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## **CASE COMMENT: M.B. SANGHI, ADVOCATE V. HIGH COURT OF PUNJAB AND HARYANA (AIR 1991 SC 1834)**

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### **ABSTRACT**

This Case comment is about M.B Sanghi v.High Court of Punjab and Haryana case an outlook to contempt of court events in Indian judiciary. This case comment covers about contempt of court in India facts of the case, the issues raised out of the case decision and judgement of Hon'ble court and some other similar cases of contempt court and it comparative nature

### **INTRODUCTION**

In India, the law of contempt of court was existing when the Constitution came into force. The terms “Contempt of Court” have neither been designed in the Constitution nor in any other statute, but there have being judicial interpretation of the same in many cases by Superior Courts of the country. The term “Contempt of Courts” cannot be exhaustively defined. It has therefore, been left to be interpreted by superior courts of the country. The courts have, off and on tried to define it in its ways.

Contempt in law means being obedient to court of law or towards its ruling. The recognition of contempt of court and to punishment for contempt is essential for a nation such as India which is based on the concept of rule of law, which requires supremacy of law since the judiciary is considered as the last bastion of hope and justice for the citizen of any nation.

The Contempt of Court Act, 1971 does not define what contempt is, it simply explain the type of contempt. They are two, Civil Contempt and Criminal Contempt. According to Section 2 (b), civil contempt means wilful disobedience of any judgment or a decree of a court or a wilful breach of any undertaking given to court. Determination of civil contempt is objective and is not based on the subjective understanding of anyone. If there is a judicial order and if such

order has been wilfully disobeyed then that fact of the disobedience will constitute civil contempt.

Section 2 (c) in the Contempt of Courts Act 1971, provides that “Criminal Contempt” means the publication of any matter or the doing of any other act whatsoever that scandalises or tends to lower the authority of any court, or that such matter interferes or prejudices any judicial proceedings, interferes or obstruct the administration of justice in any other manner.

Contempt by lawyers is the most pertinent problem before the court these days. The power and jurisdiction provided to the High Courts and the Supreme Court to punish for contempt are quite broad and extensive. These courts are authorized to punish every one including lawyers, judges, State and corporate bodies whenever contempt is committed by either of them.

### **FACTS OF THE CASE**

In the case, *M.B Sanghi, Advocate v. High Court of Punjab and Haryana*,<sup>1</sup> an advocate, infuriated by the refusal of the Court to grant ex parte ad-interim stay prayed for him, imputed on the judge the allegation of favoritism and collusion. This case of appeal has been filed under Section 19 (1) (b) of the Contempt of Court Act, 1971 against the judgment and order of High Court of Punjab and Haryana, whereby the appellant was convicted for committing contempt of court under section 2 (c) (1) of the Act and was sentenced of Rs.1000 as fine and in case of default in payment of fine to undergo simple imprisonment for seven days.

Mr. M.B. Sanghi, the appellant and a practicing lawyer was representing the plaintiff in civil suit on 20/09/1985. The appellant appeared for the plaintiff and orally prayed for ex parte ad-interim stay but the same was declined by subordinate judge when ordered the issuance of notice to the defendants. On 24/09/1985, Shri B.L Sharma appeared for the defendants and requested for a date for filing a reply to the said application, that request was not opposed by the appellant, as the appellant prayed for ad-interim stay in favor of plaintiff. The subordinate judge told the appellant that the question of ad-interim stay would be considered after filing of the reply by the defendants and adjourned the case. The appellant being not satisfied with the order of the subordinate judge, uttered the following words in the court:

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<sup>1</sup> AIR 1991 SC 1834

“You are wholly favoring the Municipal Committee. Are you sitting as judge or as Administrator of Municipal Committee? To me it seems that you are deciding the case as Administrator of Municipal Committee. You are acting as if you are deciding the case as Administrator of Municipal Committee. I do not expect any justice from you. I do not think that you will grant stay to me as you are fully siding with the Municipal Committee. You are not granting stay to me as you are in collusion with the Deputy Commissioner and under his influence you do not want to grant stay to me and that he will complain against me to the High Court.

The sub-judge submitted a report to the District and Session Judge setting out the words uttered by the appellant, for taking necessary action against him. The District and Session Judge in turn submitted a report to the High Court and proceedings for the contempt were initiated by the High Court.

In the Contempt proceedings the appellant denied having uttered the words mentioned in the report of the sub-judge and also offered unqualified apology. The High Court held that appellant was guilty of Contempt of Courts Act, 1971 as he attacked the integrity of sub-judge. The High Court did not accept the apology tendered by the appellant because the appellant was addicted to using contemptuous attacks on judges and earlier in a contempt proceeding too tendered an unqualified apology on the basis of which the rule against him was discharged.

Aggrieved by the order of High Court, the petitioner preferred to present appeal before the Supreme Court. Supreme Court also confirmed the decision of inferior court.

## **ISSUES INVOLVED**

- 1) Whether the appellant’s comment on the judge amount to the context of contempt under, Contempt of Courts Act, 1971?
- 2) Whether the apology tendered by the appellant is fair enough for setting aside the punishment?
- 3) Whether the decision of the Court not to accept appellant’s apology is correct?
- 4) Is the punishment by the Court is accurate enough?

## ANALYSIS

The tendency of maligning the reputation of judicial officers by resentful element by the one who fail to secure the desired order is ever on increase and it should be nipped on the bud. When this is committed by a member of legal profession or lawyer it becomes more shameful to judiciary. The Contempt of Court Act, 1971 that enacted by the Parliament of India has a crucial role in upholding the dignity of Law Courts and their majesty.

The case of M.B Sanghi is an important case on the contempt of Court. This case made an attack on the subordinate judge which was denigrate in character and derogatory to his dignity and would vitally shake the confidence of the public in the subordinate judge. The aspersion made by the appellant had the effect of scandalizing the court in such a way that create distrust in people's mind and impair the confidence of people in the court.

The appellant M.B Sanghi's version regarding this case that he did not uttered the words as would be revealed by the statements of subordinate judge and three advocates examined before the High Court.

In the affidavit in reply to the notice issued by High Court, the appellant denied having used the derogatory words against sub-judge as mentioned in his report. The appellant has stated through his affidavit that "If the Hon'ble Court comes to the conclusion that the deponent has committed contempt, the deponent tenders an unqualified apology to his Hon'ble Court and beg for forgiveness. The deponent is a senior and respected member of the Bar, besides that being a law abiding citizen, has greatest respect and regards for the judiciary and all presiding officers. Shri. Malabri Singh for the appellant has urged that since the appellant has tendered an unqualified apology before High Court the same ought to have been accepted.

The respondent in the case, High Court of Punjab and Haryana of the view that the appellant had himself clearly with the ambit of contempt of the court and he was accordingly found guilty with Section 2 (c) (1) of the Act. With regard to apology tendered by the appellant, the High Court is of the view that it was not the first time and earlier also the proceedings of contempt was initiated against him. Wherein also appellant tendered an unqualified apology and the rue against him was discharged. The respondent observation was that appellant is addicted of using contemptuous language and making scurrilous attack, on judges. An apology should be voluntary, unconditional and indicative of remorse and construction and it should be tendered

at the earliest opportunity. But the aspersion mentioned in the letter by the subordinate judge to the District and Sessions judge were made by the appellant with a design and were not simply thoughtless, and so the appellant cannot be allowed to get away by simply saying sorry by the way of apology. This was held as a reason by the respondent not to accept the apology tendered by appellant and convicted for committing contempt of court under section 2 (c) (1) of the Act and was sentenced to Rs.1000 as a fine to undergo simple imprisonment for seven days.

On the basis of the appeal has been filed under section 19 (c) (b) of the Contempt of Courts Act, 1971 of this case. The Supreme Court on considering all the facts and circumstances of the case confirmed the decision of High Court and dismissed the appeal. The Supreme Court held that nothing has been brought out during the course of examination in Chief of the witness which may show that they were deposing falsely against the appellant. The High Court has placed reliance on the testimony of three advocates. After considering of all the evidence, it is agreed with the appreciation of the evidence by the High Court. The Supreme Court of the view that there is no reason to discard the testimony of the Sub-Judge who has been corroborated by his reader. Considering the language used by the appellant in the court of Sub-Judge and repeated by him in the statement before the High-Court, it must held that appellant had made an attack on learned Sub-Judge, which was disparaging in character and derogatory to his dignity and would vitally stake the confidence of the public in him and that the aspersion made by the appellant had the effect of scandalizing the court in such a way to create distrust in people's mind and impair the confidence of the people in court. So, the Supreme Court held that appellant has been rigidly held guilty of having committed the contempt of Court under section 2 (c) (1) of the Act.

The Supreme Court observed that it is well settled that apology is not a weapon of defence to the purge of guilty of his offences, nor it is intended to operate as a universal panacea, but it is intended to be evidence of real contriteness. The Supreme Court finally held that taking into consideration of all facts and circumstances of the case, that the appellant is a senior advocate and is prone to use disparaging and contemptuous remarks against the judges, this is not a case in which the apology tendered by the appellant may be accepted.

Several instances of misconduct by the lawyers have been taken as a Contempt of Court. Like using insulting language against judge, making scandalous allegation against a judge, imputation of partiality, hurling shoes at judges and unfairness against judges etc.

In *Ajai Kumar Pandey v. Unknown*,<sup>2</sup> Supreme Court held that using intemperate language and casting unwarranted aspersions on various judicial officers and attributing motives to them while they were discharging judicial functions by an advocate amount to contempt of court. Therefore, the advocate was sentenced for four months simple imprisonment and fine for one thousand rupees.

The court observed in the case, it is the most unbecoming for an advocate to make imputation against the judge only because he could not get expected result from the concerned judges. While going through the decisions of High Court and Supreme Court in various cases of contempt of court. The view of Indian Legal System regarding contempt of court, its punishment, the dignity which had to be followed by an advocate in court.

In *Shamsher Singh Bedi v. High Court of Punjab & Haryana*,<sup>3</sup> just like M. B. Sanghi Advocate Case, an advocate drafted a notice addressed to Judicial-Sub divisional-Magistrate who had refused to grant bail to his client. The notice alleged that the judge intentionally denied the bail to help the police department. The notice was amount to contempt of court. The same jurisprudence was reiterated in *Dr. D. C. Saxena v. Hon'ble the CJI*,<sup>4</sup> where court held that scandalizing the court of judge, undermines people's confidence in administration of justice and brings the court into disrepute. Such disrespects tantamount to criminal contempt.

Contempt of Court by the lawyers itself is dangerous to the judiciary. So, the Contempt Court Act, 1971 and the punishment prescribed there and the powers under Article 129 and 215 of Supreme Court and High Court is essential there.

Only just because a lawyer is appearing at a party in person, he does not get a license to suppress his view to court by intimidating the judges or scandalizing the court. The case of M. B. Sanghi is such a case.

## CONCLUSION

The proceedings for contempt of court are special jurisdiction of High Courts and the Supreme Court. The proceedings are neither civil nor criminal. The proceedings are neither governed by

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<sup>2</sup> AIR 1998 SC 3299

<sup>3</sup> AIR 1995 SC 1974

<sup>4</sup> AIR 1996 SC 2481

Civil Procedure Code nor by Criminal Procedure Code. But when a person is sought to be punished, the proceedings attract the principle of penal policy requiring the establishment of ingredients of the offence beyond a reasonable doubt. This act and punishment is necessary because this type of actions are threat to independence of judiciary. For the smooth functioning of judiciary this is necessary.

The decision of High Court of Punjab and Haryana and Supreme Court in the case *M. B. Sanghi, Advocate v. High Court of Punjab and Haryana*,<sup>5</sup> is accurate. This type of incidents not only cause damage to the reputation of the concerned judge only but also to the fair name of the judiciary. Veiled threats, abrasive behavior, use of disrespectful language and condemnatory attacks are often designedly employed with a view to taming a judge into submission to secure a desired order. The action of the appellant is like this. It is not appropriate a person itself the part of judicial system tarnish the judiciary.

No judges shall be able to perform their duties freely and fairly if this type of activity is done on the part of a lawyer or litigant to browbeat the court or malign the presiding officer with a view to getting a favorable order.

So, I'm of the opinion that the decision of court regarding this case is right. It is appropriate to convict the appellant advocate for committing contempt of court under section 2 (c) (1) of the Contempt of the Courts Act, 1971 and sentencing to Rs.1000 as fine and in case of default of payment to undergo simple imprisonment of 7 days.

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<sup>5</sup> AIR 1991 SC 1834