constitution of India and Section 2(c)(iii) read with Section 11 of the Contempt of Courts Act, 1971.

CHARGE-10:

On 29.7.2015, at around 5.00 p.m., you – Mr.A.K.Ramasamy, along with four other advocates entered the chamber of the Principal District Judge (FAC), Madurai and threatened him by saying that “you will take care of him”. The exact words used by you against the learned Dist.Judge “நாங்க உங்களைப் பார்த்துக் கொள்கிறோம்” (as evidenced by the letter sent by the Principal Dist. Judge (FAC), Madurai dated 29.7.2015 and received by the Registrar General, High Court, Madras on 3.8.2015). This act of your clearly amounts to intimidating a Presiding Officer and thereby you are liable for action under Section 2(c)(iii) read with Section 11 of the Contempt of Courts Act, 1971

CHARGE-11:

On 10.9.2015, you – Mr.P.Dharmaraj and Mr.A.K.Ramasamy, along with a large group of advocates, including some women advocates drawn from various districts, organized a procession starting from the Madurai District Court. The rally comprised two-wheelers, cars, buses and Tata Ace vehicles fitted with loudspeakers. You started the procession at about 11.30 a.m. from the Madurai District Court campus and took the rally to the



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Madurai Bench High Court Campus, causing serious public disturbance. Both of you addressed the meeting of the advocates assembled in the meeting blaming the judges and particularly defamed some judges of this court as well as other subordinate judiciary by naming them. In that meeting, handbills were distributed titled as “*Rally for Eradication for Judicial corruption*” and also ‘*Judges are not Kings to rule and Advocates are not docile slaves*’. By this act of yours, you scandalized and lowered the dignity of the Court and interfered with and obstructed the administration of justice liable for action in terms of Article 215 of the Constitution of India and Section 2(c)(i) and (iii) read with Section 11 of the Contempt of Courts Act, 1971.

CHARGE-12:

You – Mr.P.Dharmaraj and Mr.A.K.Ramaswamy, had also issued a Press Release in the name of the Madurai Bar Association dated 10.9.2015 and the Press Release was captioned as “*Speak up against corruption in Indian Judiciary*”. In the Press Release, a reference was made to the pending suo-motu contempt proceedings and in the second para, it was stated as follows:-

“The Judges use the Suo-Motu Contempt power for preventing Advocates to speak against the Order of Court among public. It is a judicial threaten against the democracy system. Therefore all the Advocates Association will jointly fight against corruption and to save judiciary”

(This was intimated by a report by the Commissioner of Police, Madurai City, to the Registrar Administration, Madurai Bench vide letter IS.C3.No.4036-5/2015 dated 11.09.2015 and also by the letter of the Registrar, Administration, Madurai Bench dated 10.9.2015 addressed to the Registrar General, High Court, Madras)



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Thus, during the pendency of contempt proceedings, you acted with impunity as stated above and thereby you are liable for action in terms of Article 215 of the Constitution of India and Section 2(c) read with Section 11 of the Contempt of Courts Act, 1971.

CHARGE-13:

You – Mr.P.Dharmaraj and Mr.A.K.Ramaswamy, in the Press Release dated 10.9.2015, in the last two paragraphs had also written as follows:

“Hence, we the advocates from Tamil Nadu strongly believe that a responsible citizen should be prepared to undergo any amount of suffering in the pursuit of the noble cause of fighting for a clean judiciary. Today we release the first list of CORRUPT JUDGES OF MADRAS HIGH COURT pertaining to the illegal mining cases. People must read the following judgments to know the corruption in judiciary.

1. JUSTICE T.RAJA – W.P. 16716 & 19641 of 2014
2. JUSTICE C.S.KARNAN – W.P.12862 OF 2014
3. JUSTICE V.DHANAPALAN – W.A.1505 to 1521 OF 2014
4. JUSTICE C.T.SELVAM – Cr.L.O.P.19370 to 19374

Therefore we plead the Parliament to constitute a committee to enquire against the judges for impeachment proceedings and further we appeal to parliament to enact a separate law for enquire the corruptions of judges at earliest.”

Thus, during the pendency of contempt proceedings, you acted with impunity as stated above and thereby you are liable for action in terms of Article 215 of the Constitution of India and Section 2(c) read with Section 11 of the Contempt of Courts Act, 1971.



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CHARGE-14:

On 10.9.2015, you - Mr.P.Dharmaraj and Mr.A.K.Ramasamy, during the pendency of the contempt proceedings, were also in the forefront of the rally and meeting conducted and thereby you indulged in acts amounting to obstructing the administration of justice liable for action in terms of Article 215 of the Constitution of India and Section 2(c)(i), (ii) and (iii) read with Section 11 of the Contempt of Courts Act, 1971. (Vide letter sent by the Registrar, Administration and received by Registrar General, High Court, Madras dated 14.9.2015).

CHARGE-15:

You - Mr.P.Dharmaraj and Mr.A.K.Ramasamy, even during the pendency of the contempt proceedings, continued to indulge in contemptuous acts such as holding rallies, conducting meetings, passing resolutions and distributing handbills denigrating the names of judges of this court and thereby undermining the majesty of the Judiciary, as per the incidents narrated above, and thereby liable for action in terms of Article 215 of the Constitution of India and Section 2(c) read with Section 11 of the Contempt of Courts Act, 1971.



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10. The relevant documents relating to the *Suo-motu* Contempt Petition were also served on both the contemnors. On 08.01.2016, certain questions were put to P.Dharmaraj/1st contemnor, touching upon his involvement in the subject matter of this contempt proceedings. Incidentally, A.K.Ramasamy/2nd contemnor was already questioned in the same manner. Both the contemnors had denied their direct involvement.

11. P.Dharmaraj/1st contemnor had filed an affidavit of apology dated 07.01.2016, denying the charges, as well as by stating that he had only acted in his capacity, as a President of the Bar Association and tendered his apologies.

12. Likewise, A.K.Ramasamy/2nd contemnor, had also filed an affidavit on 22.01.2016, denying the charges and offering his unconditional apologies on any unintentional act that he might have caused attracting contempt of the Court proceedings.



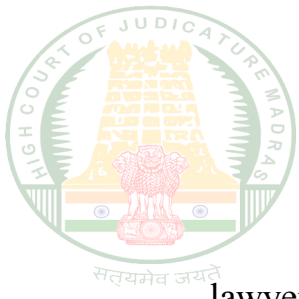
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13. The *Suo-Motu* Contempt Petition has now been listed before this Bench.

14. The fact that Madurai Bar Association had passed a resolution on 02.07.2015, condemning the judicial order passed by Mr.Justice N.Kirubakaran (as he then was), for mandating wearing of helmets by the riders of the two-wheelers and the consequential procession by the Advocates from Madurai District Court Campus to the Madurai Bench of the Madras High Court on 10.09.2015, are not under dispute. Likewise, distribution of leaflets, condemning and making allegations against the Judges, are also not disputed by the contemnors.

15. The explanations rendered by both the contemnors to the charges levelled against them are that, they had only acted in their capacities as the Office Bearers of the Bar Association and that the majority view of the members of the Association were passed by way of resolution with regard to the incidents of procession etc. They have also attempted to explain that apart from them, there were several other



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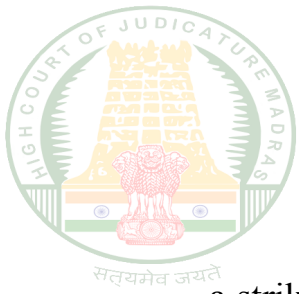
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lawyers who had joined the agitation and they should not be singled out for the contemptuous act. However, without prejudice to the explanations, they have also tendered their unconditional apology.

16. Before we address their involvement in the contemptuous act, we would like to place on record our dis-satisfaction and disappointment to the manner in which the lawyers at Madurai had resorted to a coercive action over a judicial order passed by a learned single Judge of the Madras High Court.

17. We deem it unnecessary to point out to the learned members of the Bar Association about the effective alternate remedy available to them against an order of the Court, if it is found to be unacceptable or unimplementable.

18. On the contrary to the dismay of the litigants and the general public, such a coercive action has been resorted to, without exhausting the effective alternate remedy. This is not an isolated action of calling for



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a strike by the members of the Bar of this country. Time and again, when such illegal actions have been initiated by them, the Hon'ble Supreme Court, as well as the various High Courts of our country, have condemned such acts and have also pointed out the duties and responsibilities, the Bar Association and lawyers owe to themselves, to the Court and to the society.

19. In the case of '*Ex-Capt. Harish Uppal Vs. Union of India & another*' reported in '*(2003) 2 SCC 45*', it was held thus:-

21.....

““Lawyers ought to know that at least as long as lawful redress is available to aggrieved lawyers, there is no justification for lawyers to join in an illegal conspiracy to commit a gross, criminal contempt of court, thereby striking at the heart of the liberty conferred on every person by our Constitution. Strike is an attempt to interfere with the administration of justice. The principle is that those who have duties to discharge in a court of justice are protected by the law and are shielded by the law to discharge



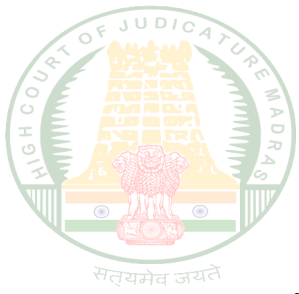
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those duties, the advocates in return have duty to protect the courts. For, once conceded that lawyers are above the law and the law courts, there can be no limit to lawyers taking the law into their hands to paralyse the working of the courts. 'In my submission', he said that 'it is high time that the Supreme Court and the High Courts make it clear beyond doubt that they will not tolerate any interference from any body or authority in the daily administration of justice. For in no other way can the Supreme Court and the High Courts maintain the high position and exercise the great powers conferred by the Constitution and the law to do justice without fear or favour, affection or ill will.'"

22. It was expected that having known the well-settled law and having seen that repeated strikes and boycotts have shaken the confidence of the public in the legal profession and affected administration of justice, there would be self-regulation. The abovementioned interim order was passed in the hope that with self-restraint and self-regulation the lawyers would retrieve their profession from lost social respect. The hope has not fructified. Unfortunately strikes



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and boycott calls are becoming a frequent spectacle. Strikes, boycott calls and even unruly and unbecoming conduct are becoming a frequent spectacle. On the slightest pretence strikes and/or boycott calls are resorted to. The judicial system is being held to ransom. Administration of law and justice is threatened. The rule of law is undermined.”

20. In the case of '**R.Muthukrishnan Vs. Registrar General, High Court of Judicature at Madras**' reported in '**(2019) 16 SCC 407**', the Hon'ble Supreme Court had commented on the role of the Bar in the legal system to be a significant one. It was held therein that the Bar is supposed to be the spokesperson for the judiciary, as Judges do not speak. People listen to the great lawyers and people are inspired by their thoughts. They are remembered and quoted with reverence. It is the duty of the Bar to protect honest judges and not to ruin their reputation and at the same time, to ensure that corrupt judges are not spared. It was further held that however, lawyers cannot go to the streets or go on strike except when democracy itself is in danger and the entire judicial system is at stake.



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21. In *Harish Uppal's case (supra)*, it was also held that the lawyers have no right to go on strike or any other similar coercive action and also pointed out the duties of the President of the Bar Association, when confronted with issues that may be to the dis-satisfaction of the Bar members, in the following manner:-

“35. In conclusion, it is held that lawyers have no right to go on strike or give a call for boycott, not even on a token strike. The protest, if any is required, can only be by giving press statements, TV interviews, carrying out of court premises banners and/or placards, wearing black or white or any colour armbands, peaceful protest marches outside and away from court premises, going on dharnas or relay fasts etc. It is held that lawyers holding vakalats on behalf of their clients cannot refuse to attend courts in pursuance of a call for strike or boycott. All lawyers must boldly refuse to abide by any call for strike or boycott. No lawyer can be visited with any adverse consequences by the Association or the Council and no threat or coercion of any nature including that of expulsion can be held out. It is held that no Bar Council or Bar Association can permit calling of a meeting for purposes of considering a call for strike or boycott and requisition, if any, for such meeting



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must be ignored. It is held that only in the rarest of rare cases where the dignity, integrity and independence of the Bar and/or the Bench are at stake, courts may ignore (turn a blind eye) to a protest abstention from work for not more than one day. It is being clarified that it will be for the court to decide whether or not the issue involves dignity or integrity or independence of the Bar and/or the Bench. Therefore in such cases the President of the Bar must first consult the Chief Justice or the District Judge before advocates decide to absent themselves from court.”

22. Even as individuals, every member of the Bar owe certain responsibilities. While appraising the sanctity of the legal profession in the case of '**Sudha Vs. President, Advocates Association, Chennai and others**' reported in '**(2010) 14 SCC 114**', it was held thus:-

..... *“40. The legal profession is a solemn and serious occupation. It is a noble calling and all those who belong to it are its honourable members. Although the entry to the profession can be had by acquiring merely the qualification prescribed by different universities, the honour as a professional has to be maintained by its members by their exemplary conduct both in and outside*



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the court. The legal profession is different from other professions in that what the lawyers do, affects not only an individual but the administration of justice which is the foundation of the civilised society. Both as a leading member of the intelligentsia of the society and as an intelligent citizen, the lawyer has to conduct himself as a model for others both in his professional and in his private and public life. The different Associations of the members of the Bar are being formed to show the strength of lawyers in case of necessity. The lawyer while exercising vote in an election of office-bearers of the Association must conduct himself in an exemplary manner. Those who are concerned about the high standard of the profession are supposed to take appropriate action to see that the election takes place peacefully and in an organised manner.....”

23. A similar view has also been expressed in **R.Muthukrishnan's** case (*supra*), in the following manner:-

..... **“25.** *The role of a lawyer is indispensable in the system of delivery of justice. He is bound by the professional ethics and to maintain the high standard. His duty is to the court, to his own client, to the opposite side, and to maintain the respect of opposite party counsel also.*



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What may be proper to others in the society, may be improper for him to do as he belongs to a respected intellectual class of the society and a member of the noble profession, the expectation from him is higher. Advocates are treated with respect in society. People repose immense faith in the judiciary and judicial system and the first person who deals with them is a lawyer. Litigants repose faith in a lawyer and share with them privileged information. They put their signatures wherever asked by a lawyer. An advocate is supposed to protect their rights and to ensure that untainted justice is delivered to his cause.

26. The high values of the noble profession have to be protected by all concerned at all costs and in all the circumstances cannot be forgotten even by the youngsters in the fight of survival in formative years. The nobility of the legal profession requires an advocate to remember that he is not over attached to any case as advocate does not win or lose a case, real recipient of justice is behind the curtain, who is at the receiving end. As a matter of fact, we do not give to a litigant anything except recognising his rights. A litigant has a right to be impartially advised by a lawyer. Advocates are not supposed to be money guzzlers or ambulance chasers. A lawyer should not expect any favour from the Judge and should not involve by any



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means in influencing the fair decision-making process. It is his duty to master the facts and the law and submit the same precisely in the court, his duty is not to waste the courts' time.

27. It is said by Alexander Cockburn that “the weapon of the advocate is the sword of a soldier, not the dagger of the assassin”. It is the ethical duty of lawyers not to expect any favour from a Judge. He must rely on the precedents, read them carefully and avoid corruption and collusion of any kind, not to make false pleadings and avoid twisting of facts. In a profession, everything cannot be said to be fair even in the struggle for survival. The ethical standard is uncompromisable. Honesty, dedication and hard work is the only source towards perfection. An advocate's conduct is supposed to be exemplary. In case an advocate causes disrepute of the Judges or his colleagues or involves himself in misconduct, that is the most sinister and damaging act which can be done to the entire legal system. Such a person is definitely deadwood and deserves to be chopped off.”

24. In all these decisions referred to above, references have been made to the earlier decisions wherein, the Hon'ble Supreme Court had



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expressed its displeasure on the conduct of the Bar Association and lawyers in resorting to concerted and coercive action by them. In spite of all the precedents, the members of the Madurai Bar Association, including the contemnors herein, have totally disregarded these well established precedents and had attempted to take the law on their own hands.

25. In the instant *Suo-Motu* Contempt Petition, the earlier Co-ordinate Benches of this Court, have recorded the conduct of the contemnors in becoming responsible for the illegal action on their part, through several interim orders. We endorse such views of the preceding Benches, disapproving the action of the members of the Bar, in having participated in the procession of Advocates from the Madurai District Court Campus to the Madurai Bench of the Madras High Court on 10.09.2015, entering the premises of Madurai Bench on the same day, holding of meetings inside the premises and distributing leaflets, condemning and making allegations against the Judges.



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26. With regard to the involvement of the contemnors are concerned, though it cannot be ruled out that both of them were party to the concerted action, it would not be appropriate to isolate these two lawyers alone and proceed with further action. We would hasten to add here that we are not condoning their involvement in the contemptuous acts.

27. In their affidavits filed before us in the *Suo-Motu* Contempt Petition, though both of them have denied the charges levelled against them and have rendered certain explanations, we have taken note of the unconditional apologies tendered by them. Both the contemnors, who are more than 70 years of age, have also expressed the respect they have for the judiciary.

28. P.Dharmaraj/1st contemnor, would state in his affidavit dated 22.01.2016 as follows:-

“4. I respectfully state that this Hon'ble Court may take note of the fact that now I am aged about 66 years. I have been the Region Chairman in the Lion's Club



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International. I have been the Secretary of Government aided Higher Secondary School at Nagamalaipudukkottai, Madurai for 10 years. I am presently the President of Kamarajar Aranilayam, a Charitable Organization. To tell the truth I have been more associated with social service of late. Only after becoming Senior Panel Counsel for Central Government, I have been attending High Court. My practice has been confined to the District and Sessions Court, Sub Court, the Munsif Court and Magistrate Courts. I can confidently state that not even a single Presiding Officer will ever say that I adopted even a rude approach. I have won their affection and respect by affection and respect by a clean conduct spread over four decades. I believe and now realize that I was in error but it was out of a bonafide but mistaken idea as regard my role as President of the Association.”

29. Likewise, A.K.Ramasamy/2nd contemnor, in his affidavit dated 07.01.2016 has stated thus:-

“6. I state that I request this Hon'ble Court to take into account the totality of the circumstances and to accept the explanation and drop the contempt proceedings against me. I have the greatest respect for the Judiciary and never



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intended to undermine the institution in any manner or lower its dignity or scandalise the judiciary or interfere in the course of justice. I once again offer my unconditional apology if I have unintentionally given any impression to the contrary.

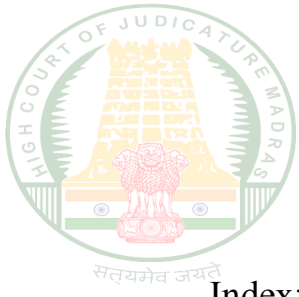
7. I have put in 40 years of practice and have always acted in a responsible manner. I request this Hon'ble Court to accept my explanation and my unconditional apology and drop the contempt proceedings against me.”

30. In consideration of the fact that several other lawyers had admittedly participated in the agitation and by accepting the unconditional apologies rendered by both the contemnors, namely P.Dharmaraj and A.K.Ramasamy, no further action is required against them.

31. Accordingly, this *Suo-Motu* Contempt Petition stands closed.

[M.S.R., J] [S.M., J]

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Index: Yes
Speaking order
Neutral Citation: Yes

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M.S.RAMESH, J.
and
SUNDER MOHAN, J.

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