
petitioner that Regulation 7 of the Regulations framed by the management of the respondent-school is arbitrary and does not stand to the test of Articles 14 and 16 of the Constitution of India. In my considered view, the petitioner is not competent to invoke the writ jurisdiction of this Court to seek a writ of certiorari for quashing the order dated 25th March, 1996 (Annexure P-12) whereby her services were terminated nor can seek a writ of mandamus to compel the respondent-school to take her back into service as it will amount to enforcing the contract of personal service. If the petitioner successfully proves that her services were terminated in an unlawful manner, she can at the best, claim damages before an appropriate forum.

(34) In view of what has been stated above, I find no merit in this petition. The same is dismissed but with no order as to costs.

R.N.R.

Before G.S. Singhvi, Swatanter Kumar & N.K. Sud, JJ.

COURT ON ITS OWN MOTION—*Petitioner*

versus

A.J. PHILIP,—*Respondents*

CrI. O.C.P. No. 10 of 2003

12th January, 2004

Contempt of Courts Act, 1971—S. 12—Publication of an incorrect news item regarding inclusion of name of a High Court Judge in an FIR—Attempt to cast aspersions on the High Court as an Institution to bring it to disrepute and lower its prestige in the mind of public—News item completely baseless and malicious—Guilty of having committed criminal contempt of Court—Earlier also the same newspaper found guilty of contempt of Court—Unqualified and unconditional apologies tendered by contemnors accepted being bona fied, definite in terms, sufficiently exhibit sense of remorse and repentance—Contemnors directed to file affidavit to strictly adhere to the prescribed standards of journalism and ensure without fail assurance to the High Court of not repeating such a conduct in future under any circumstances.

Held, that factually incorrect statements reported with an attempt to shake the confidence of public in the institution of Courts and administration of justice offend the basic rule of law granting protection to the Press. The freedom of Press is a right which must be exercised without fear or favour but with caution of responsibility, subrity and reporting of verified facts. This right also creates enormous duties as well. In absence of expected duties, there can be no moral rights. The terrain of moral restrictions is not always co-extensive with the legal restrictions, which may be imposed on the right. Upto a point, the restrictions must come from within. The legal protection may continue to remain even though the moral right to it has been forfeited. In other words, the moral duty of Press is there along side the legal duty casted by legal restrictions. So long as the freedom of Press is practised within the limitations under the law, it invites no civil or punitive consequences in law and can be a very potent weapon for maintaining freedom of Press on the one hand and to create good public opinion on the other, and help growing of any welfare State.

(Para 3)

Further held, that the apology tendered on behalf of the two contemnners is *bona fide*, definite in terms, sufficiently exhibits sense of remorse and repentance and also refers to the corrective measures sought to be taken by the newspaper.

(Para 13)

Further held, that we would be willing to accept the unqualified and unconditional apology tendered on behalf of the contemnners but subject to their filing a specific affidavit that in addition to the decisions taken by their management, they shall strictly adhere to the prescribed standards of journalism and ensure without fail assurance to the Court of not repeating such a conduct in future under any circumstances.

(Para 20)

J.K. Sibal and Ashok Aggarwal, Senior Advocates—
Court Counsel.

R.K. Chhibbar, Senior Advocate, with Anand Chhibbar,
Advocate for A.J. Philip.

Rajan Gupta, Advocate, for Central Bureau of Investigation.

JUGEMENT**SWATANTAR KUMAR, J.**

(1) Transgression of restrictions and limitations, which are inbuilt in the freedom of speech and expression enshrined in Article 19(2) of the Constitution of India by the 'Press' has been subject of judicial casticism now for really a long period. Irresponsible publication of articles and news, without any basis and some times even false to the knowledge of the 'Press' are the means, frequently attempted by disgruntled reporters to under-mine the dignity of law and diminish the faith of public at large in the institution of Courts, which are involved in dispensation of justice. It is often said that healthy Press is indispensable to the functioning of any democracy, but its inevitable consequence has greater responsibility on the Press to publish articles or news after due verification and in a fair manner, particularly where it relates to Institutions. Journalism in the present days has attained new dimensions, which is responsible to the public in its activities and should offer fair criticism in all its rightness. Fallibility founded on mischief causing institutional embarrassment and adversely affecting the rudiments of judicial process would normally invite appropriate action against the erring person. The Press while dealing with the institution like Courts and Judges, has to avoid blows of biased criticism as it destroys or in any case casts a dent in the public faith. Judges at all levels and all over are exposed or vulnerable to attack, unfounded criticism by one side or the other in every case that comes before them. Publication of unfounded news and casting aspersions on a Judge certainly vitiates the healthy and fair judicial environment, existence of which itself is essential feature of proper administration of justice. Responsibility of the Press to be perfect, requires eternal vigilance and verification of true facts. Any attempt by disgruntled persons or reporters to affect the independence of Judiciary and an attempt to defeat the ensured constitutional protection to its independency, must be rejected at the very thresh-hold.

(2) The Press Commission of India while referring to the extent of freedom of Press in its report of 1954 indicated liberty to honest collection and publication of news and fact and need for fair criticism, journalist should always keep in mind. They further added a caution for a journalist that he shall endeavour to ensure that

information is factually correct. No fact shall be distorted and no essential facts shall be suppressed. An information known to be false would not to be published. It is reprehensible for a journalist to caste aspersions or impute motives even to the counsels appearing in Court. Fair and healthy journalism commands a journalist even to refuse publication of anything which has a tendency to interfere with the administration of justice. The fine distinction between the words "Justice and Judge" is to be over-looked when demanded unobstructively in the public interest. Unfounded insuations and accusations against the Judge could be suggestive of scandalising the institution of Courts and will certainly affect the dignity of the same in the eyes of a common man and, thus, would be amenable to action in law of contempts.

(3) Factually incorrect statements reported with an attempt to shake the confidence of public in the institution of Courts and administration of justice offend the basic rule of law granting protection to the Press. The freedom of Press is a right which must be exercised without fear or favour but with caution of responsibility, subrity and reporting of verified facts. This right also creates enormous duties as well. In absence of expected duties, there can be no moral rights. The terrain of moral restrictions is not always co-extensive with the legal restrictions, which may be imposed on the right. Up to a point, the restrictions must come from within. The legal protection may continue to remain even though the moral right to it has been forfeited. In other words, the moral duty of Press is there along-side the legal duty casted by legal restrictions. So long as the freedom of Press is practised within the limitations under the law, it invites no civil or punitive consequences in law and can be a very potent weapon for maintaining freedom of Press on the one hand, and to create good public opinion on the other, and help growing of any welfare State.

(4) It is unfortunate to note that in the present case the conduct of the respondent-News Paper is an exception to the basic principle enunciated by the Courts consistently, "a free Press is the *sine qua* non of any free country where dictatorship is absent, where there is no throttling of any dissemination of news and views." In fact, this case can fairly be classified as a case of admitted contempt. In the Tribune, dated 24th May, 2003, a news item appeared with the caption "H.C Judge's name included in FIR". The obvious attempt was to cast aspersions on the institution of a High Court to bring

its disrepute and lower its prestige in the mind of the public. According to the affidavit filed by Shri R.S. Bhatti, Superintendent, Central Bureau of Investigation, Chandigarh, the news item was completely baseless and malicious and no officer of the C.B.I. had spoken to the Tribune regarding the case under investigation. Shri A.J. Philip, Editor of The Tribune Press in his affidavit stated that the news item was hastily done and was not correct. According to him, inhouse corrective measures were being taken and such lapses would not be repeated.

(5) Notice to *suo motu* contempt action was initiated by the Court. Full Bench of this Court,—*vide* its order dated 24th May, 2003 was of a *prima facie* opinion that the news item is intended to scandalise the entire judiciary and issued notice to Shri A.J. Philip, Printer, Publisher and Officiating Editor of The Tribune as well as to the Central Bureau of Investigation, through the Superintendent of Police, Chandigarh.

(6) Notices were served upon the respondents. In reply to the notices issued, the respondent—contemners filed their replies by way of affidavits and the matter was heard at length. *Vide* a detailed judgment dated 19th September, 2003, the Court found Shri A.J. Philip Editor and Shri Rajmeet Singh Correspondent guilty of committing contempt of Court and directed issuance of notice as to why they may not be punished for having committed contempt of Court. It will be appropriate to notice at this stage that Hon'ble N.K. Sodhi, J. (then Judge of this Court) besides concurring with the view of the majority further directed that the C.B.I. itself had also committed contempt of the Court by harassing the family of the Judge, without there being any basis. However, before recording any finding in that behalf against the C.B.I., his Lordship directed that it would be necessary to afford reasonable opportunity to the C.B.I.

(7) The C.B.I. as well as Shri A.J. Philip filed further affidavits. Shri A.J. Philip reiterated the stand taken in his initial affidavit and also further stated that they tender unqualified apology. Shri Rajmeet Singh also filed an affidavit stating that the report was incorrect. Moreover, he realised this fact after it was published and admitted that it was a serious lapse on his part and he was very sorry. We will shortly revert and refer to these affidavits in greater details.

(8) Finding of guilt was recorded by the Bench holding the contemnners, except the Central Bureau of Investigation, as guilty of offence of criminal contempt and issued them notices accordingly. Again, there was hardly any contest on behalf of the respondents. Mr. Chhibbar and earlier Mr. Rajinder Sachhar, senior counsel, appearing for the contemner only expressed remorse, regrets and repentance and prayed for pardon than punishment. This consistent behaviour attitude of the respondent, thus, compelled the Court to cogitate the matter in regard to grant of pardon in place of punishment. In the above circumstances and the law afore-referred, we are of the considered view that instead of punishing the contemner for committing criminal contempt of this grave nature they can be conditionally pardoned. It has been stated on affidavit before us that the reporter is a young upcoming journalist and in his extra zeal published the news without verifying the facts and assuring its authenticity. His career is stated to be at stake. He has already been reprimanded by his employer and has been taken off the beat duty.

(9) While finally arguing the matter on question of awarding of sentence and quantum thereof. Mr. Chhibbar appearing for the contemnners, praying for forgiveness, with great emphasis relied upon the following couplets of famous poet Ghalib :—

“Rok lo, gar ghalat chale koi
bakhsh do, gar khata kare koi.
Stop him, if one goes on a wrong path.
Forgive him, if one makes a blunder.”

Further praying for mercy, he also referred to the expression given by Shakespeare in his play “Shylock” and relied upon the following lines :—

“But mercy is above this sceptred sway,
It is enthroned in the hearts of Kings.
It is an attribute to God himself;
And earthly power doth then show likest God’s
When mercy seasons Justice. Therefore, Jew.”

(10) The Court may not have much doubt as to the genuineness of the unconditional apology tendered and repentance on the part of the concerned respondents for the blunder committed

by them. In matters of contempt, the Court would extend its power to forgive rather than actually punish the contemner, provided such unconditional apology tendered is *bona fide*, heart-felt and intended to rectify its error with utmost sincerity and also with an assurance of not repeating the same in future. The news item in question was baseless, incorrect and in fact according to C.B.I. was even malicious. Shri Rajmeet Singh, a young reporter, owns his mistake and prays for pardon while Shri A.J. Philip, right from the very initiation of the proceedings, has owned the responsibility and submitted unconditional apology. This is not a mistake simplicitor, but in fact a blunder which has adversely affected the dignity of the High Court and created apparent dent in administration of justice by the Court. There are cases, where the Courts have exercised their jurisdiction to accept apology rather than punish the contemnors despite the matters of grave nature. Often, correction can be a better mean than punishment, to achieve the goal of respect for judicial administration and dispensation of justice by the concerned Court.

(11) Shri A.J. Philip in his very first affidavit filed on 28th/29th May, 2003 while tendering an apology, painfully referred to the instance and steps taken by him immediately thereafter to remedy the wrong. It will be useful to refer to the following paragraphs of the said affidavit :—

- “4. That it is humbly and respectfully submitted that he President of the Trust is a former Chief Justice of India and the other Trustees are also public figures of high moral and high public standing. They have also felt extremely unhappy at this news item and have already initiated in-house correctives to ensure that such unfortunate reports do not ever again get published.
5. That the deponent was distressed and immediately called the staff correspondent. The discussion revealed that the story was not correct, and called for immediate action. The deponent at once wrote an apology and sent it for publication in the next day's paper. It is humbly and respectfully submitted that this was done before the receipt of the present notice from this Hon'ble High Court.

6. That the apology was published in the next day's late City Edition of the Tribune with prominence on front page and in bold letters. Copy of the apology is annexed as **Annexure D-2**. It is humbly and respectfully submitted that the original story had been published only in the late City Edition because by the time the story was given it could not be published in the earlier editions."

"8. That it is humbly and respectfully submitted that the deponent is sincerely repentant and offers unconditional and unqualified apology for the pain and embarrassment that has been caused to this Hon'ble Court by the news item which was hastily done and was not correct. The deponent hereby assures that he holds this Hon'ble Court in the highest esteem. The deponent humbly and respectfully assures this Hon'ble Court that under the guidance and also the in-house corrective measures which have already been initiated and will continue to be taken, such lapse will not ever be repeated."

(12) In the affidavit in response to the notice issued for punishing the said respondents, Shri A.J. Philip reiterated his earlier stand and again tendered apology in the affidavit dated 18th October, 2003, which reads as under :—

"In view of the above, I respectfully request your Lordships to accept unconditional apology already tendered by affidavit dated May 29, 2003 and repeated by me as above and to close the present proceedings."

Shri Philip also relied upon the letter written by the President of the Tribune Trust (former Chief Justice of India Mr. R.S. Pathak), who, while taking a serious view of the matter, wrote to the Editor-in-Chief emphasizing his respect for the institution of judiciary and requiring the concerned quarters to take appropriate measures. The extract from the letter of Hon'ble Mr. Justice Pathak reads as under :—

".....The health of our constitutional polity revolves around it. I am very anxious that The Tribune should ensure that public respect for the judicial institution is

maintained. I shall be extremely unhappy if anything is done by this newspaper, which results in a weakening of public esteem for the judiciary. when you assumed charge as Editor-in-Chief, I spoke of this to you and I am glad to note that you also hold the same view. Whatever the past, there should be no instance in the future of any departure from that principle. With your considerable experience and editorial statesmanship, I should like you to take steps to ensure that all news relating to the judiciary is published only after clearance at a very senior level. If public esteem for the judiciary is weakened by the media, the media itself will be correspondingly weakened in that public eye. There can be no compromise in the matter.”

Acting upon the advice of the President of the Tribune Trust, a meeting was called and some decisions were taken which have been referred to in the affidavit of Shri A.J. Philip and can also be read as under :—

“10. Pursuant thereto, Mr. H.K. Dua, Editor-in-Chief called a meeting of the staff and made it mandatory that all news reports and comments concerning the judiciary must be vetted and cleared by a person of not less than the rank of Chief News Editor. The Editor-in-Chief has already warned the staff that strict action will be taken against them if they are found wanting in measuring up to high standards of journalism.”

(13) In view of the above affidavits and the facts narrated therein, we are of the considered view that the apology tendered on behalf of the two contemners is *bona fide*, definite in terms, sufficiently exhibits sense of remorse and repentance, and also refers to the corrective measures sought to be taken by the news paper. Despite all this, serious impediment in acceptance of such unconditional apology tendered by the respondents before the Court, is their previous conduct. Previous conduct of a contemner is always a matter of relevant consideration before the Court in such matters.

(14) Even on an earlier occasion, undesirable and factually incorrect news items were published by this very news paper under the caption. “Pumps for all” as back as on 19th March, 1996. The

matter was heard and decided by the Hon'ble Supreme Court. The respondents were found guilty of contempt of Court, but, escaped the sentence as the affidavit quite similar to the affidavits now placed on record, was filed on behalf of Editor of The Tribune. This was accepted by the Apex Court and the matter was reported as **Hari Jai Singh *versus* Court on its own Motion (1)**. Thus, sometimes, more than mere apology is expected from the respondents to persuade the Court, so as to accept the apology tendered.

(15) Before we advert to the same, it will be appropriate to refer to some law on the subject. A Bench consisting of Full Court of Delhi High Court in the case of **Court on its own motion *versus* B.D. Kaushik and others (2)**, by majority view, despite the glaring contempts in face of the court, accepted the apology and deferred the sentence. Their Lordships held as under :—

“.....With regard to apology in proceedings for contempt of Court, it is well-settled that an apology is not a weapon of defence to purge the guilty of their offence : nor is it intended to operate as a universal panacea, but it is intended to be evidence of real contriteness”(M.Y. Shareef and another *versus* The Hon'ble Judges of the High Court of Nagpur and others).

The tendency of maligning the reputation of Judicial Officers by disgruntled element who fail to secure by desired order is ever on the increase and it is high time it is nipped in the bud.....”

xx xx xx xx xx xx

Such causes raise larger issues touching the independence of not only the concerned Judge but the entire institution.....It is high time that we realise that the much cherished judicial independence has to be protected not only from the executive or the legislature but also from those who are in integral part of the system.” (M.B. Sanghi, Advocate *versus* The High Court of Punjab and Haryana and others).

(1) 1996 (6) S.C.C. 466

(2) 1992 (1) P.L.R. 38

Having considered all relevant aspects and authorities, we are of the opinion that in the present case the contemnors deserve the punishment of sentence. The contempt committed by the contemnors is gravest. It cannot be imagined that any contempt worse than the present is possible. It is compounded by the fact that the contempt is not committed by lay contemnors but by the advocates who are officers of the Court.”

Still in another case in re : **M.P. Dwivedi and others (3)**, the Apex Court, while finding the contemnors guilty of contempt and disapproving the conduct of all the 5 officers involved in that case, found that a young judicial officer was involved and held as under :—

.....The contemner has submitted that he is a young judicial officer and that the lapse was not intentional.....”

xx xx xx xx xx xx

We would assume that on 8th February, 1993 the contemner did not make the statement about the judgments of this Court having no application there and the police having the right to transport the accused as they want, with or without handcuffs. But the contemner, being a judicial officer, is expected to be aware of law laid down by this Court in Prem Shankar Shukla versus Delhi Administration and Sunil Gupta versus State of M.P. Prem Shankar Shukla versus Delhi Administration was decided in 1980 early 13 years earlier. In his affidavit also he does not say that he was not aware of the said decisions. Apart from that there were provisions in Regulation 465 of the M.P. Police Regulations prescribing the conditions in which undertrial prisoners could be handcuffed and they contain the requirement regarding authorisation for the same by the Magistrate. It appears that the contemner was completely insensitive about the serious violations of the human rights of the undertrial prisoners in the matter of their handcuffing inasmuch as when the prisoners were produced before him in court in handcuffs.....”

XX XX XX XX XX XX

We, however, record our strong disapproval of his conduct and direct that a note of this disapproval by this Court shall be kept in the personal file of the contemner.....”

XX XX XX XX XX XX

In the result, the contempt notices issued against the contemnors are discharged subject to the directions regarding disapproval of the conduct of Contemnors 1 to 5 and 7 and directions regarding placing the note of the said disapproval in the personal files of all of them. The contempt proceedings will stand disposed of accordingly. A copy of this order be sent to the Chief Secretary to the Government of Madhya Pradesh and the Registrar, Madhya Pradesh High Court.”

In a famous case known as **Narmada Bachao Andolan versus Union of India and others (4)**, taking note of distortion of the Court orders by the leaders of the Narmada Bachao Andolan, the Court held that freedom of speech and expression is qualified by certain offences and scandalising court is one of such qualification. Their lordships, while dropping the contempt proceedings, held as under :—

“After 22nd of July, 1999 when learned amicus was appointed, nothing has come to our notice which may show that Ms. Arundhati Roy has continued with her objectionable writings insofar as the judiciary is concerned. She may have by now realised her mistake. We, therefore, consider it appropriate to now let the matter rest here and not to pursue it any further. The application (I.A. 14) is accordingly disposed of.” Further in the case re : **Chandigarh News Line (Indian Express Group, J.T. 1998 (5) S.C. 243**, where a misleading and incorrect news item was published totally is quoting the order of the court and the apology was tendered at the very outset, the Court took note of the apology published in the newspaper as well as in the Court and finding that the apology was sincere and bona fide, accepted the same and dropped those proceedings.

(4) J.T. 1999 (8) S.C. 354

(16) A Division Bench of this Court in the case of (contemner) Ranjit Bajaj (in Civil Misc. No. 15886 of 2000 in Civil Writ Petition No. 7639 of 1995) decided on 30th April, 2003 held as under :—

“.....In other words, the Courts have to derive a balance by reasoning of preferential view between the opportunity to reform and or inflictment of punishment forthwith, keeping in view the facts and circumstances of each case. A beneficial legislation obviously is not punitive and requires liberal construction. To us, it appears that the essence of this reformative procedure is to release the person on probation as in alternative to or in lieu of the sentence/punishment.

18.4. The maxim “Justitia est duplex : severe puniens, et vere praeveniens” by its very virtue imposes dual obligation upon the Courts of considering various facets of severe punishment on one hand and really or efficiently preventing recourse of crime on the other, with object of maintaining dignity of law. The settled principles of law also indicate that there is a duty upon the Courts to remove the cause of litigation. In other words, while providing opportunity to the contemner to reform himself the Court also thereby expects that he would not indulge in such activities and repeat the offence of disobedience of Court’s orders.”

In the case of **Chanchal Manohar Singh versus High Court of Punjab and Haryana and others (5)**, indicating the caution that must be applied by the reports of different newspapers, particularly in the field of law, finding the reporter guilty of contempt still accepted the apology as it was made at the outset and no explanation was rendered for the mistake. The following observations and findings of the Apex Court can be usefully noticed at this stage :—

“We are of the opinion that from the very beginning the attitude of the appellant was to admit his mistake and to apologise for having committed it. He never tried to justify the mistake. We are, therefore, of the opinion that the learned Judges in the High Court took too

strict a view, we do not see how society will benefit by disgracing him. We do realise that journalists ought to be more cautious in reporting their views in the newspapers. They should realise that such unilateral reporting without proper verification may harm and injure the reputation of others. It is necessary for them to realise that the feeling the appellant may be undergoing at present on being hauled up for contempt would perhaps be the feeling in those who are hurt and injured by such irresponsible reporting. It is, therefore, necessary that extra care should be taken and concern for the feelings of others should be shown in reporting matters in the print media. Very often we come across case where instead of printing news, views are expressed by journalists who have not done sufficient research, lack experience and maturity and that lands them into difficulties. Overenthusiasm in reporting with flashy headlines is one of the reasons which has landed quite a number of journalists into this type of difficulty. We do hope that they would try to understand the feelings of others whom they are likely to hurt by their reporting, if the reporting is factually inaccurate or can be branded as irresponsible. The appellant, we are sure, must have learnt his lesson the hard way. We accept his apology hoping that he will be more cautious in future and that this experience will be a constant reminder to exercise extra caution....”

Similar approach was adopted by the Hon'ble Apex Court in a very recent judgment in the matter of **Anil Panjwani (6)**, and their Lordships held as under :—

“.....In the above background, however, we find that not too late in the day better sense prevailed in the saner moments under which he genuinely expressed regrets before us with folded hands and pleaded for permission to withdraw such of the two affidavits filed by him containing the objectionable averments made therein. We have given out due consideration to the request

made, in the light of the facts and circumstances enumerated above and particularly the fact that initially he was arrested and sent to jail in connection with this contempt matter where he was lodged for four days before being released on bail. These factors, in our view, weigh in favour of accepting the request allowing him to withdraw the objectionable affidavits, rather than to continue with this matter and send him again to jail, though repentant he is a little late undoubtedly.

For the above reasons, we allow the request to withdraw the affidavits and drop the proceedings with a note of caution that in future he must be careful and may not give rise to any such occasion again. If he does so, this order can always be taken into consideration as a background material.”

(17) The law vests wide discretion in the Court in such matters. Of course, the discretion must be exercised essentially in consonance with the principles governing the field. Press is not a mere instrument of propaganda, much less malicious one. It is a field which even provide education and character to the society at large. It must over-reach the temptation to create sensations by spreading false news. It must discard for ever reporting out of malice, jealousy and unprotected enthusiasm, founded on ill desires. The duty of law in such situation will demand guilty to be punished rather than showing of mercy. Keeping in view the conduct of the respondents before the Court reference can usefully be made to what Swami Vivekananda said :—

Might and Mercy
guide the conduct
of human beings.
The exercise of
Might is invariably
the exercise
of selfishness.
The exercise of
Mercy is heavenly.

(18) The above news shows erratic attitude of the contemner who admittedly without verifying the facts and gauging the authenticity of the sources which allegedly gave him information published the news, clearly showing the action to be faux-pas. The responsibility of a journalist, particularly, from the field of legal journalism places upon him divest responsibility. Disorderly conduct by a journalist besides causing irreparable damage to the institution will also cause serious embarrassment to the newspapers itself. No extent of eloquence can justify such irresponsible reporting. The principle of harmony and balance, by its very existence to any legal system, carves out exception to such behaviour. Such reporting is not a journalism mis-conduct simplicitor but is an offence of serious gravity. Adverse effect and consequences thereof can be discernly and lucidately classified into two categories, one which affects the system and the person concerned transistantly and is likely to wither away by passage of time, while other is a permanent damage caused to the Institution and administration of justice. This conduct would normally be unforgivable. These serious contemptuous acts, that too of such grave nature, would hardly leave the Court with much choice. Still there is no proscription on the jurisdiction of the Court to consider the consequences of the apology tendered by the contemnors in the interest of justice and to maintain high standards of judicial magnanimity.

(19) The above enunciated principles indicate the institutional tolerance which the judiciary possesses in the larger interest of the public and administration of justice. Maintaining the majesty of law is the linchpin to the wheels of justice. Curio, are the cases where it would be inevitable for the Court to take recourse to vigours of penal statute. Such cases where punishing the contemner is essential, have been distinctly explained by different pronouncements and, thus, they must be understood in their correct perspective and in institutional interest. One factor which tilts the balance in favour of the contemner to some extent is that a clarification was issued by the paper in the very next issue. According to them, the news was also not published in the later editions of the paper. The contemnors tendered unqualified apology before the Court at the very first available opportunity and at no point of time even attempted to support or justify the erroneous and irresponsible act.

(20) We would now delve upon the matter in the light of the principles afore-referred to ensure that such beseless and undesirable news items are not reported by the respondents in future. We would be

willing to accept the unqualified and unconditional apology tendered on behalf of Shri A.J. Philip and Shri Rajmeet Singh, but subject to their filing a specific affidavit that in addition to the decisions taken by their management, they shall strictly adhere to the prescribed standards of journalism and ensure without fail assurance to the Court of not repeating such a conduct in future under any circumstances.

(21) At the cost of repetition and as it is inevitable for us, we re-emphasize the conclusions arrived at by us in our judgment and order dated September 19, 2003 :—

“....It is rather unfortunate that a news paper, which has a standing of over one century and which has done yeoman’s service to the community and has acted as a watch-dog of public interest, has become a playground for those, who do not have respect for the dignity of others and who do not hesitate to scandalise the consitutional institutions including Judiciary and thereby shake the people’s confidence in its imartiality and integrity.”

(22) We could not have reminded the respondents of the dimensions of their public obligation in any better way. We do express a pious hope that the respondents would ensure adherence to high standards of journalism keeping in view their own stature. The larger public interest imposes obligation upon them requirement of sincere reporting to ensure maintenance of dignity of all the affected parties.

(23) As far as Central Bureau of Investivation is concerned, they had taken a stand at the very out-set that the news item was false and malicious. In the affidavit it was specifically pleaded that no reporter had spoken to the investigating officer or any other officer of the department. We see no contradiction in the letter written by the concerned Judge and the stand taken by the Central Bureau of Investigation before the Court. It is concerted case of the parties before us that the news item was incorrect and in fact according to the Central Bureau of Investigation it was false. In these circumstances we do not consider it necessary to examine the matter whether there was or not, any contradiction between the letter written by the learned Judge and the affidavit filed by the Central Bureau of Investigation before the Court, particularly when the letter itself refers to the news item as its foundation. Such approach would be in consonance with

the institutional dignity of judicial administration. Thus, we are quite inclined to follow the majority view taken in the order dated September 19, 2003. Argo, we are not inclined to hold that the Central Bureau of Investigation or any of its officers are guilty of contempt of Court or that their action has interfered with the administration of justice. We, however, unambiguously record a note of caution to the said department to be more careful and cautious in its investigation. The investigations of the Central Bureau of Investigation are expected to maintain their secrecy and are not expected to contribute in leakage of its information, directly or indirectly. Such safe-guards would be in the general interest of administration of criminal justice as well as the investigating agency.

(24) Despite all this, we direct the respondents, who are statutorily and otherwise responsible for printing, publication and circulation of news paper like The Tribune and legal journalism at large adhere to the following guidelines-directions and take preventive and corrective steps so as to maintain high ethical standard of journalism and not to cause interference with the administration of justice and lower the dignity of the constitutional institutions of the judiciary.

1. The journalist is peddled with more responsible what he says or writes is likely to affect the public to a greater degree than what an ordinary citizen says alright. Thus, he should be strictly factual and correct to the actual news.
2. Honest collection and publication of news basis being right of fair comment and criticism with the exceptions of principle that it is apprehensive to a journalist to cast or impute the motive to any one including the institution of judicial administration. Before any news or articles in relation to administration of justice or function of judicial administration is published, concerned quarter must ensure that information is factually accurate. Facts are not distorted and no essential facts are suppressed.
3. Responsibility shall be assumed for all information and comments published. If the responsibility is disclaimed, this shall be explicitly stated before the publication. Proceedings of courts are not mis-represented. Residuum of established administration that despite the fact that

trial is in public and publicity may be given to their proceedings, but the newspapers publishing must state true and accurate and devoid of malice or an attempt to scandalise the courts or Judges.

4. Immediate steps be taken for providing and inbuilt mechanism for counter checking the correctness of news and articles relating to legal journalism and at least ensure authenticity of the sources of publication in normal course of its business.

(25) The onerous duty and obligation and pervasive obligation to which legal journalism must be subjected to have been indicated by us above. The respondents now and its erstwhile Editor, even earlier, were found guilty of contempt of Court and, thus, heavy burden lies upon them and its management to take all such measures without fail to ensure complete prevention to such repetitions. The above referred parameters of dignified journalism, particularly in reference to constitutional institution like Judiciary are not exhaustive, but are merely indicative of the onerous responsibility placed upon the Press, which has a pious duty of correct reporting in public interest. These standards and restrictions enunciate broadly what is expected of the publishers of paper's in law. Of course, compliance thereto cannot be an absolute defence in an action for contempt. as it would depend upon facts and circumstances of each case. However, their compliance would certainly prevent interference in proper administration of justice and minimise gravity of the offence to some extent. Freedom of journalists in the matters of application of law is not at a better level than that of an individual citizen. On the contrary, a greater responsibility is cast upon the Editor and management of the paper to be cautious and careful in reporting the matters.

(26) In view of our detailed discussion above, we discharge the notice of contempt issued to the Central Bureau of Investigation, of course, with the word of caution, as recorded by us above. We accept the unconditional and unqualified apology tendered by Shri A.J. Philip, Editor and Shri Rajmeet Singh, Reporter, but subject to the condition that affidavits, as directed supra, shall be filed by them during the course of the day.

R.N.R.