

reply of the Minister of State for Ministry of Defence in the Rajya Sabha and the Government instructions, no room is left to say that mere HIV Positive itself is not sufficient to deny service or even promotion to a member of the Para Military Forces. To the contrary, the service and promotions are protected in such cases where the ailment is Asymptomatic. The petitioner also appeared in person before this Court today. He appears to be quite young, hale and hearty and apparently, a healthy person. In any event, he has been retained in service. Even though he was detected HIV Positive in the year 1995, but he continues to be in service till date. There is no reason to deny him the promotion.

(10) In view of the above, this petition is allowed. Respondents are directed to promote the petitioner to the post of NK(GD) with effect from 12th December, 1995, the date when persons junior to him were promoted. He shall be entitled to all the consequential benefits, including the emoluments of the promotional post, seniority etc. and to be considered for further promotion, if any.

R.N.R.

Before Hemant Gupta & Jaswant Singh, JJ.

COURT ON ITS OWN MOTION,—Petitioner

versus

JASWANT SARPAL,—Respondent

CrI. O.C.P. No. 8 of 2004

30th March, 2010

Contempt of Courts Act, 1971—Ss. 2(c) & 14—Criminal complaint against Government officials pending in District Court—Complainant making allegations of impropriety against Judicial Officers by using scandalous language—Contempt proceedings initiated against complainant—Contemner refusing to withdraw allegations—Contemner in habit of levelling such like allegations—Withdrawal by all Advocates from case provided by Legal Services Authorities showing contumacious conduct of contemner—Contemner held guilty of offence u/s 15(3) read with S.12 of 1971 Act and convicted as such—Criminal complaint pending in lower Court ordered to be quashed being abuse of process of law.

Held, that the complaint is nothing but an attempt by the complainants to browbeat and overawe the Government officials in discharge of their official duties. Any inaction or negligence in performance of the official duties, does not lead to commission of the offences, as alleged in the complaint. Even on the face of the allegations made in the complaint, no case is made out against the Government officials. Moreover, the complainants have not sought sanction before prosecuting the Government officials acting in discharge of their duties. Therefore, such complaint is a gross abuse of process of law and, thus, the same is liable to be quashed, as against the Government officials.

(Para 25)

Further held, that the contemner has refused to withdraw the allegations earlier. Shri Sarpal has refused to withdraw allegations even during the course of hearing today. Shri Jaswant Sarpal not only refused to withdraw the allegations, but was adamant in his attitude. Numerous other communications addressed by him levelling allegations against the Bench, Amicus Curiae and the fact that all the Advocates provided by the Legal Services Authorities have withdrawn, shows the contumacious conduct. Contemner's insistence on his self righteousness and branding the entire judicial system as one consisting of corrupt and inefficient people, is nothing but an attempt to scandalize and interfere in the administration of justice, disclosing a criminal contempt as stipulated under Section 2(c) of the Act.

(Para 30)

Further held, that on earlier occasions, twice the Bench offered to consider the case of the contemner sympathetically, if he withdraws the allegations. However, the persistent stand and defiant demeanour of the contemner, reeks of scant respect for the judicial proceedings, the dignity and majesty of law. Thus, the conduct of the respondent- contemner is of such a nature that it substantially interferes with the due course of justice. The contemner is held to be guilty for the offence under Section 15(3) read with Section 12 of the Act and is convicted as such.

(Paras 35 & 36)

Pradeep S. Punia, Addl. Advocate General, Haryana, as Amicus Curiae.

H.S. Brar, Additional A.G. Punjab, As Amicus Curiae.

Jaswant Sarpal, respondent-contemner in person.

HEMANT GUPTA, J (ORAL)

(1) The present Criminal Contempt Petition was initiated on a Reference dated 24th January, 2004 made by the learned District and Sessions Judge, Jalandhar, on the basis of a letter dated 23rd January, 2004 written by Shri K.K. Kareer, Civil Judge (Sr. Division)- cum-Additional Chief Judicial Magistrate, Jalandhar, for initiating contempt proceedings against the complainant-Jaswant Sarpal, for using contemptuous, foul and derogatory language in his letter dated 20th December, 2003 written and circulated by the contemner.

(2) It may be noticed that the said communication was made by the learned Presiding Officer of the Court on receipt of letter, dated 20th December, 2003, while dealing with a private complaint filed in the year 1999 titled as **“Ashwani Sarpal and Jaswant Sarpal sons of Darbari Lal Sarpal versus Amarjit Singh, the then Deputy Commissioner, Amritsar and 26 other respondents.”** Out of the 27 respondents, 23 are the Government Officials, whereas 4 persons have been impleaded in the capacity of the landlord of the building situated in Mahan Singh Gate, Amritsar.

(3) In his letter, dated 20th December, 2003, the complainant has levelled allegations of impropriety against Shri K.K. Kareer, A.C.J.M., Jalandhar and Shri Ram Kumar Singla, Civil Judge (Junior Division), Amritsar, by using foul and derogatory language. It is mentioned therein that the said two Officers are slave Judges and are blot on the judicial structure and they should be immediately arrested. He has referred the Officers as inefficient and impotent Judges and burden on the State economy. Shri K.K. Kareer, has been referred to be of criminal mind, partial, incompetent, inefficient, corrupt, conspirator, expert for preparing fake and fabricating documents etc.

(4) The said complaint was placed before the Administrative Judge. The Administrative Judge in his note dated 7th April, 2004 recorded that the allegations made in the complaint are irresponsible, scandalous and are intended to undermine the dignity of judicial administration. The complaint is apparently a contemptuous attempt on the part of the complainant and constitutes a criminal contempt under the Contempt of Courts Act.

In pursuance of the order passed by the Hon'ble Chief Justice on 9th April, 2004, the matter was placed before the Bench. The Bench issued notice to the contemner on 26th April, 2004 to show cause as to why contempt proceedings be not initiated against him. The contemner filed his reply dated 19th July, 2004, wherein, *inter alia*, he has mentioned that no lawyer is ready to handle his case and that out of depression, frustration and very sad state of mind, he has reacted in such a manner without any intention to harm or defame the judiciary. The Bench sought comments of Shri K.K. Kareer, *vide* order, dated 19th July, 2004. The learned Presiding Officer, in his comments, dated 9th August, 2004, has mentioned that Shri Jaswant Sarpal, was in the habit of making false and frivolous complaints against the Judicial Officers with a view to overawe them to secure favourable orders. The derogatory remarks against him in the letter, dated 20th December, 2003 were without any provocation, most unwarranted and uncalled for. It was pointed out that Shri Jaswant Sarpal himself has been prolonging the case by moving one or the other applications and that he has not examined his cited private witnesses. The respondent-contemner filed a counter reply, dated 29th November, 2004 to the comments submitted by Shri Kareer *vide* Crl. Misc. No. 36985 of 2005, dated 25th January, 2005. He *inter-alia*, stated that Shri Kareer is having hand in gloves with the accused of the Court, District and State Authorities, and that he is totally disloyal to his oath for sincerity and honesty towards duty and post. He has further stated that he has no faith in the Judges of the both the Districts Amritsar and Jalandhar. The reply is full of scandalous allegations.

(5) On 22nd July, 2005, this Court gave an opportunity to the contemner to withdraw his allegations. However, the contemner--Jaswant Sarpal stated that he was not willing to withdraw the allegations. This Court on the next date of hearing i.e. 6th September, 2005, once again gave opportunity for withdrawing the allegations so that his case could be considered sympathetically. The contemner once again aggressively refused to withdraw the allegations in any circumstances. Accordingly, this Court directed the District and Sessions Judge (Vigilance), Haryana, to record the evidence and submit his report within six months. The order, dated 6th September, 2005 reads as under :-

“Before we started the proceedings today, we once again put it to the contemner that in case he was willing to withdraw the allegations made against the judicial officer concerned, we would

still consider his case with sympathy. The contemner, however, aggressively replied that he was not willing to withdraw the allegations under any circumstances. At this, Mr. Dhruv Dayal, Advocate, who has been appointed by the Legal Services Authority, to assist the contemner, says that he is not willing to appear in this case on behalf of the contemner in this situation and he be permitted to withdraw from the proceedings. Allowed as prayed.

At this stage, the contemner states that he would like the case to be transferred to the 1st Division Bench as the Chief Justice is the head of the judicial administration in the State. However, as the case has been listed as per roster, this prayer is declined. We also direct the District Judge, Vigilance, Haryana, to record the evidence in this case and submit his report within six months from today. The copies of the documents on record be supplied to the contemner within two weeks so that he can put forth his defence. The contemner to appear before the District Judge, Vigilance, Haryana, Chandigarh, on 21st September, 2005.”

The case be again put up after the receipt of the report.”

(6) Before the learned District and Sessions Judge (Vigilance), Haryana, the contemner appeared on 21 September, 2005 and made the following statement :—

“I am in possession of complaint, dated 20th December, 2003 running into 13 pages and do not need the copy of the same to be supplied. In addition, there is only a reference made by Shri K.K. Kareer, A.C.J.M., Jalandhar. I am also in possession of reply submitted by Shri K.K. Kareer and also in possession of the counter reply submitted by me, along with six other applications dated 29th November, 2004. I do not need these documents. There is no other document on the file.”

Though the statement was recorded by the learned District and Sessions Judge (Vigilance), Haryana, but the contemner refused to append his signatures. The matter was adjourned to 29th September, 2005 for filing defence by the contemner. The order sheet records that the contemner has

noted the date and time fixed. The noting recorded by the learned District and Sessions Judge (Vigilance), Haryana, on 29th September, 2005 reads as under :—

“The contemner Shri Jaswant Sarpal has not come present despite date and time of his choice being given and noted by him, to file his written defence. It appears that either he has no defence to file or he is not interested in filing the written defence. Superintendent of District Court, Jalandhar be summoned for 25th November, 2005 at 11.00 a.m.”

Subsequently, the statement of Superintendent, District Court, Jalandhar, was recorded on 20th December, 2005 and the report, dated 23rd January, 2006 was submitted by the learned District and Sessions Judge (Vigilance), Haryana, to this Court.

(7) The contemner moved Crl. Misc. No. 71640 of 2006 under Section 482 Cr. P.C., dated 14th November, 2006 for placing on record his complaint against the District and Sessions Judge (Vigilance), Haryana, for submitting a fake report, dated 23rd January, 2006 and stating that his services should be terminated.

(8) The contemner was provided with the services of the Advocates of Legal Services Authorities, from time to time. Firstly he was provided with the assistance of Shri A.P.S. Shergill, Advocate, on 2nd November, 2004. But Shri Shergill, expressed his inability to appear on behalf of the contemner on 25th January, 2005. On 24th March, 2005, the contemner submitted that he should be provided free legal aid from outside the States of Punjab and Haryana. The said prayer was not accepted, but he was given an opportunity to select any counsel out of the list to be provided to him by the Punjab, Haryana, or U.T., Legal Aid Authorities. Shri Dhruv Dayal, Advocate, appointed by the Legal Services Authority, stated before the Court on 6th September, 2005 that he was not willing to appear on behalf of the contemner before this Court and he be permitted to withdraw from the proceedings. He was allowed to do so. On 18th December, 2006, Shri Vikas Bahl, Advocate, offered to appear on behalf of the contemner, but on 17th January, 2007, Shri Bahl was permitted to withdraw from the proceedings as the contemner was not agreeing with his suggestion to tender an unqualified apology. It was on 30th July, 2007, the contemner stated

that he would like to argue his case himself as the Advocates appointed have withdrawn. However, later on 18th December, 2008, Shri Sunil Pawar, Advocate, was assigned to provide legal assistance to Shri Jaswant Sarpal. A perusal of the record shows that neither Shri Pawar has put in his appearance on any date nor there is any order permitting him to withdraw from the case. It appears that his fate is no different than the other Advocates appointed earlier that he does not seem to be intending to defend Shri Jawant Sarpal. On 10th February, 2010, the contemner again stated before this court that he would like to argue his case himself.

(9) It may also be noticed that the Court has initially appointed Ms. Charu Tuli, Senior D.A.G., Punjab, as *Amicus Curiae* to assist the court. The contemner levelled allegations against her in his communication dated 3rd September, 2005. Subsequently, Shri Anmol Rattan Sidhu, the then Additional Advocate General, Haryana, was requested to assist the Bench as *Amicus Curiae*. Shri Sidhu was requested to frame the charges against the contemner under Section 15(3) of the Contempt of Courts Act, 1971 (for short the Act) on 17th January, 2007. An application dated 2nd March, 2007 was filed by Shri Sidhu along with the proposed charges against the contemner. But the contemner moved an application dated 24th September, 2007 bearing CrI. Misc. No. 97519 of 2007 for placing on record his letter dated 9th August, 2007, complaining against the conduct of Shri Sidhu, besides stating that the Division Bench, consisting of Hon'ble Mr. Justice M.S. Gill and Hon'ble Mr. Justice A.N. Jindal, was not entitled to continue with the hearing of the case. He stated that he has lost faith in all the Judges of the District Courts and the Judges of this Court. The said application was found to be contemptuous on the face of it. The Division Bench in its order, dated 28th November, 2007 recorded that the contemner has cast aspersions not only on the Court, but the Hon'ble Chief Justice, Hon'ble Judges of this Court Judges of the District Courts and Shri Anmol Rattan Sidhu. The said order reads as under :-

“Application moved today by Mr. Jaswant Sarpal (Contemner) is *prima facie* and on the face of it contemptuous. He has cast aspersions not only on the Court. but also on the Hon'ble Chief Justice, Hon'ble Judges of this Court, Judges of the District Courts and Mr. Anmol Rattan Sidhu, Additional Advocate General, Haryana. This type of intemperate language, which demeans the dignity of the Court, cannot be tolerated, whatever the grievance of the petitioner.

We asked the petitioner/contemner to withdraw this application (P1), but he has in a defiant tone and loud voice stated that he will not feel sorry for the allegations levelled in it and will not withdraw it (P1).

There is no need to go any further in this petition. Probably, the contemner thinks that he can say whatever he likes against any Hon'ble Judge and then get away with it.

There are sufficient grounds to charge the contemner. We asked the contemner as to whether he has anything to say about the charge to be framed against him, but he stated that he has nothing to say and the Court is at liberty to award him any punishment.

Contemner Jaswant Sarpal is taken into custody under Section 14(4) of the Contempt of Courts Act, 1971.

The contemner is at liberty to furnish bail bonds and one surety of the like amount of Rs. 10,000 to the satisfaction of the Arresting Officer. If he does not furnish the bail bonds and the surety, the Arresting Officer shall release him on bail.

Mr. Mahabir Singh, Sub-Inspector, Police Station, Sector 3, Chandigarh, is directed to take the contemner into custody and hand him over to the Superintendent, Buraill Jail, U.T., Chandigarh, if he does not furnish the bail bonds and the surety as stated above.

The matter be placed before Hon'ble the Chief Justice for appropriate orders, so that the Contempt Petition could be taken up by another Bench.

Copy of this order be given to Mr. Mahabir Singh, Sub-Inspector, Police Station Sector 3, Chandigarh, under the hand and seal of the Special Secretary of this Court."

(10) The contemner was released on bail on his furnishing of bail bonds. He has not challenged the order of conviction dated 28th November, 2007 passed by the court. Therefore, he is sentenced to undergo 3 months of simple imprisonment in terms of the said order passed.

(11) Shri Anmol Rattan Sidhu, Assistant Solicitor General, Union of India prayed for being excused from further representing the High Court as Amicus Curiae on 18th November, 2008. His request was accepted and Shri Rajesh Bhardwaj Additional Advocate General, Punjab, was appointed as Amicus Curiae to assist the Court. In another communication dated 17th February, 2009, the contemner sought suitable action against Shri Rajesh Bhandari (Bhardwaj sic), Additional AG, Punjab (who earlier agreed to act as Amicus Curiae), for making false averments in judicial proceedings.

(12) On 18th December, 2008, the contemner stated that he has not received the copy of the charge sheet which was filed before this Court and sought time to argue on the proposed charges. Copy of the proposed charges was supplied to the contemner. Subsequently on 17th February, 2009, this Court framed the following charge against the contemner :-

“That you, Jaswant Sarpal, son of Darbari Lal, resident of House No. 2220/2, Gali Arian, Inside Mahan Singh Gate, Amritsar, circulated a letter dated 20th December, 2003 wherein you not only used foul, derogatory and unparliamentary contemptuous language but also levelled serious allegations of impropriety against Shri K.K. Kareer, the then Addl. Chief Judicial Magistrate, Jalandhar and Shri Ram Kumar Singla, the then Civil Judge (Junior Division) Amritsar, coming within the definition of Section 2(c) of the Contempt of Courts Act, 1971. Thus, it is apparently an intentional and deliberate contemptuous attempt on your part to scandalize, lower the authority of the court and interfere in the due course of administration of justice and results in undermining the dignity of judicial administration, thus it constitutes a criminal contempt/offence and punishable under the Contempt of Courts Act, 1971 for which you are liable to be tried and punished.”

(13) On the aforesaid date, the statement of the contemner was recorded that he has heard and understood the charge and pleads not guilty but he has refused to sign the said statement, which fact is recorded in the separate order of said date. Another order was passed on the aforesaid date, granting time to the contemner to file his affidavit in support of his defence as notice was served on the contemner along with the copy of

motion on the basis of which proceedings were commenced, copies of affidavits on which motion is founded and copy of the reference of the Subordinate Court as well as copy of the inquiry report and the evidence recorded by the Inquiry Officer. In deference to the aforesaid order, the respondent-contemner filed an affidavit dated 18th April, 2009. The contents of the said affidavit read as under :-

- “1. While passing order/charge sheet dated 17th February, 2009, it seems this Hon’ble High Court Justice knowingly, willfully and interestingly neglected the previous order of Shri Vijender Jain, Hon’ble Mr. Chief Justice and Justice Shri Rajiv Bhalla dated 17th January, 2007 and charge sheet dated 2nd March, 2007 which had been passed only the ground “contemner is not agree with the suggestion to tender an unconditional apology”. A case in which two orders and two charge sheets had been issued this Hon’ble High Court Justice Shri K.S. Grewal and Justice Shri Sham Sunder have not yet cleared among both the orders and charge sheet on different dates (2nd March, 2007 and 17th February, 2009) is correct and valid. Please clear it so that reply can be filed.
2. That above said facts and circumferences as appeared in the court file would make it obediently cleared that their lordship are anxious to make an end to my life/destruction of my total family by anyway, in case of any mishappening liabilities to be fixed is made evident before hand.”

(14) The contents of the affidavit are incorrect. In order dated 17th January, 2007, Shri Sidhu was directed to frame charges. It was on 17th February, 2009 the charges were framed. The application filed by the contemner for taking action against Shri Rajesh Bhardwaj, Additional A.G., Punjab, was ordered to be filed on the said date.

(15) The members of the Bench comprising Hon’ble Mr. Justice K.S. Garewal and Hon’ble Mr. Justice Nawab Singh, *vide* their order dated 20th April, 2009, ordered the matter to be placed before some other Bench in view of the averments contained in para No. 2 of the affidavit (reproduced above). Subsequently, the presence of the respondent-contemner was secured throughailable warrants.

(16) On 10th February, 2010, this Court sought the record of criminal complaint titled “**Ashwani Sarpal and another versus Amarjit Singh and others**” to examine whether such complaint is abuse of process of law and thus, liable to be quashed. The said order reads as under :—

“The present contempt petition has been registered on the basis of Reference made by the learned District and Sessions Judge, Jalandhar, on 24th January, 2004 wherein it has been alleged that in complaint dated 20th December, 2003 Mr. Jaswant Sarpal respondent (hereinafter to be referred as “the contemner”) has used highly derogatory language against Shri K.K. Kareer, Civil Judge (Senior Division)-cum-Additional Chief Judicial Magistrate, Jalandhar. This Court, after taking notice of the complaint, *vide* order dated 6th September, 2005 has directed learned District Judge, Vigilance, Haryana to record the evidence and submit his report. Such order was passed as the contmner expressed his unwillingness to withdraw his allegations under any circumstance.

In pursuance of such order, District and Sessions Judge (Vigilance) Haryana, has submitted his report dated 23rd January, 2006, a copy of which was supplied to the contemner on 24th October, 2006. The record further shows that on 30th July, 2007 the contemner has stated that he would like to argue his case himself as four Advocates, appointed to represent the contemner, have withdrawn. On 28th November, 2007, the contemner filed an application (P-1) and stated before the Court, in a defiant tone and loud voice, that he will not feel sorry for the allegations levelled in it and will not withdraw it. The contemner was ordered to be taken into custody under Section 14(4) of the Contempt of Courts Act, 1971 but it was ordered that he be released on furnishing bail bond and one surety of the like amount of Rs. 10,000 to the satisfaction of the arresting officer.

On 18th December, 2008, the contemner sought time to argue on the proposed charges. On 17th February, 2009, this Court framed charges but the contemner refused to sign. Subsequently

affidavit dated 18th April, 2009 was filed by the contemner. In para No. 1 of the said affidavit, he has averred that there are two orders and two charge sheets and it is not clear which of the order and charge sheet is correct. Reference was made to orders dated 2nd March, 2007 and 17th February, 2009. It was also averred that the Judges are anxious to make an end to his life/destruction of his total family by any way. He has further averred that in case of any mishappening, the liability is to be fixed before hand.

A perusal of the record shows that on 2nd March, 2007, Mr. Anmol Rattan Sidhu, Additional Advocate General, Haryana, has filed an application with proposed charge-sheet as Annexure P-1. The record further shows that on 22nd July, 2005, after the contemner expressed his unwillingness to withdraw the allegations, Mr. Anmol Rattan Sidhu, Additional Advocate General was appointed as amicus curiae to assist the Court. It was on 18th November, 2008, Mr. Sidhu expressed his inability to assist this Court as amicus curiae after the contemner made an application dated 22nd September, 2007 and appended a letter Annexure P-1 levelling reckless allegations against the Judges of this Court and Mr. Anmol Rattan Sidhu, the then Additional Advocate General, Haryana. The contemner has also moved an application on 18th September, 2008 for taking action against Mr. Anmol Rattan Sidhu.

The genesis of the complaint made by the contemner from time to time is his private complaint No. 359 against the then Deputy Commissioner, Amritsar and other officers for the offences punishable under Sections 379, 380, 382, 427 and 506 of the Indian Penal Code, now pending and fixed for 2nd February, 2010 before Ms. Gurmeet Kaur, Additional Chief Judicial Magistrate, Jalandhar.

Mr. Sarpal states that he does not want to add anything orally than what has been stated by him in the reply.

However, before we consider the entire matter, we deem it appropriate to requisition the record of private complaint titled **Ashwani Sarpal and others versus Amarjeet Singh and others**, filed by him to examine whether such complaint is an abuse of process of law and is liable to be quashed. List on 2nd March, 2010 for arguments. Let all the complainants be also return present this Court on the date fixed.

A copy of the order under the signatures of Court Secretary of this Court be supplied to Mr. Jaswant Sarpal contemner for compliance of the order passed today.”

(17) It has to be noticed that during the proceeding on 10th February, 2010, the contemner filed an affidavit dated 10th February, 2010 levelling allegations against the members of this Bench and on that basis vide a separate order of the said date, a show cause notice was issued as to why, he should not be punished for making wild allegations. Contempt Petition bearing CrI. O.C.P. No. 6 of 2010 has been registered on the basis of the said order, which shall be dealt with separately.

(18) On 2nd March, 2010, the record of criminal complaint filed by the contemner and his brother was received. However, Ashwani Sarpal (co-complainant), was not present. The contemner sought time to make available his brother, who is residing with him in the same house, before this court in support of the complaint filed. The parties have sought time on the said date to examine, whether the complaint is abuse of process of law and thus, liable to be quashed in exercise of inherent powers of this Court under Section 482 Cr.P.C. Liberty was given to the parties to inspect the record received from the trial Court.

(19) On 22nd March, 2010, the contemner again sought some time to facilitate the appearance of his brother as he was stated to be out of station. The case was adjourned for today to facilitate the presence of his brother and co-complainant Ashwani Sarpal on the question whether the complaint is liable to be quashed or not. Today, Shri Jaswant Sarpal, has pointed out that his brother has expressed his unwillingness to appear in the case as it is he (Jaswant Sarpal), who is appearing throughout and pursuing the matter and that his brother has not appeared in the complaint case ever before the learned trial Court.

(20) In view of the said fact, we proceed to determine the following two questions :—

- (i) Whether criminal complaint titled as “Ashwani Sarpal and another versus Amarjit Singh and others” pending in the Court of Ms. Gurmeet Kaur, Additional Chief Judicial Magistrate, Jalandhar, is abuse of process of law and thus, liable to be quashed ?
- (ii) Whether the allegations levelled by the contemner in the communication dated 20th December, 2003 are contemptuous, wild, scandalous and thus, contemner is liable to be punished for the criminal contempt under Section 2(c) of the Act ?

(21) Before we consider the aforesaid questions, it may be noticed that the contemner has been writing various letters addressed to and received by the members of this Bench, under registered post. The prayer in one of the communications is to withdraw the judicial power of both the Judges and to arrest them and to start investigation on the ground to trace out their personal interest, relation with the accused of the country and accused of their own Court and why both the Judges have become the enemy of the complainant and the country and after the enquiry both should be booked under the various Sections of IPC, as per the findings of the enquiry report.

(22) Though the allegations contained in the said communication are contemptuous, but keeping in view the fact that the contemner is in the habit of levelling such like allegations against the Amicus Curiae appointed by the Court as also the members of the Bench with a view to either overawe the Bench or to avoid the decision of the proceedings, therefore, we take no notice of such contemptuous allegations made against the members of the Bench.

(23) We have heard the Amicus Curiae appointed by the Court and also the contemner—Jaswant Sarpal, and gone through the documents on record, including the record of the complaint filed by the contemner along with his brother Ashwani Sarpal.

(24) In respect of the first question, it may be noticed that the allegations in the complaint are that Complainant No. 1—Ashwani Sarpal was initially inducted as a tenant in the disputed building bearing No. 2558.

Old Khana Shumari No. 2676–2677 in Mahan Singh Gate locality in Amritsar in the year 1995. The tenanted premises is on the part of first floor constructed over three shops on the ground floor. It is alleged that Azad Singh was also a co-tenant in the building, whereas the ground floor was occupied by M/s Kamal Cloth House, Gurdip Singh and Sunil Mahajan. Accused No. 24–Jagdish Mitter and his wife Smt. Janak Rani (accused No. 27) are said to have purchased the building in February, 1996 knowing fully well that the building is under the tenancy of several tenants including that of the complainants. It is pleaded that complainant No. 1 has been paying regular rent to the previous owners, through their power of attorney, Satish Sharma and that the purchasers refused to accept the rent, when offered to them. It is further pleaded that the two rooms were got vacated by Satish Sharma from another tenant, namely, Azad Singh and rented out to Ashwani Sarpal in the year 1995. However, in subsequent para No. 7, it is pleaded to the contrary by the complainants that Ashwani Sarpal was a sub-tenant, inducted in the tenanted premises by Azad Singh and Ashwani Sarpal was using the said tenanted premises as godown. It is further stated that the forcible possession of the tenanted premises, in occupation of the complainants, has been taken on 6th June, 1997. In support of the contention that Ashwani Sarpal was a tenant in part of the first floor of the building, reliance is placed upon the payment of the electricity and water bills. There is no averment as to what was the rate of rent, which was being paid to the power of attorney of the landlord or to Azad Singh. There is no document on record, which may show any semblance of creation of a tenancy rights in favour of Ashwani Sarpal either by the landlord or by Azad Singh. It is further averred in the complaint that Ashwani Sarpal has filed a petition before this Court against the Director General of Police, Deputy Commissioner-cum-District Magistrate, Amritsar, Senior Superintendent of Police, Amritsar, S.H.O., Police Station, A-Division, Amritsar, Shri Jagdish Mitter and Shri K.L. Wadhwa, A.D.A., Amritsar. This Court directed S.S.P., Amritsar to look into the allegations as contained in the complaint and further directed that if he comes to the conclusion that some cognizable offence has been committed by any of the respondents, including respondent No.6 (K.L. Wadhwa), he shall order for the registration of the case. A contempt petition was filed complaining non-compliance of the aforesaid directions. The said petition was disposed of on 15th March, 1999. It was found that no criminal case is made out. It was thereafter, the complaint

in question was filed against 23 Government Officials and Private individuals. Against the Government Officials, the allegations primarily pertain to inaction and/or negligence in performance of their duties.

(25) We find that the complaint is nothing but an attempt by the complainants to browbeat and overawe the Government officials in discharge of their official duties. Any inaction or negligence in performance of the official duties, does not lead to commission of the offences, as alleged in the complaint. In our opinion, even on the face of the allegations made in the complaint no case is made out against the Government Officials. Moreover, the complainants have not sought sanction before prosecuting the Government Officials acting in discharge of their duties. Therefore, we find that such complaint is a gross abuse of process of law and thus, the same is liable to be quashed, as against the Government Officials.

(26) In respect of complaint against private respondent Nos. 24 to 27, the allegation is of the forcible dispossession of the complainants from the premises alleged to be in their possession and of looting of the goods lying in the said premises. The complainants have not shown any semblance of tenancy rights as against the landlords (private respondents Nos. 24 to 27) or against Azad Singh. The averments made by the complainants are contradictory to each other. The complainants being sub-tenant, as pleaded in para 7 of the complaint, have no independent right against the landlord i.e. the tenant of the owner. As a sub-tenant, the remedy of the complainants is to sue their landlord i.e. Azad Singh. Azad Singh is not a party to the complaint. There is no allegation of forcible dispossession against Azad Singh. On the other hand, the averments made in para No. 3 of the complaint that Azad Singh was inducted as a tenant by Satish Sharma, attorney of the landlord, is not supported by any document. Said averment contradicts the averments made in para No. 7 of the complaint. Therefore, we find that the complaint is to harass and exploit the private respondents No. 24 to 27 as well. In view of the said fact, the complaint being gross abuse of law is also liable to be quashed as against private respondents No. 24 to 27.

(27) Another reason to hold that the complaint is an abuse of process of law is that as per the allegations contained in the complaint, it is Ashwani Sarpal, who is tenant under Azad Singh. Ashwani Sarpal, has

not chosen to appear before this Court to support the allegations in the complaint. On 22nd March, 2010, the contemner sought some time to facilitate the appearance of his brother as he was stated to be out of station. The case was adjourned for today to facilitate the presence of his brother and co-complainant Ashwani Sarpal on the question whether the complaint is liable to be quashed or not. Today, Shri Jaswant Sarpal, has pointed out that his brother has expressed his unwillingness to appear in the case as it is he (Jaswant Sarpal), who is appearing throughout and pursuing the matter. The contemner does not even claim to be a tenant in the premises in question. Thus, he cannot be said to be an aggrieved person in respect of the alleged dispossession. Consequently, criminal complaint titled as "Ashwani Sarpal and another *versus* Amarjit Singh and others" pending in the Court of Ms. Gurmeet Kaur, Additional Chief Judicial Magistrate, Jalandhar, being an abuse of process of law, is hereby quashed with costs of Rs. 10,000.

(28) The second question is--"Whether the allegations levelled by the contemner in the communication dated 20th December, 2003 are contemptuous, wild, scandalous and thus, contemner is liable to be punished for the criminal contempt under Section 2(e) of the Act? The communication dated 20th December, 2003 is a long document running into 13 pages. Though, there are numerous allegations against the Judicial Officers, but some of the allegations are being reproduced as under :-

"Order to arrest immediately, the dishonorable and slave Judge Shri K.K. Kareer, A.C.J.M., Jalandhar, and Shri Ram Kumar Singla, J.M.I.C., Asr., who are the blot on the judicial structure.

Judges : Like Shri Ram Kumar Singla, J.M.I.C., Asr. and Shri K.K. Kareer, A.C.J.M., Jalandhar are not only inefficient, impotent Judges and burden on the state economy but also a blot on the judicial structure of the Punjab State.

Justice cannot be expected from the Judge like Shri K.K. Kareer, A.C.J.M., Jalandhar, who is not ready to adopt his own Court procedure/judicial procedure, who is criminal minded, partial, incompetent, inefficient, corrupt, conspirator, expert for

preparing fake and fabricated document for wrong order, accused of his own court, disloyal to his oath taken before joining as judicial officer, crime and criminal protector and encourager, bad element of the judicial structure, slave of the official and the bureaucrats of the District and State. Not only a blot on the judicial structure on the State but also a best working as a slave of the blot on the Courts, law, constitution and on the Court.”

(29) Apart from the said allegations, the contemner in the said communication made several demands, some of which are being reproduced as under :-

“That the Judge like Shri Ram Kumar Singla, J.M.I.C., Amritsar who not only failed to comply his own court order but also passed a new order on the each and every date without seeing his previous order. Moreover the Judge without judicial mind not only failed to comply his own each and every order/directions and request but also order for explanation, order for filing affidavit and even after getting the undertaking of the bound court accused witness who made the court like a garden go or not to go.”

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This complaint case matter (record) is not related with the security of state of the country but only proving the law and order worse position and the failure of judicial structure of the state and respected judges like Shri Ram Kumar Singla, J.M.I.C, Amritsar and Shri K.K. Kareer, A.C.J.M., Jalandhar seem keen to their promotion without judicial mind are a blot on the judicial structure and the real internal terrorist of the country are I.A.S., I.P.S. and P.C.S. who think themselves more and above of the law, courts, and the constitution/nation and the country.”

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“Ld. Judge Shri K.K. Kareer on 14th November, 2003 passed one more stupid order without using his judicial mind and legal method. Actually, such type of order only can be expected

from judge like Shri K.K. Kareer, A.C.J.M., Jalandhar disloyal to his oath, inefficient, incompetent, partial, corrupt, important and not only a blot but also a burden on the state and the country.

The Most stupid order on 14th November, 2003 passed by the dishonorable Judge Shri K.K. Kareer, A.C.J.M., Jalandhar attached as P-15.”

(30) As mentioned above, the contemner has refused to withdraw the allegations earlier as observed in the orders reproduced above. Shri Sarpal has refused to withdraw allegations even during the course of hearing today. Shri Jaswant Sarpal not only refused to withdraw the allegations, but was adamant in his attitude. Numerous other communications addressed by him levelling allegations against the Bench, Amicus Curiae and the fact that all the Advocates provided by the Legal Services Authorities have withdrawn, shows the contumacious conduct. Contemner's insistence on his self righteousness and branding the entire judicial system as one consisting of corrupt and inefficient people, is nothing but an attempt to scandalize and interfere in the administration of justice, disclosing a criminal contempt as stipulated under Section 2(c) of the Act.

(31) The contemner has argued that he was not associated by the learned District and Sessions Judge (Vigilance), Haryana in the enquiry proceedings, therefore, reliance on such enquiry proceedings is not proper. We find that the said argument of Shri Sarpal is not correct. As reproduced above, Shri Sarpal, has made a statement, which has been recorded by the learned District and Sessions Judge (Vigilance), Haryana. The non-signing of the statement appears to be the habit of the respondent-contemner, as he has not even signed the statement made before this Court at the time of framing of the charge.

(32) The contemner was associated with the enquiry proceedings. He has chosen not to appear before the District and Sessions Judge (Vigilance), Haryana, though the date and time of his choice were given by the District and Sessions Judge (Vigilance), Haryana. In enquiry, the contemner cannot be forced to appear.

(33) Another argument has been raised by the contemner that he has not been provided with any legal aid. We do not find any merit in the said argument. As reproduced above, the Advocates provided by the Legal Services Authority to defend the contemner, have withdrawn from the proceedings. He has in fact sought legal aid from outside the States of Punjab and Haryana which is preposterous. We find that the respondent-contemner is neither an indigent person nor a person incapable of preparing his defence as he has been filing his reply and affidavits himself. Numerous lengthy letters have been written in English, by him. The physical appearance of the contemner does not suggest that he is deprived of the means so as to require legal assistance. The contemner has stated number of times that he will argue his cause himself. Therefore, we do not find any merit in the said argument as well.

(34) Though Shri Sarpal has not argued, but Section 6 of the Act, exempts a contemner from punishment in case a statement is made by the contemner in good faith concerning the presiding officer of any subordinate court to a higher Court. Good faith has not been defined in the Act. Section 3(22) of the General Clauses Act, 1897, contemplates that a thing shall be deemed to be done in "good faith" where it is in fact done honestly, whether it is done negligently or not. The manner and tenor of the allegations made by using foul and derogatory language against the Judicial Officers in the letter dated 20th December, 2003, cannot by any stretch or reasoning be termed as made in a good faith. We find the same as an attempt to overawe and browbeat the Judicial Officers. It cannot be said that such allegations in the letter dated 20th December, 2003, are made with honesty. Thus, we find that no such defence is available to the contemner under Section 6 of the Act. The allegations levelled by the contemner are not disputed by him. He stands by such allegations, even during the course of arguments before this Court today. Such conduct of the contemner shows that the respondent-contemner is an incorrigible person.

(35) Even at the cost of repetition, we may note that on earlier occasions, twice the Bench offered to consider the case of the contemner sympathetically, if he withdraws the allegations. However, the persistent

stand and defiant demeanour of the contemner, reeks of scant respect for the judicial proceedings, the dignity and majesty of law. Thus, we are satisfied that the conduct of the respondent-contemner is of such a nature that it substantially interferes with the due course of justice.

(36) In view of the above, the contemner is held to be guilty for the offence under Section 15(3) read with Section 12 of the Act and is convicted as such. The contemner has refused to submit anything on the question of sentence.

(37) We, thus, conclude :-

- (i) The contemner is sentenced to undergo simple imprisonment for 3 months for committing contempt under section 14 of the Act in pursuance of his conviction *vide* order dated 28th Novemeber, 2007.
- (ii) The Criminal Complaint titled as “**Ashwani Sarpal and another versus Amarjit Singh and others**” for the offences under Sections 379, 380, 382, 450,506, 427, 120-B I.P.C., pending in the Court of Ms. Gurmeet Kaur, Additional Chief Judicial Magistrate, Jalandhar, is quashed being abuse of the process of law, with costs of Rs. 10,000.
- (iii) The respondent-contemner is further sentenced to undergo simple imprisonment for a period of six months and fine of Rs. 2,000 for using scandalous language against judicial officers in his complaint dated 20th December, 2003. In the event of default in payment of fine, he shall further undergo imprisonment for a period of one month.

(37) Both the above sentences shall run consecutively (one after the other). The sentence imposed upon the contemner, shall remain suspended for a period of one month to enable the Contemner to avail his right of appeal.