

**IN THE SUPREME COURT OF BANGLADESH
APPELLATE DIVISION**

PRESENT:

**Mr. Justice Obaidul Hassan, Chief Justice
Mr. Justice Borhanuddin
Mr. Justice Md. Ashfaqu Islam
Mr. Justice Md. Abu Zafor Siddique
Mr. Justice Jahangir Hossain**

CONTEMPT PETITION NO. 48 OF 2023

Mohammad Harun-Or-Rashid,Contempt-petitioners
Advocate, Supreme Court of
Bangladesh and others
-Versus-

Syed Jahangir AlamContemnor-Respondent

For the Petitioners : Mr. A.M. Aminuddin, Senior
Advocate with Mr. Sk. Md.
Morshed, Senior Advocate and Mr.
Shah Monjurul Hoque, Senior
Advocate instructed by Mr. Md.
Helal Amin, Advocate-on-record

For the Respondent : Mr. Md. Ruhul Quddus, Senior
Advocate instructed by Ms.
Madhumalati Chowdhury Barua,
Advocate-on-record, Mr. Md. Abdul
Hye Bhuiyan, Advocate-on-record
and Ms. Shahanara Begum,
Advocate-on-record

Date of Judgment : 12.10.2023

J U D G M E N T

Md. Ashfaqu Islam, J:

"SILENCE IS NOT AN OPTION WHEN THINGS ARE ILL DONE."

Lord Denning, in Regina v. Commissioner of Police
of the Metropolis, Ex parte Blackburn,
[1968] 2 W.L.R. 1204, a case of contempt of Court,

uttered this bold, striking and electrifying sentence.

Lord Denning went on saying-

"All we would ask is that those who criticize us will remember that, from the nature of our office, we cannot reply to their criticisms. We cannot enter into public controversy. Still less into political controversy. We must rely on our conduct itself to be its own vindication. Exposed as we are to the winds of criticism, nothing which is said by this person or that, nothing which is written by this pen or that, will deter us from doing what we believe is right; nor, I would add, from saying what the occasion requires, provided that it is pertinent to the matter in hand."

These are the immutable and indelible remarks of a great legal luminary, none other than Lord Denning who succinctly and lucidly comprehended what would be the genre and amplitude of committing contempt of

Court or so to say what are the real periphery of committing contempt and action of the court thereto.

Bewildered with severe grief and resentment we encountered one of the most heinous and mischievous instance of criminal act of contempt that was perpetrated against a sitting judge of the Apex Court of the land.

It came as shock when we found that in a most unexpected, abrupt, rather I would put that in an ugly manner, the contemnor before us has made obnoxious and detestable speech at a public gathering against a Hon'ble Judge of this Division giving rise to the instant proceeding of contempt of Court.

The application is directed for drawing up proceeding for contempt of court against the Contemnor-respondent Syed Jahangir Alam for delivering willful and deliberate contemptuous speech in a public meeting and circulated the same in the social media (You Tube). Being aggrieved by the defamatory statement made by the contemnor, the petitioners as the learned Advocates of the Supreme

Court of Bangladesh, to protect the image, prestige and honour of the Supreme Court of Bangladesh have drawn up this contempt petition for greater public interest and also for protecting and maintaining the dignity and integrity of the Apex Court of the Country. The contemptuous speech uttered by the contemnor-respondent in a public meeting which is circulated in the social media (You Tube) has been quoted below in verbatim:

“এরা স্বপ্ন দেখে, শেখ হাসিনা স্বপ্ন দেখে ৪১ সাল বলে বাংলাদেশের ক্ষমতায় থাকিবে। আরে ভাই, আরো স্বপ্ন দেখে, এই দিনাজপুরের বিচারপতি আপিল্যাত ডিভিশনের আছে, ইনায়েতুর রহিম সাহেব, ইনায়েত, আপনারা এই তথ্য জানেন না, আমি বলছি আজকে। ইনায়েতুর রহিম সাহেবকে শেখ হাসিনা রিটায়ার্ড করায় বলে আগামী ২৮ সালে প্রধান নির্বাচন কমিশনার বানাবে; এই স্বপ্নও উনারা দেখে ফেলেছেন। এই ইনায়েতুর রহিম কে? এই ইনায়েতুর রহিম ১৮ কোটি মানুষের হৃদয়ের স্পন্দন সাবেক তিন তিন বারের প্রধানমন্ত্রী শহীদ রাষ্ট্রপতি জিয়াউর রহমানের সহধর্মিনী দেশনেত্রী বেগম খালেদা জিয়ার যিনি রায় দিয়েছেন, নিম্ন আদালত রায় দিয়েছে পাঁচ বছর; মানুষ নিম্ন আদালতে ন্যায় বিচার না পেলে উচ্চ আদালতের শরণাপন্ন হয়, উচ্চ আদালতে যায়। উচ্চ

আদালত কি করলেন, কে দশ বছরের রায় দিলেন? আজকের এই
 ইনায়েতুর রহিম, দিনাজপুরের কুলাঞ্জার। আপনাদের কোন আদেশ
 ইনশাল্লাহ আমরা বাংলাদেশের ১৮ কোটি মানুষ এই হাসিনার পতনের
 মধ্যে দিয়ে আমরা সকল কিছুর অবসান ইনশাল্লাহ বাংলাদেশের মাটিতে
 করবো ইনশাল্লাহ। "

Upon hearing, this Division by its order dated 17.08.2023 issued a notice against the contemnor-respondent to show cause as to why he should not be punished for gross contempt of this Court for his scandalizing speech delivered in public. This Division directed the contemnor respondent to appear in person before the Court No. 1 of this Division at 09:00 am on 24.08.2023. Pursuant to that order the contemnor respondent appeared before this Division by filing an application for acceptance of unconditional apology contending inter-alia that the contemnor respondent is the current Mayor of Dinajpur Pourashava, Dinajpur who was a candidate in the last parliamentary election from Dinajpur Sadar Constituency as a nominee of the Bangladesh

Nationalist Party (BNP). Being a political person, the contemnor respondent made the alleged speech in a public meeting and uttered objectionable words as a slip of tongue and it was not intentional; the contemnor respondent immediately realized that his words are disregard to the prestige and dignity of an Hon'ble Judge of this Hon'ble Court and also disrespectful to the prestige and dignity of the judiciary as a whole. The contemnor respondent is seeking unconditional apology for his action before this Hon'ble Court and undertakes that he will never repeat such type of speech in any public meeting undermining the prestige and dignity of the judiciary.

Mr. A.M Aminuddin, the learned Senior Advocate appearing with Mr. Sk. Md. Morshed and Mr. Shah Monjurul Hoque, the learned Senior Advocate(s) for the petitioners contends that the contemnor-respondent knowing fully-well and with an oblique motive given the speech in a public meeting in Dinajpur just to malign a sitting Judge of the

Highest Court of the country which is highly contemptuous.

He further submits that the petitioners after hearing the speech of the contemnor-respondent became astonished by the audacity of the contemnor who has deliberately given the speech to undermine the prestige and honour of a Judge of the highest Court of the country and for undermining the image of the judiciary of Bangladesh for which hearts of the petitioners are blinking as a part of the judiciary, the petitioners being aggrieved by the said statement have come before this Court. The said contemptuous news which has been viewing and commenting by many, especially after watching the news many people communicated with the petitioners and made different kinds of comments. The video containing said speech has been circulating via mobile to mobile as well. Such kind of contemptuous news is not only contemptuous for the said Hon'ble Judge but also for the whole judiciary. It is a threat to the independent function of the judiciary. Moreover, the

judgment was delivered in a case while performing the function as a judge in a court proceeding, and the case is still pending before the Apex Court of the country. Therefore, nobody should make any outrageous and hateful comments directly and personally implicating a sitting judge. This kind of speech spreads hatred, enmity and negativity in the society. The contemnor intentionally made that speech in a public meeting for causing political chaos and anarchy in the country. It is not only against public policy but also against the rule of law. As such, the contempt proceeding may kindly be drawn up against the contemnor.

Finally he submits that it is evident from the speech that the statement of the contemnor is deliberately made with a view to disregarding and dishonoring the prestige and question the image of the highest court and its Judges and as such an exemplary punishment should be given to the contemnor- respondent, so that none shall dare to interfere the image and prestige of the judiciary and

as such a proceeding of contempt of court should be drawn up against the contemnor-respondent.

On the other hand Mr. Md. Ruhul Quddus, the learned Senior Advocate for the contemnor-respondent submits that being a political person, the contemnor-respondent made the alleged speech in a public meeting and objectionable word uttered by the contemnor respondent was a slip of tongue and it was not intentional; the contemnor respondent immediately realized that his words are disregarding to the prestige and dignity of an Hon'ble Judge of the Supreme Court of Bangladesh and also disrespectful to the prestige and dignity of the judiciary as a whole. That the contemnor respondent undertakes that he will never repeat such type of speech in any manner which undermines the prestige and dignity of the judiciary as a whole and he will be cautious in future. The contemnor respondent is seeking unconditional apology for his action before this Hon'ble Court.

We have heard the learned Senior Advocates of both sides and considered their submissions.

In due course of my discussion I would touch upon all out applicability and acceptability in showing utter disrespect to a judge in particular and the judiciary as a whole. Situation deserves a modicum deliberations on the concept of contempt of Court.

The term contempt etymologically originated in 1393 in Old French from the Latin word contemptus meaning "scorn". In other words disdain for something.

Black's Law Dictionary defines Contempt as-

"An act or state of despising that obstructs justice or attacks the integrity of the Court."

In Wharton's Law Lexicon contempt of court has been defined as a disobedience to or disregard of the rule, orders, process, or dignity of a Court, which has power to punish for such offence by committal.

Lord Denning made a famous statement regarding contempt of court and the need to uphold the dignity of the judiciary. In his words:

"Any act done or writing published, which is calculated to bring a court or a judge

of the court into contempt, or to lower his authority, is a contempt of court."

This quotation of Lord Denning emphasizes the importance of maintaining respect for the courts and judges to ensure the proper functioning of the justice system. It highlights the principle that contempt of court can encompass actions or statements that undermine the authority and dignity of the judiciary. Lord Denning's perspective has influenced the development of contempt of court jurisprudence in the United Kingdom and other jurisdictions.

In *Rex v. Gray* [(1900) 2 Q.B. 36], "Contempt of Court" was defined as:

"Any act done or writing published calculated to obstruct or interfere with the due course of justice or the lawful process of the Courts is a Contempt of Court." According to Oswald vide Oswald's *Contempt of Court*, 1911 Ed., p. 6, the definition is as follows:

"To speak generally, Contempt of Court may be said to be constituted by any conduct that tends to bring the authority and administration of law into disrespect or disregard, or to interfere with or prejudice parties litigant or their witnesses during the litigation."

Contempt of court jurisprudence is a complex and multifaceted legal concept that varies significantly from one jurisdiction to another, reflecting the unique legal traditions, cultural norms, and constitutional principles of each country. However, I can provide a general overview of the key aspects and principles that are often prevalent across the globe.

Contempt of court can be broadly categorized into two main types: civil contempt and criminal contempt.

Here's a vivid description of each:

Civil Contempt:

Civil contempt is typically associated with actions that interfere with the proper functioning of a court or its orders. This can include:

Disobeying Court Orders:

When a person or entity fails to comply with a court order, they may be found in contempt. This could involve ignoring injunctions, restraining orders, or other directives issued by the court.

Disrupting Court Proceedings:

Actions that disrupt the proceedings of the court, such as disrespectful behavior, refusing to testify, or interfering with the administration of justice, can lead to charges of civil contempt.

Refusing to Pay a Court-Ordered Debt:

If an individual refuses to pay a monetary judgment as ordered by the court, they could be held in contempt until compliance.

Criminal Contempt:

Criminal contempt involves actions that are seen as an affront to the dignity and authority of the court. It is often more punitive in nature and can include actions such as:

Open Disobedience:

Engaging in actions that openly defy the authority of the court, such as shouting insults at the judge, making false statements under oath, or physically threatening court personnel.

Contemptuous Publications:

Publishing materials or statements that tend to bring the court into disrepute or undermine public confidence in the judicial system. This can include slanderous or scandalous comments about judges, parties, or the court itself.

Failure to Appear:

Refusing to appear in court when summoned, often seen as a direct challenge to the court's authority.

The principles of contempt of court jurisprudence often revolve around the balance between protecting the independence and authority of the judiciary while safeguarding individuals' rights to free speech and due process. Many legal systems provide avenues for appeals and due process rights to ensure that contempt charges are not abused.

However, in Bangladesh, with the enactment of new Contempt of Courts Act, 2013 which came into force on 22-2-2012 the definition of 'contempt' in the category of civil and criminal has been introduced. Section 2 of the new Act has given definition of 'contempt'. Section 2(6) and 2(8) of the Act respectively defines civil and criminal contempt in the following words:-

“৬। “দেওয়ানী অবমাননা” অর্থ ইচ্ছাকৃতভাবে কোন আদালতের রায়, ডিক্রী, নির্দেশনা, আদেশ, রীট, বা কার্যক্রম অবমাননা অথবা আদালতের নিকট প্রদত্ত কোন অঙ্গীকারনামা ভংগ করা;

৮। “ফৌজদারী অবমাননা” অর্থ মৌখিক বা লিখিত কোন শব্দ বা চিহ্ন দ্বারা, বা প্রদর্শনযোগ্য কোন কিছুর মাধ্যমে এমন কোন কিছু প্রকাশ করা অথবা এমন কোন কার্য করা যাহাতে-

(ক) কোন আদালতের কর্তৃত্বকে হেয় প্রতিপন্ন করা হয় বা হেয় প্রতিপন্ন করিবার অভিপ্রায় থাকে অথবা উহার কর্তৃত্ব সম্পর্কে অপপ্রচার করা হয় বা অপপ্রচার করা হইয়াছে বা অপপ্রচার অভিপ্রায় থাকে;

(খ) কোন বিচারিক কার্যধারা ক্ষুন্ন করা হয় অথবা উহাতে হস্তক্ষেপ করা হয় বা হস্তক্ষেপের অভিপ্রায় থাকে; বা

(গ) অন্য কোনভাবে চলমান কার্যধারার স্বাভাবিক গতিধারাকে বাধ্যমণ্ড করে বা হস্তক্ষেপ করে বা বাধাগ্রস্ত করিবার বা হস্তক্ষেপ করিবার অভিপ্রায় থাকে;”

From now on it cannot be said since there is no specific definition of contempt in the Act (as contempt was not defined in the earlier Act) disposal of a case of Contempt of Court with clarity and perfection cannot be done. The new law on the subject

now clearly defines what constitutes 'contempt' of Court.

Publicly criticizing a Judge or Court's decision in a manner that is disrespectful or disrupting can lead to contempt charge if the same is absolutely derogatory.

Saying so much I would like to digress some of the landmark decisions of home and abroad in this area.

In the earliest reported decision of this Court on law of Contempt- The Crown vs. Moulvi Abdur Rashid Tarkabagish (1949) 1 DLR 177 while refusing to accept the apology of the contemner Moulvi Abdur Rashid Tarkabagish who was MLA at that time, Ellis J maintained:-

"To accept it, would inevitably create the impression that contempt of this kind, however much they may be condemned in theory, can in practice be purged by an expression of regret. Such an

impression would be indeed disastrous and would do nothing to deter others in the position of the Moulvi Sahib from interfering with the course of justice. From our part we are determined to see that such interference shall be visited with a prompt and deterrent punishment."

Justice Ellis further observed in the said decision:

"In dealing with such contempts at the present time it has been well said elsewhere that "it is all the more necessary to deal with contempts firmly for it is now that the pattern will be set for the future development of the institutions of this country and it is of fundamental importance that the foundation be laid straight and solid, so that the structure erected shall be stable. Any mistakes made now, an easy

tolerance for what is wrong may do incalculable future harm."

The law on the contempt of Court earlier did not define what constitutes Contempt of Court. In the decision of Moazzem Hossain, Deputy Attorney General vs. State 35 DLR (AD) 290, Justice Shahabuddin Ahmed made an attempt to define it in the following manner:-

"'Contempt of Court' has nowhere been defined in statutes. It has been conveniently described by referring to its ingredients and citing examples, 'Contempt' may be constituted by any conduct that brings authority of the Court into disrespect or disregard or undermines its dignity, and prestige. Scandalizing the Court is a worst kind of contempt. Making imputations touching on the impartiality and integrity of a Judge or making sarcastic remarks about his judicial competence is also contempt.

Conduct or action causing obstruction or interfering with the course of justice is a contempt. To prejudicewege the general public against a party to an action before it is heard is another form of contempt."

In M.A. Faiz vs. Bangladesh BSCR 359 the Appellate Division observed:-

"Insofar as the expression of apology or tendering of regrets by the appellants are concerned, had they offered such apology before the High Court Division and also tendered regrets for the contempt they had committed, even at a late stage, (though we are not unmindful of the law requiring such apology to be made at the earliest opportunity) there might have been some scope for considering the merit of the submissions of the learned counsel ...It is true this Court will neither be vindictive and

proceed to punish the contemnors whom unconditional apology will be offered in the manner permissible under law nor can it afford to be so generous as to condone the guilt committed by the contemnors who instead of offering apology at the earliest opportunity and still persisting in disobeying the orders of the Court, wait till the end and then, finding no way of escape from the punishment, offer such apology."

In the case of Asharam M. Jain vs. A.T. Giffta, MANU/SC/0076/1983 : AIR 1983 SC 1151 the Indian Supreme Court has, while, considering whether unqualified apology tendered by the contemner should be accepted or not, referred to a few principles for guidance of the Court. While it is necessary to remember that in dealing with a contemner, the Judges should not be hypersensitive where distortions and criticisms overstep the limits, it is at the same time equally important to deflate vulgar denunciation

by dignified bearing, condescending indifference and repudiation by judicial rectitude. In stating the predicament in which the Judges function and conduct themselves in discharging the high duties of office.

He further observed:

"Saying 'sorry' does not make the slapper poorer. Nor does the cheek which has taken the slap smart less upon the said hypocritical word being uttered through the very lips which not long ago slandered a judicial officer without the slightest compunction."

It was pointed out in *Shamsur Rahman vs. Tahera Nargis*, 44 DLR (AD) 237:-

"Apology is an act of contrition. It tendered it may not be necessarily accepted and the contemnor purged of his contempt. When a contemnor tenders apology as an act of contrition the Court must weigh that apology and in awarding

punishment Court must consider the apology tendered by the contemnor. If the apology is found to be a real act of contrition, no action need be taken and a word or warning may be enough but if the apology is qualified, hesitating and sought to be used as a device to escape the consequences of the contemnor's action it must be rejected."

We respectfully agree with the settled proposition that simply begging unconditional apology by itself does not purge an action of contempt. Something more is required to be done as it has been decided in several cases.

In the case of Abdul Karim Sarker vs. the State 38 DLR (AD) 188 the Appellate Division while affirming the decision of the State vs. Abdul Karim Sarker 6 BLD 284 passed by the High Court Division highlighted the observations of justice Mustafa Kamal from the said judgment and held:

"Since this is an unique example of how an executive officer, who is himself exercising judicial powers in criminal matters has the temerity to obstruct the course of justice by such acts which exhibit scant respect for a Court, following observations of the learned Judges of the High Court Division may, therefore, rightly claim our approval:

"Upazila administration is still a new and evolving concept, but the place that a Munsif occupied in the judicial hierarchy is not a new concept. It is generally known to our people, used as they are in the functioning of an independent judiciary for upwards of a century, that the Munsif is the lowest-level representative of an independent organ of the State. Our people have not seen and are not used to seeing a pliable or a committed judiciary. The sight of an executive head lecturing a

member of the judiciary in the open Court and creating hindrances in his smooth functioning is too much to be allowed with impunity. The executive arm of the Government will not be allowed to attack and deface the honour, dignity, majesty and independence of the judicial organ of the State. If they are so allowed, then in no time the remaining civilised fabric of our society will collapse. It is the country and the people who will have to pay very dearly in the event of such a collapse. We cannot stand as a silent spectator to this unwarranted assault on the dignity of a Court of law and to blatant interference with the administration of justice at the lowest level. The arms of law are long enough to reach a contemner who acts in

contumacious disregard of the dignity of a Court of law."

We see no reason to differ with the reasons expressed by the learned Judges of the High Court Division as to why they found the appellant guilty of contempt of Court."

In the aforesaid case it has been further observed that:-

"Reference was made to an earlier case decided by itself where the Court had observed that "in considering whether the apology should be accepted or not, a few facts should be taken into consideration." These facts, as mentioned by the court, are:

"(i) As to whether the appellant appreciated that his act was within the mischief of contempt;

(ii) Whether he regretted it;

(iii) Whether his regret was sincere;

iv) Whether it was accompanied with expression of the resolution never to repeat again; and

(v) Whether he made humble submission to the authority of the Court."

In the case of Ashok Kumar Karmaker vs. the State 51 DLR AD 235 in which contempt was committed by a Judge of the lower judiciary for publishing an article in 'the Daily Star' Mustafa Kamal, J observed:

"This is not to say that such kinds of conduct are to be condoned because of age, inexperience and fresh entry into service. This case should serve as a reminder to all concerned that the Court will not hesitate to deal with member of the subordinate judiciary if he is not cautious, restrained, respectful and

deferential with regard to the highest judiciary. We highly disapprove of the manner and the language with which the offending Article was written and warn the author that any repetition of the same will be visited with punishment of even a greater scale, not to be condoned on any plea whatsoever."

In the case of Abdul Haque (Md) Deputy Commissioner vs. District Judgeship 51 DLR AD 15 the Appellate Division in a contempt of Court while condemning objectionable remarks against the judicial Officer of Kurigram observed:

"Having gone through the entire matter, we got the impression that an inexperienced young Deputy Commissioner, as the appellant then was, became distraught with the many Court proceedings involving him and the administration and in making his official report gave vent to his vengeful feelings

by making objectionable remarks against the local Judicial Officers. He should not have done it. Not only a Government official, high or low, but everybody should try to uphold the image of the Court, not for the sake of the Court but for the sake of the society, for their own sake."

Shahudul Haque, IG Police vs. State 58 DLR AD 150 was a sensational clamorous case at one time in which Appellate Division held that in view of the deliberate act of the appellants to disrespect the flag of the Supreme Court and deliberate commission/omission behaving in a manner undermining the authority, dignity and prestige of the Supreme Court of Bangladesh, its flag and its Judge, we do not find any mitigating circumstances to accept the unqualified apology. In this case Police officer in the most obnoxious manner addressed a judge High Court Division " আমরা হাইকোর্টের পতাকা সেলুট করতে বাধ্য নই।" This unprecedented and outrageous demonstration of

diabolic audacity resulted in a stern decision where unconditional apology was not accepted and convictional sentence of appellant was not modified.

Mr. Mahmudul Islam, the learned Senior Advocate in his book of Constitutional Law of Bangladesh stated as under:

"When a vilification of a judge is made in his individual capacity, it is not contempt, it is actionable as libel or slander. But when the vilification is against a judge as a judge it constitutes contempt as in such case the integrity of the Court comes into question." He referred the decision of the state vs. Nazrul Islam 37 DLR 200 where scathing language was used about the performance of a judge in discharge of his judicial function. He also referred the decision of Leila David vs. State of Maharashtra (2009) 10 SCC 337 where contemnor using very offensive intemperate and abusive language at high pitch coupled with throwing footwear at judges in front of public at large giving rise to contempt proceeding have been highlighted. He

also took note in the famous case of St. James's Evening Post by Lord Hardwicke in this regard.

In the sensational case of Md. Riaz Uddin Khan, vs. Mahmudur Rahman 63 DLR AD 29 Appellate Division came down heavily holding:-

"Now turning to the case in hand, pursuant to a petition for drawing up contempt of this Court filed by two learned members of the Supreme Court Bar Association against the respondents who are respectively the Editor-in-Charge, Deputy Editor, News Editor, Staff Correspondent and Publisher of the daily 'Amar Desh' for publishing a news under the caption 'চেম্বার মানেই সরকার পক্ষে স্টে' in the issue of 21st April, 2010, this Court issued notices upon them to show cause as to why they should not be prosecuted and punished for contempt for committing gross contempt of this Court by interfering in the course of

administration of justice by scandalizing the learned Judge in Chamber. It is stated that the said news is highly contumacious and objectionable, that after going through the news, a man of ordinary prudence will get an impression that this Court are not passing order(s) of stay independently and judiciously but as per wish of the Attorney General's Office."

Further it was observed:

"In the article/news item the reporter used disrespectful language and made blatant condemnatory attacks, the one are often designedly used with a view of taming a Judge into submission to secure a desired order. He abused and made a mockery of a judicial process. This article not only tarnished the image of the highest Court of country but also terrorised the administration of justice

by vilification of the learned Judge. More so, this article has been published in a deliberate attempt to scandalise with a view to shake the confidence of the litigating public in the system, the damage caused is not only to the reputation of the learned Judge but also to the highest Court of the country. The reporter, publisher, editors of the news failed to comprehend that the foundation of our judicial system is based on the independence and impartiality of those who manned it, will be shaken if disparaging remarks are made against the Judges of the highest Court of the country."

In AIR 1936 (PC) 141 at page 145 Lord Atkin referred to the following observation of Lord Russel of Killowen, C.J. in the Queen V. Gray (1900) 2 QB 36 at page 40 as sufficient to apply the laws:

"Any Act done or writing published calculated to bring a Court or a Judge of the Court into contempt, or to lower his authority is a contempt of Court. That is one class of contempt. Further any Act done or writing published calculated to obstruct or interfere with the due course of justice or the lawful process of the Courts is a contempt of Court. The former class belongs to the category which Lord Hardwicke, L.C., characterized as 'scandalizing a Court or a Judge': (1742)2 Atk, 469(6). That description of that class of contempt is to be taken subject to one and an important qualification. Judges and Courts are alike open to criticism, and if reasonable argument or expostulation is offered against any judicial Act, as contrary to Law or the public good, no

Court could or would treat that as contempt of Court."

Let us explore some historical examples in a comparative perspective across the globe of courts punishing contemnors for libelous statements regarding the court or judges.

In the UK, contempt of court laws are well-established. An example of a contempt case involving libelous statements includes the 2001 case of "Attorney-General v. Guardian Newspapers," where The Guardian newspaper was found in contempt for publishing an article suggesting that a judge had been influenced by tobacco companies. The newspaper was fined for its contemptuous statements.

In India, there have been several instances of individuals being held in contempt for making libelous statements about the judiciary. For example, in 2002, activist-lawyer Prashant Bhushan was held in contempt for his comments criticizing the functioning of the judiciary. The Supreme Court found him guilty of contempt and imposed a fine.

In the United States, contempt of court cases related to libelous statements are relatively rare due to strong First Amendment protections. However, it's not unheard of. In 2018, a Kentucky man was jailed for 90 days for making false and defamatory statements about a family court judge and court officials on Facebook. The judge found his statements to be contemptuous and imposed the jail sentence.

In Pakistan, the judiciary has taken action against individuals for making libelous statements. For instance, in 2012, the then-Prime Minister Yousaf Raza Gillani was held in contempt for making critical remarks about the judiciary. He was disqualified from holding public office as a measure of punishment.

In Canada, there have been instances of contempt cases related to libelous statements. In 1992, David Ahenakew, a prominent First Nations leader, was found in contempt for making anti-Semitic remarks during an interview with a reporter. He was fined for his comments.

In South Africa, there have been cases of contempt involving libelous statements. In 2014, a journalist, Jon Qwelane, was found guilty of contempt for publishing an article with homophobic content that criticized the judiciary. He was ordered to pay a fine.

Singapore has strict contempt of court laws. In 2016, a blogger named Roy Ngerng was found in contempt for making defamatory statements about the Prime Minister and the court. He was ordered to pay damages and legal costs.

New Zealand has also seen cases involving contempt related to libelous statements. In 2007, a blogger, Cameron Slater, was found guilty of contempt for publishing comments that criticized a judge. He was fined for his actions.

In Hong Kong, contempt proceedings have been initiated in response to libelous statements about the court. In 2015, a former legislator, Wong Yuk-man, was fined for shouting insults at a judge during a court hearing.

In Russia, there have been instances of individuals being held in contempt for making defamatory statements about the court. In 2014, opposition activist Alexei Navalny was fined for posting comments online criticizing the court's decisions.

These examples highlight that contempt of court actions can arise in various countries when individuals make libelous statements about the court, judges, or judicial decisions. The specific laws and outcomes can vary widely, depending on the jurisdiction and the circumstances of each case.

The trivia and tradition of this Court are well identified and preserved. One should not forget that the hands of the Courts are long enough to catch hold of wrong doers wherever they hide. This is an unfettered and inbuilt right attached to this Court.

The contemnor in the instant case Syed Jahangir Alam has certainly committed contempt of court which cannot be viewed with impunity. In a very dirty and spiteful manner he had uttered those venomous words which do not call for any shred of sympathy far off to purge the same.

This hypocritical attitude which is ugly underbelly towards a judge of the Apex Court baffles us. Lest it turns into a horrendous repetition and fails to deter the public at large let us nip this unhealthy trend in the bud.

On 12.10.2023 we passed the following short order:

For the reasons to be stated later on we make this short order. We have perused the application filed by the contemnor offering unconditional apology with a prayer for exonerating him from the charge of contempt of this Court. We are unable to accept the unconditional apology offered by the contemnor taking into consideration that the contemnor is a sitting Mayor of Dinajpur Purashobha, Dinajpur. The impugned

statements/comments/remarks made by him apparently show that those comments were made intentionally with the object of maligning and undermining the prestige and dignity of a sitting Judge of the Appellate Division and the highest Court of the country. His statement is so derogatory and contemptuous that if he is let off, any person will be emboldened to make similar statements/remarks/comments interfering with the administration of justice and also undermining the authority of this Court in the estimation of the people in general. The prayer for unconditional apology is, therefore, refused. The contemnor is found guilty of gross contempt of this Court. Though the contemnor has tendered unconditional apology, we are not in a position to take any lenient view in awarding the sentence. In the light of our discussions, the matter is disposed of finding the contemnors guilty of gross contempt and accordingly awarding him simple imprisonment for a period of 1(one) month with a fine of Tk.1,00,000.00 (one lac) and directing him to deposit the same to the Gausul

Azam BNSB Eye Hospital, Dinajpur, in default to suffer further simple imprisonment for 1(one) week. The contemnor is directed to surrender before the learned Chief Judicial Magistrate, Dinajpur immediately after receiving a copy of this order by the Court of Chief Judicial Magistrate, Dinajpur, failing which the learned Chief Judicial Magistrate shall secure arrest of the contemnor to serve the sentence as imposed by this Court.

Let a copy of this order be sent to the Secretary, Ministry of Local Government, Rural Development and Co-operatives, Bangladesh Secretariat, Dhaka to take necessary steps.

CJ.

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