

In The Supreme Court of Bangladesh
High Court Division
(Special Original Jurisdiction)

PRESENT:

**MR. JUSTICE ABU TAHER MD. SAIFUR RAHMAN
AND
MR. JUSTICE MD. BASHIR ULLAH**

Suo-Moto Contempt Rule No. 04 of 2023

State

-Versus-

Habibur Rahman Habib

....Contemnor

Mr. K.M. Masud Romy, DAG with
Mr. Md. Ahsan Ullah, AAG with
Mr. Mehadi Hasan (Milon) AAG and
Ms. Aleya Khandker, AAG

.... for the state

Mr. Md. Fazlur Rahman with
Mr. A.M. Mahbubuddin with
Mr. Syed Mamun Mahbub with
Mr. Md. Ruhul Quddus with
Mr. Mohammad Ali with
Mr. Sagir Hossain, Advocates

.... for the Contemnor

Heard and Judgment on: The 22nd of November, 2023

Abu Taher Md. Saifur Rahman, J:

This matter has been referred by the Hon'ble Chief Justice to this Court for disposal. Accordingly, this matter has come up in today's cause list for hearing.

On perusal of the Court order dated 15.10.2023, it transpires that the Hon'ble High Court Division comprising Mr. Justice J. B. M. Hassan and Mr. Justice Razik Al Jalil took judicial notice of a

complaint about the contents of two video clips stored in a pen drive filed by the Registrar General, Supreme Court of Bangladesh which reflect derogatory and contemptuous remark made by the contemnor Habibur Rahman Habib about one of Hon'ble Justice of the Bangladesh Supreme Court, High Court Division in connection with the judgment of a Zia Orphanage Trust Case. The aforesaid two video clips were subsequently transmitted through YouTube and Facebook. The relevant portions of the contents of those video clips are as follows:

“ইউটিউব-----লিংক-----<https://youtu.be/whG7kIU?feature=shared>

উক্ত বক্তব্যে জনাব হাবিবুর রহমান হাবিব বলেছেন -

“তার একবার শাস্তি হলো ০৫ (পাঁচ) বছর জেল, সশ্রম কারাদন্ড। আমি ঐদিন বলেছিলাম বিচারপতি ডঃ আখতারুজ্জামান সাহেব, আপনার মা বেঁচে থাকলে মাকে গিয়ে জিজ্ঞাসা করেন, মা, আমি একজন বয়স্ক মহিলাকে জেল দিয়ে আসছি, সশ্রম কারাদন্ড দিয়ে আসছি, তুমি কি বলো? আপনার মা বলবেন, এই জায়গাতেই বলেছিলাম, আপনার মা বলবে তুমি আমার সন্তান না, তুমি একটা কুলাঙ্গার। এতদিন তোমার জন্য গর্ববোধ করতাম, এখন আর গর্ব করি না, তুমি একটা কুলাঙ্গার সন্তান। তোমার মতো সন্তান জন্ম না দেয়াই উচিত ছিল। এত বছর বয়স্ক একজন মানুষ নিজে চলতে পারে না, তাকে সশ্রম কারাদন্ড দেয়? আদালত অবমাননার দায়ে আমাকে ই করা হোক।”

২। অপর একটি ভিডিও তে বাংলাদেশ জাতীয়তাবাদী দল (বি,এন,পি) এর চেয়ারপারসন এর উপদেষ্টা জনাব হাবিবুর রহমান হাবিব এর একটি বক্তব্য রয়েছে

যেখানে বাংলাদেশ সুপ্রীম কোর্ট, হাইকোর্ট বিভাগের মাননীয় বিচারপতি জনাব মোঃ

আখতারুজ্জামান মহোদয়ের সম্পর্কে অবমাননাকর উক্তি করা হয়েছে।

এই বক্তব্যে জনাব হাবিবুর রহমান হাবিব বলেছেন, “শপথ করে বলে যেতে চাই,

এই সরকার যেদিন ক্ষমতায় থাকবে না, ঐ বিচারপতি আখতারুজ্জামান জীবিত

থাকলেও তাকে মরতে হবে, মরে গেলেও কবর থেকে লাশ ওঠানো হবে।”

Accordingly, the concerned Division Bench of this court issued the instant Suo Moto Contempt Rule calling upon the contemnor, Habibur Rahman Habib to show cause as to why a proceeding for contempt of Court should not be drawn up against him and as to why he should not be punished for committing contempt of Court and/or pass such other or further order or orders as to this Court may seem fit and proper.

At the time of issuance of this Rule, this Court was pleased to give a direction upon the contemnor, Habibur Rahman Habib to appear in person before this Court on 6th November 2023 at 10.30 a.m. to explain his conduct regarding the aforesaid matter. However, the contemnor did not appear before this Court on that day. Thereafter, this Court was pleased to pass an further order dated 08.11.2023 by giving a direction to the Inspector General of Police (IGP) to trace/search the said contemnor through his department and thereby ensure his presence before this Court on or before 07.12.2023. Subsequently, the contemnor was arrested by the police and produced before this Court today.

During the hearing, we played the aforesaid video clips from the pen drive through the laptop in presence of the contemnor in open Court. After watching the aforementioned video clips, we asked the contemnor to say on oath whether the contents of the aforesaid video clips are his own or not. In reply, he made the admission on oath that the content as displayed in the aforesaid video clips are his own statements/remarks. Thereafter, the contemnor addressed before this Court that he wanted to say something about the content of the aforesaid video clips, which was allowed by this Court.

At this stage, the contemnor mentioned before this Court that he respects the Chairperson of Bangladesh Nationalist Party (BNP), Mrs. Begum Khaleda Zia like a mother, who was convicted and sentenced to five years imprisonment in connection with Zia Orphanage Trust Case, which makes him very upset. He strongly further contended that his leader, Mrs. Khaleda Zia did not get proper justice from the Court, and out of emotion, he made the aforesaid remarks about the concerned Judge of the said case but he did not have any repentance for his aforesaid remarks as contained in the said video clips, which he made on a television talk show.

He further vehemently expressed before this court that he is mentally ready to accept the consequence of his remarks whatever it is.

He further contended that he is mentally ready to sacrifice his life to protect the life of his leader, Mrs. Khaleda Zia.

After admission made by the contemnor about the content of the aforesaid video clips we asked the learned Advocates for the contemnor whether they wanted to say anything more apart from the contention raised by the contemnor in the instant case. In reply, they said “No”.

Now, let us examine to see whether the aforesaid remarks as contained in the aforesaid video clips made by the contemnor in a television talk show amounts to contempt of Court.

It is well settled principal of law that any act done or writing published calculated to bring a court or a judge of the court into contempt or to undermine his authority amounts to contempt of Court and it can briefly be categorized as scandalizing the court itself. We have to keep in mind that Judges have to be afforded the utmost protection if the administration of Justice is to remain independent, clean, fairless and impartial.

In the instant case, the aspersion and allegation made by the contemnor as contained in the aforesaid video clips undoubtedly have the effect of scandalizing the court in relation to its judicial functioning and undermining its dignity which is wholly unjustified and uncalled for on the dignity and fairness of the Judge of the Court in discharge of their judicial function.

In the instant case, the contemnor contended that out of emotion he made the aforesaid remarks about the Judge of the Supreme Court of Bangladesh, High Court Division as contained in the video clips. On the other, he vehemently also expressed before this Court that he did not have any repentance for his aforesaid remarks and he is also mentally ready to accept the consequence of his said remarks whatever it is. So the contention as raised by the contemnor that he made the statements out of emotion is not acceptable.

Moreover, in the case of Contempt of Court, the intention of the contemnor is immaterial. The question in such a case is what was the effect of the remarks as made by the contemnor. The intent has to be inferred from a consideration of the general meaning of the words used and the impression that he conveys to ordinary people.

In the instant case, the language/remarks, he (contemnor) used against the Judge of the Hon'ble Supreme Court certainly offended the Majesty of Law and undermined the dignity of the Court, which is very serious in nature. In the instant case, the contemnor crossed all boundaries of recklessness and thereby it ends up lowering the dignity and authority of the Court and also shows seeds for persons with a similar propensity to undermine the authority of the Court or the judiciary as a whole.

Thus in the facts and circumstances of the case, the contemnor is liable to be guilty of having committed a gross criminal contempt of Court.

Under the given circumstances, we find substance in this Rule.

As a result, the Rule is made absolute.

Accordingly, the contemnor is hereby convicted for contempt of Court and thereby sentenced to suffer simple imprisonment for a period of **5 (five)** months and to pay a fine of **Tk. 2,000/-** (Taka Two Thousand).

The Registrar General of the Supreme Court of Bangladesh is hereby directed to send the contemnor to jail with a conviction warrant.

Md. Bashir Ullah, J:

I agree