IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL CONTEMPT PETITION REFERENCE NO. 1 OF 2022

Sajiduzzaman Mhammad Hanif Shahid APPLICANT
Aged 40 years,
Occupation :Civil Judge (J.D.) &
J.M.F.C., Arni, Taluka: Arni
District : Yavatmal
R/o : Judges Quarter No.1,
Civil & Criminal Court Premises,
Arni, District Yavatmal

// V E R S U S //

1. **Sagar Durgadas Rathod,** NON-APPLICANTS
Aged about 30 years,
Occupation- Advocate
2. **Durgadas D. Rathod,**
Aged about – 55 Years,
Occupation- Advocate,
R/o Bar Room Arni Court,
Criminal Court Arni,
Tahsil – Arni, District Yavatmal

Mr. J.M. Gandhi, (Appointed) as Amicus curiae.
Mr. Rahul Mirza, Advocate for respondent No.1.
Mr. S.P. Bhandarkar, Advocate with Mr. Atharva Khadse, Advocate for respondent No.2.

CORAM : URMILA JOSHI PHALKE, &
RAJ D. WAKODE, J.J.

JUDGMENT RESERVED ON:- 21.09.2026
JUDGMENT PRONOUNCED ON:- 05.10.2026

Uploaded on - 05/10/2026 Downloaded on - 06/10/2026 06:44:45

J U D G M E N T : (PER URMILA JOSHI PHALKE)

1. Present Criminal Contempt Reference has been forwarded by the Civil Judge, Junior Division and Judicial Magistrate First Class, Arni alleging that the respondents, who are advocates by profession committed a misconduct. As per his contention, he is serving as a Civil Judge, Junior Division and Judicial Magistrate First Class and at the relevant time was posted at Arni District Yavatmal. Regular Criminal Case No.213/2019 (State vs. Nilesh Jadhav and Ors.) bearing RCC No.213/2019 was pending before him. On 21.09.2020 it was fixed for evidence but accused were absent. Therefore, he passed an order of issuance of bailable warrant against the accused persons. Due to pandemic Covid-19 since March 2020 till 1 August 2021 proceedings were conducted on as per SOP issued by the High Court. Therefore, no bailable warrants were issued by the Court. However, on 05.08.2021 bailable warrants came to be issued in view of order dated 29.01.2020. Thereafter, the matter was adjourned time to time as accused persons were remained absent and bailable warrants were un-served. On 26.11.2021 R.C.C. No.213/2019 was fixed for return of bailable warrant and he noted that though accused No.1 Nilesh Jadhav served with bailable warrant, but he

Uploaded on - 05/10/2026 Downloaded on - 06/10/2026 06:44:45

remained absent. Therefore, he passed an order issuing non bailable warrant against him. After he passes the order, he was busy in the work and conducting the proceeding. At the relevant time his staff senior clerk Shri Tufail Pathan and Junior Clerk Shri Narendra Mathne and Mr. S.N. Khan, Advocate were present in the Court. The non-applicant No.1, who is an Advocate appeared and submitted that accused No.1 Nilesh Jadhav is present but due to some reasons he could not enter into the Court and filed an application for cancellation of warrant. On giving call to the accused, Accused No.1 Nilesh Jadhav found absent. Therefore, application for granting exemption to accused No.1 is filed vide Exh.28. Subsequent to that, the non-applicant No.1 filed pursis stating that matter is settled among the parties out of the Court and he filed an application for cancellation of warrant. He submitted that as per order passed in Writ Petition No.4419/2013 warrant can be cancelled in the absence of accused also. He further insisted the Court to record the evidence of informant. However, as the matter was fixed for return of bailable warrants of other accused and unless their warrants are cancelled and their presence is secured, the petitioner told the evidence cannot be recorded. However, non-applicant No.1 started shouting in the

Uploaded on - 05/10/2026 Downloaded on - 06/10/2026 06:44:45

Court hall saying that "कोर्टाला आम्हाला त्रास द्यावयाचा आहे तसेच, कोर्ट एका डोळ्याने घेत नाही व आमचे केससमध्ये पाहुन जास्त दंड करतात, आम्ही तुम्हाला पाहुन घेईल, तुमची तक्रार करणार आणि आम्ही बारचा ठराव घेउन कोर्टाविरुध्द कारवाई करणार". Thereafter the non-applicant No.1 has made wild, unsubstantiated and scandalous allegations against the applicant/petitioner. He also pressurized him and try to interrupt the administration of justice. At the relevant time, Mr. S.N. Khan, advocate made an attempt to calm down him and asked him to maintain the decorum in the Court. However, he has not paid any heed towards Mr. Khan. The act and the statement of the non-applicant No.1 was very shameful in the Court hall.

2. It is further contended by the petitioner that after some time when he was busy in conducting the proceedings and especially was passing an order in the same matter, the non-applicant No.2 entered into the Court hall and raised fingers towards him by saying "जर काही रेकॉर्डवर घेतले आणि कार्य व ही केली तर आम्ही तुम्हाला सोडणार नाही तसेच तुमचेविरुध्द भ्रष्टाचाराचे पुरावे वरिष्ठ अधिका-याना सादर करु". It is contended that as the acts and statements of the non-applicants were very shameful as well as gestures of non-applicants were also recorded by him in the order. The act of non-

Uploaded on - 05/10/2026 Downloaded on - 06/10/2026 06:44:45

applicants was contemptuous and therefore, show cause notice was issued to them. Despite the service of notice, replies are not filed by the non-applicants. The non-applicants gave a false explanation that they could not file their reply as they could not get the copies of the orders. However, report of the record section shows that the application for obtaining certified copies itself was not filed. Finally they have submitted their reply on 25.06.2024 by filing an affidavit. Being the reply was not found trustworthy the reference was made by him to this Court. It is contended by the applicant that the conduct of the non-applicants are such that its substantially interferes with the due course of justice and administration of justice and it is necessary to punish them for the contempt to hold the majesty of law.

3. This Court has taken cognizance of the said reference and issued the notices to the non-applicants returnable on 15.09.2022. It reveals from the order passed by this Court dated 25.09.2023 that despite service of notice to the contemnors failed to appear and considering the conduct this Court left with no other option but to issue bailable warrant against respondent Nos.1 and 2 returnable on 30.10.2023. This Court further directed

Uploaded on - 05/10/2026 Downloaded on - 06/10/2026 06:44:45

Sub-Divisional Police Officer, Arni to ensure the service of bailable warrant against respondent Nos.1 and 2 in the sum of Rs.15,000/- each. By the same order, this Court appointed Mr. J.M. Gandhi, Advocate as Amicus Curiae to assist the Court in deciding the present proceeding.

4. The reply was filed by the respondent Nos.1 and 2. They have denied all the allegations in the reference and stated that all the allegations levelled by the applicant in the present reference are nothing but misunderstanding created by some of mischiefs monstrous and his rivals so also it appears that it all arose while answering non-applicant No.1 was representing his client and all those alleged incidents mentioned are apparently took place while making submissions which does not amount to contempt of court. The non-applicant No.2 has also taken the similar stand and contended that the applicant had misconstrued the various representations made by answering non-applicant No.2 in respect of the grievances of the fellow colleagues being their representative at Bar and it was general practise adopted since long by the office bearers of the Bar administration to make oral request to the Presiding Officer as well as Registrar of this

Uploaded on - 05/10/2026 Downloaded on - 06/10/2026 06:44:45

Court. He further submitted that he tenders unconditional apology before this Court and it be accepted.

5. Thus, sum and substance which appears from the reference petition is that as the accused to whom the non-applicant No.1 was representing against whom the warrant was issued and non-applicant No.1 was insisting to cancel the warrant in absence of the accused and thereafter the alleged incident as narrated has occurred.

6. Before addressing the issue involved, we would like to refer the orders passed by this Court on 12.02.2025 which shows that this Court noted *prima-facie* satisfaction about the contemptuous conduct of the respondents and as such caused notices to the contemnors who are advocates by profession.

> *"The Court noted as "(1) the respondent Nos.1 and 2 are son and father duo who are in the noble profession of advocacy." confirmed for almost one year, the notices were not served.*
> *(2) though the respondents were served in June-2023, the respondents remained absent. Therefore, on September, 25, 2023 this Court caused bailable warrants against the respondents and appointed Mr. J.M. Gandhi, Advocate as Amicus Curiae to assist the Court.*

Uploaded on - 05/10/2026 Downloaded on - 06/10/2026 06:44:45

(3) It appears that the respondents have filed their reply and have sought exemption from personal appearance which was granted by this Court. The respondent No.2 initially appointed Shri Adil Mirza, as his counsel however, from August 20, 2024 the respondent No.2 sought adjournments seeking permission to appoint some other advocate in the matter. Almost for last five months, the respondent no.2 had not engaged a lawyer and on December 14, 2024 Shri S.P. Bhandarkar, Advocate has filed vakalatnama for the respondent no.2. Today also, the counsel for the respondents are seeking adjournment in the matter.

(4) We are required to remind the respondents of the orders dated August 23, 2022 and September 25, 2023. The very conduct of the respondent no.2 in changing the advocates time and again has resulted into the present criminal contempt proceedings being prolonged. In this background, we recall the order granting personal exemption to both the respondents to whom, we direct to appear before this Court on February 28, 2025. If not satisfied with the bona-fides, the Court is contemplating framing charge under the Contempt of Courts Act, 1971 and if so required, referring the proceedings to the Disciplinary Committee of the Bar Council of Maharashtra and Goa."

Uploaded on - 05/10/2026 Downloaded on - 06/10/2026 06:44:45

7. In an order dated 03.03.2025 by noting the entire incident the Co-ordinate Bench of this Court in paragraph No.9 noted as under:-

> *"The nature of the conduct of both these respondents before the Court particularly when the respondent No.2 who was holding the post of the President of the Bar Association and giving threats in the open Court to the Judicial Officer needs to be viewed very seriously. If the apology which is tendered is not genuine one or bonafide, it is not necessary for the Court to accept the same. Rather, it is always open for the Court by recording the reasons to reject the apology tendered by the respondents."*

8. The Court further noted the reasons why the apology tendered by the respondents- contemnors was not accepted and calls for explanation as to why reference be not made to Disciplinary Authority of Bar Council of Maharashtra and Goa for initiating disciplinary proceedings against both the respondents under provisions of the Advocates Act and call for their response. The record further shows that on the oral direction of this Court the respondents tendered unconditional apology before the concerned Judicial Magistrate First Class i.e. Civil Judge Junior Division, J.M.F.C. Aheri, who was the then Judicial Magistrate

Uploaded on - 05/10/2026 Downloaded on - 06/10/2026 06:44:45

First Class at Arni District Yavatmal. The report of the applicant/petitioner addressed to the Registrar Administration shows that respondents have filed affidavit before him submitting that as per oral order of this Court they are tendering the affidavit before him and he has forwarded the said affidavits. In the said affidavits the respondent Nos.1 and 2 have stated that they submits unconditional apology for the kind consideration. They also contended that deponent i.e. respondents have immense respect for the Court. They never intended to demean for the Court.

9. Thus, from the orders which are reproduced herein above it reveals that despite service of the notice issued by this Court respondent Nos.1 and 2 have not bothered to attend the Court and therefore, this Court constrained to issue the bailable warrant against them. It further reveals that said bailable warrants was also not executed approximately 5 to 6 months and reason behind may be respondent Nos.1 and 2 are advocates and respondent No.2 was President of Arni Taluka Court Bar Association. It further reveals that on oral instructions of this Court respondent Nos.1 and 2 filed an affidavit before the

Uploaded on - 05/10/2026 Downloaded on - 06/10/2026 06:44:45

applicant tendering their unconditional apology. Thus, it is apparent that the apology was not tendered by the respondent Nos.1 and 2 at their own. Learned counsel for respondents Mr. S.P. Bhandarakar and Mr. Mirza vehemently submitted that there was no such deleterious effect which required to attract the contempt jurisdiction. They submitted that during the heat of arguments due to the circumstances the alleged incident has occurred and therefore, their unconditional apology be accepted. Mr. Bhandarkar, learned counsel for the respondent No.2 placed reliance on the decision of Hon'ble Apex Court in the case of ***Prashant Bhushan and another, In Re*** reported in ***2021 (1) SCC 745, Mr. S.B. Patil vs. Mr. Manubhai Hargovandas Patel*** (Criminal Reference No.5/2024) decided on 03.09.2024 and ***O.P. Sharma and others vs. High Court of Punjab and Haryana*** reported in ***(2011) 6 SCC 86.***

10. Per contra learned Amicus curiae Mr. J.M. Gandhi, submitted that the respondents are the advocates by profession. Chapter 5 of the Advocates Act 1961 contains provisions as to the conduct of the Advocates. Though the definition of misconduct is not defined under the Act, however, Section 35 of the Act

Uploaded on - 05/10/2026 Downloaded on - 06/10/2026 06:44:45

indicates that the misconduct referred to therein is of a much wider import. He submitted that apology unless offered at the earliest opportunity and in good grace, is liable to be rejected. He submitted that the entire conduct noted by this Court and conduct before the Judicial Magistrate First Class, Arni shows that the respondents never willing to tender their apology and the said apology was not at the earliest apology. As this Court has orally instructed them to tender an apology thereafter they approached to the applicant, tendered their apology. Therefore, it deserves to be rejected. He submitted that the Apex Court has already expressed that apology is not a weapon of defence to purge the guilty of their offence, nor it is intended to operate as universal panacea, but it is intended to be evidence of real contriteness.

11. The respondents are the advocates. The legal profession cannot be equated with any other traditional professions. It is not commercial in nature and is stated as noble considering the nature of duties to be performed and its impact on the society. It cannot be gainsaid that lawyers have contributed in the struggle for independence of the nation. They have helped in the framing of the Constitution of India and they have also

Uploaded on - 05/10/2026 Downloaded on - 06/10/2026 06:44:45

assisted the Courts in evolving jurisprudence by doing hard labour and research work. The nobility of the legal system is to be ensured at all costs so that the Constitution remains vibrant and to expand its interpretation so as to meet new challenges. Thus, the lawyers who bring the cause to the Court are supposed to protect the rights of individuals of equality and freedom. The lawyers are supposed to be fearless and independent in the protection of rights of litigants. Thus, their role is significant.

12. Here in the present case, the respondents charged with the provisions of Contempts of Courts Act. In the case of ***Prashant Bhushan and another*** supra relied upon learned counsel for the respondents states that when the contempt jurisdiction is available and the Apex Court held that it can be exercised (i) when an act adversely affects the administration of justice or which tends to impede its course or tends to shake public confidence in the judicial institutions, or (ii) when a statement tends to undermine the dignity and authority of the court, or (iii) when a statement is calculated in order to malign the image of judiciary, or (iv) when the authority of the court is itself under attack. The Apex Court expressed that the word “authority” does

Uploaded on - 05/10/2026 Downloaded on - 06/10/2026 06:44:45

not mean the coercive power of the Judges, but a deference and respect which is paid to them and their acts, from an opinion of their justice and integrity - if the judiciary is to perform its duties and functions effectively and remain true to the spirit with which they are sacredly entrusted to it, the dignity and authority of the courts have to be respected and protected at all costs. It is for this purpose that the courts are entrusted with the extraordinary power of punishing those who indulge in acts whether inside or outside the courts, which tend to undermine their authority and bring them in disrepute and disrespect by scandalising them and obstructing them from discharging their duties without fear or favour. A tendency to scandalise the court or tendency to lower the authority of the court or tendency to interfere with or tendency to obstruct the administration of justice in any manner or tendency to challenge the authority or majesty of justice, would be a criminal contempt. Thus, it is the duty of the court to exercise contempt jurisdiction for such hostile criticism. Hon'ble Apex Court held that criticism of a Judge, functioning as a Judge even in purely administrative or non-adjudicatory matters amounts to 'criminal contempt'. The judiciary cannot be immune from criticism. But, when that criticism is based on obvious distortion or

Uploaded on - 05/10/2026 Downloaded on - 06/10/2026 06:44:45

gross mis-statement and made in a manner which seems designed to lower respect for the judiciary and destroy public confidence in it, it cannot be ignored. An action for contempt of court, should not be frequently or lightly taken. But, at the same time, the Court should not abstain from using this weapon even when its use is needed to correct standards of behaviour in a grossly and repeatedly erring quarter. It may be better in many cases for the judiciary to adopt a magnanimously charitable attitude even when utterly uncharitable and unfair criticism of its operations is made out of *bona fide* concern for improvement. However, when there appears some scheme and design to bring about results which must damage confidence in our judicial system and demoralize Judges of the highest Court by making malicious attacks, anyone interested in maintaining high standards of fearless, impartial, and unbending justice will feel perturbed. When the question is of injury to an institution, such as the highest Court of justice in the land, one cannot overlook its effects upon national honour and prestige in the country of nations. It further observed that hostile criticism of judges as judges or judiciary would amount to scandalising the Court. Any personal attack upon a judge in connection with the office he holds is dealt with under law of libel

Uploaded on - 05/10/2026 Downloaded on - 06/10/2026 06:44:45

or slander. Yet defamatory publication concerning the judge as a judge brings the court or judges into contempt, a serious impediment to justice and an inroad on the majesty of justice.

13. In the said judgment the Hon'ble Apex Court has considered its constitution Bench Judgment in the case of ***C.K. Daphtary vs. O.P. Gupta*** reported in ***(1971) 1 SCC 626, Anil Kumar Gupta And Ors vs Municipal Corporation Of Delhi*** reported in ***(1973) SCC OnLine Delhi 158*** and held that it has been clearly held by the Constitution Bench that a scurrilous attack on a Judge, in respect of a judgment or past conduct has an adverse effect on due administration of justice. The Constitution Bench has unambiguously further held that this sort of attack in a country like ours has the inevitable effect of undermining the confidence of the public in the Judiciary and if confidence in the Judiciary goes, the due administration of justice definitely suffers. The Apex Court further held that when the conduct of a person tends to bring the authority and administration of the law into disrespect or disregard, the same would amount to scandalising the Court and held Contemnor Mr. Prashant Bhushan guilty of having committed criminal contempt of the Apex Court.

Uploaded on - 05/10/2026 Downloaded on - 06/10/2026 06:44:45

14. Similarly in the case of ***O.P. Sharma and others vs. High Court of Punjab and Haryana*** *by referring the judgment in the case of* ***Chetak Construction Limited vs. Om Prakash*** *reported in* ***(1998) 4 SCC 577*** the Hon'ble Apex Court held that

> *"Indeed, no lawyer or litigant can be permitted to browbeat the court or malign the presiding officer with a view to get a favourable order. Judges shall not be able to perform their duties freely and fairly if such activities were permitted and in the result administration of justice would become a casualty and rule of law would receive a setback. The Judges are obliged to decide cases impartially and without any fear or favour. Lawyers and litigants cannot be allowed to "terrorize" or "intimidate" Judges with a view to "secure" orders which they want. This is basic and fundamental and no civilised system of administration of justice can permit it."*

15. In the light of the above observation of the Hon'ble Apex Court, if the facts of the present case are taken into consideration the reference which is made by the applicant shows that the present respondents were representing the accused in RCC No.213/2019. The accused No.1 Nilesh Jadhav was absent therefore, bailable warrant was issued to him. The applicant fairly

Uploaded on - 05/10/2026 Downloaded on - 06/10/2026 06:44:45

stated that due to Covid-19 pandemic though order of issuing bailable warrant was passed on 29.01.2020 but those were not issued. Firstly, the said bailable warrants were issued on 05.08.2021. The date 26.11.2021 was fixed for return of bailable warrant. He received the report that despite service of bailable warrant, accused Nilesh Jadhav remained absent and therefore, he passed order issued NBW against him as well as notice to surety. After passing of this order he was busy in conducting the proceedings. At the relevant time, non-applicant No.1 appeared and made statement at bar that accused Nilesh Jadhav is present but when he was called out he was absent and therefore, applicant declined to cancel the warrants and rightly so. Thereafter non applicant No.1 insisted the applicant to cancel the warrant and record the evidence as matter is settled between the parties. But applicant declined to do the same as other accused were not present and issue of identification of the accused was involved. On disinclination of the applicant for taking the matter in absence of the accused, non-applicant No.1 uttered the words " कोर्टाला आम्हाला त्रास द्यावयाचा आहे तसेच, कोर्ट एका डोळ्याने घेत नाही व आमचे केससमध्ये पाहुन जास्त दंड करतात, आम्ही तुम्हाला पाहुन घेईल, तुमची तक्रार करणार आणि आम्ही बारचा ठराव घेउन कोर्टाविरुध्द कारवाई करणार". Similarly, non applicant No.2 who was the

Uploaded on - 05/10/2026 Downloaded on - 06/10/2026 06:44:45

then President of the Bar Association of Arni Taluka after sometime entered into the Court hall when applicant was dictating the order threatened him by saying "जर काही रेकॉर्डवर घेतले आणि कार्य व ही केली तर आम्ही तुम्हाला सोडणार नाही तसेच तुमचेविरुध्द भ्रष्टाचाराचे पुरावे वरिष्ठ अधिका-याना सादर करु" which apparently is disturbing the administration of justice. It is clear an interference in the administration of justice. In our opinion, the said conduct of the non-applicant Nos.1 and 2 is scandalous and come under the misconduct. If they are having any grievance regarding the order of the Court, admittedly, it was judicial order, an opportunity was there with them to challenge the said order, but threatening to the Judge by saying that they would take action against him and they are having proofs of corruption, admittedly, depriving him from passing an order fearlessly. These statements apparently made to pressurise and terrorise him from passing an order.

16. Though the respondents have taken defence in their reply that as various resolutions are passed by Bar Council against the applicant and therefore, this reference was made is not substantiated by any material. The contention of learned counsel for the respondents that they have already tendered an

Uploaded on - 05/10/2026 Downloaded on - 06/10/2026 06:44:45

unconditional apology which is to be accepted. As far as acceptance of unconditional apology is concerned, Hon'ble Apex Court in the case of ***T.N. Godavarman Thirumulpad through the Amicus Curiae vs. Ashok Khot and another*** reported in ***(2006) 5 SCC 1*** wherein in paragraph No.31 and 32 observed as under:-

> *"31. Apology is an act of contrition. Unless apology is offered at the earliest opportunity and in good grace, the apology is shorn of penitence and hence it is liable to be rejected. If the apology is offered at the time when the contemnor finds that the court is going to impose punishment it ceases to be an apology and becomes an act of a cringing coward.*
>
> *32. Apology is not a weapon of defence to purge the guilty of their offence, nor is it intended to operate as universal panacea, but it is intended to be evidence of real contriteness."*

17. In ***Suo Motu Contempt Petition (Cri.) No.5 of 2017*** the Hon'ble Apex Court while passing order held that the contempt jurisdiction is not only to protect the reputation of the concerned Judge so that he can administer justice fearlessly and fairly, but also to protect "the fair name of the judiciary". The protection in a manner of speaking, extends even to the Registry

Uploaded on - 05/10/2026 Downloaded on - 06/10/2026 06:44:45

in the performance of its task and false and unfair allegations which seek to impede the working of the Registry and thus the administration of justice made with oblique motives cannot be tolerated. In such a situation, in order to uphold the honour and dignity of the institution, the Court has to perform the painful duties which we are faced with in the present proceedings. Not to do so in the words of ***P.B. Sawant, J. In Sanjiv Dutta, Dy. Secy., Ministry of Information and Broadcasting, In re***, reported in ***(1995) 3 SCC 619*** would "The present trend unless checked is likely to lead to a stage when the system will be found wrecked from within, before it is wrecked from outside. It is for the members of the profession to introspect and take the corrective steps in time and also spare the Courts the unpleasant duty. We say no more."

18. Thus, while considering the aspect whether the respondents are to be convicted for criminal contempt and they are liable for the punishments, it is well settled proposition of law that in deciding whether a contempt is serious enough to merit imprisonment, the court will take into account the likelihood of interference with the administration of justice and the culpability

Uploaded on - 05/10/2026 Downloaded on - 06/10/2026 06:44:45

of the offender. The intention with which the act complained of is done is a material factor in determining what punishment, in a given case, would be appropriate. Facts denoting behaviour of the respondents show that they have threatened the present applicant by saying if he passes an adverse order or if he takes anything on record and takes action accordingly, they will not leave him and the proof of corruption against him would be produced to the superior by saying in marathi "जर काही रेकॉर्डवर घेतले आणि कार्यवाही केली तर आम्ही तुम्हाला सोडणार नाही तसेच तुमचेविरुध्द भ्रष्टाचाराचे पुरावे वरिष्ठ अधिका-याना सादर करु". Utterance of these words by the non-applicant No.2 who was the then President of the Bar Association is to terrorise, pressurise the Judicial Officer. The due administration of law is of greater importance than the success or failure of any individual.

19. Interference in the administration of justice by giving threats, addressing the judicial officer in loud voice and prohibiting him from passing orders are definitely serious acts. More so, when such acts have been done by an advocate who is the officer of the Court, he should promote and see that all others who are present should also maintain the decorum of the Court. Obstruction in judicial process by an advocate cannot be tolerated. In fact by the said act on the part of respondent Nos.1 and 2 the

Uploaded on - 05/10/2026 Downloaded on - 06/10/2026 06:44:45

petitioner could not discharge his duties. The petitioner who is Civil Judge, Junior Division threatened with the complaints and with a scandalous allegations against him definitely demoralises him from discharging his official duties. In the entire reply respondent Nos.1 and 2 have not denied the incident in specific words. The respondent No.1 and 2 tried to project that due to the order passed by the Court the alleged incident has occurred. The language used by the respondents is definitely contemptuous.

20. This Court on its own motion taken cognizance of contemptuous act in the case of ***High Court on its own motion Vs. Pradeep Pandurang Suryawanshi***, reported in ***MANU/MH/0093/2011*** wherein it has been observed that

> *"24. The allegations as to interfering in the administration of justice process by way of giving threats to the Judicial Officer is definitely a serious matter, more so, when such threats are coming from a responsible senior police officer i.e. Contemnor in the present case. On this aspect, following observations from the* ***Authority (King Vs. Davies) 1, 1906 1 KB 32 (40)*** *are reproduced with advantage:*
>
> *175. Attacks on Judge Cause Obstruction in Justice. Attacks upon the Judges excite in the mind of people a*

Uploaded on - 05/10/2026 Downloaded on - 06/10/2026 06:44:45

general dissatisfaction with all the judicial determination and whenever mans allegiance to the laws is so fundamentally shaken it is the most fatal and dangerous obstruction of justice and calls out for a more rapid and immediate redress than any other obstruction whatsoever; not for the sake of judges as private individuals but because they are the channels by which the King Justice is conveyed to the people;"

21. Learned counsel for the respondents vehemently submitted that the respondents have already tendered their unconditional apology to the petitioner wherein he was bestowed in what condition expressed by the Hon'ble Apex Court ***T.N. Godavarmaan Thirumulpad thr, the Amicus Curiae*** referred supra and reproduced earlier. In the case of ***Bal Kishan Giri Vs. State of UP*** reported in ***MANU/SC/0514/2014*** wherein also Apex Court observed that the apology means a regretful acknowledge or excuse for failure. An explanation offered to a person affected by one's action that no offence was intended, coupled with the expression of regret for any that may have been given. Apology should be unquestionable in sincerity. It should be tempered with a sense of genuine remorse and repentance, and not a calculated strategy to avoid punishment. Clause 1 of Section 12 of the Act and explanation attached thereto enables the Court to remit the

Uploaded on - 05/10/2026 Downloaded on - 06/10/2026 06:44:45

punishment awarded for committing the contempt of court on apology being made to the satisfaction of the court. However, an apology should not be rejected merely on the ground that it is qualified or tempered at a belated stage if the accused makes it *bona fide*. A conduct which abuses makes a mockery of the judicial process of the court is to be dealt and no person can tinker with it to prevent, prejudice, obstructed or interference with the administration of justice. There can be causes where the wisdom of rendering an apology dawns only at a later stage. Undoubtedly, an apology cannot be a defence, a justification, or an appropriate punishment for an act which tantamount to contempt of court. An apology can be accepted in case where the conduct for which the apology is given is such that it can be "ignored without compromising the dignity of the court", or it is intended to be the evidence of real contrition. It should be sincere. Apology cannot be accepted in case it is hollow; there is no remorse; no regret; no repentance, or if it is only a device to escape the rigour of the law. Such an apology can merely be termed as 'paper apology'.

22. In *Baradakanta Mishra vs. Registrar of Orissa High Court and another* reported in *MANU/SC/0071/1973 : AIR 1974 SC 710; The Bar Council of Maharashtra vs. M.V. Dabholkar etc.*

Uploaded on - 05/10/2026 Downloaded on - 06/10/2026 06:44:45

MANU/SC/0670/1975 : *AIR 1976 SC 242; Asharam M. Jain vs. A.T. Gupta and Ors. MANU/SC/0076/1983 : AIR 1983 SC 1151; Mohd. Zahir Khan vs. Vijai Singh and Ors. MANU/SC/0118/1992 : AIR 1992 SC 642* wherein the Hon'ble Apex Court has clearly laid down that an apology tendered is not to be accepted as a matter of course and the Court is not bound to accept the same. The court is competent to reject the apology and impose the punishment recording reasons for the same. The use of insulting language does not absolve the contemnor on any court whatsoever. If the words are calculated and clearly intended to cause any insult, an apology, if tendered and lack penitence, regret or contrition, does not deserve to be accepted. However, Apex Court further observed that "power of courts to punish for contempt is to secure public respect and confidence in judicial process. Thus, it is a necessary incident to every court of justice".

23. In the light of the above, whether the apology tendered by the present respondents is out of repentance? Admittedly, it was not tendered at the earlier stage. After issuance of show-cause notice by the petitioner said apology was not tendered. The conduct of the respondents shows that despite service of notice in the contempt petition, they have not appeared.

Uploaded on - 05/10/2026 Downloaded on - 06/10/2026 06:44:45

After they put in their appearance, this Court in the order dated 12.02.2025 observed that almost last 5 months respondents had not engaged a lawyer and sought various adjournments. This Court has also observed that in response to the non bailable warrant the respondent Nos.1 and 2 appeared in this Court. In the order dated 03.03.2025 this Court observed that the nature of the conduct of both these respondents before the Court particularly when the respondent No.2 who was holding the post of the President of the Bar Association and giving threats in the open Court to the Judicial Officer needs to be viewed very seriously. If the apology which is tendered is not genuine one or *bonafide,* it is not necessary for the Court to accept the same. Rather, it is always open for the Court by recording the reasons to reject the apology tendered by the respondents and declined to accept the apology. It is further observed by this Court that we are not willing to accept the apology tendered by the respondents-contemnors and the reason recorded is that the nature of the conduct viz. using threatening and abusive language against the Judge/Judicial Officer during the conduct of the judicial proceedings in the open Court and similarly further threats of lodging complaints which are of-course false in nature to the High

Uploaded on - 05/10/2026 Downloaded on - 06/10/2026 06:44:45

Court by a person who was holding the post of the President of the Bar Association cannot be viewed as a bonafide mistake. This Court further observed in the said order that it appears that both the respondents-contemnors i.e. son and father duo, who are in the profession of advocacy, have conducted themselves in complete disregard to the principles which are required to be adhered to under the provisions of the Advocates Act, 1961 but also that the responsible conduct which is expected from the President of the Association. As such, we intent to frame the charge against both the respondents under the Contempt of the Courts Act, 1971 and accordingly, framed the charge and thereafter this apology was tendered by the respondents.

24. Section 12 of the Contempt of Courts Act, 1971 prescribed punishment for Contempt of Courts Act which reads as under:- **"12. Punishment for contempt of court.—**

> (1) Save as otherwise expressly provided in this Act or in any other law, a contempt of court may be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to two thousand rupees, or with both: Provided that the accused may be discharged or the punishment awarded may be remitted on apology being made to the satisfaction of the court. Explanation.—An apology shall not be rejected merely on the ground that it is qualified or conditional if the accused makes it bona fide.

Uploaded on - 05/10/2026 Downloaded on - 06/10/2026 06:44:45

> (2) Notwithstanding anything contained in any other law for the time being in force, no court shall impose a sentence in excess of that specified in sub-section (1) for any contempt either in respect of itself or of a court subordinate to it.
>
> (3) Notwithstanding anything contained in this section, where a person is found guilty of a civil contempt, the court, if it considers that a fine will not meet the ends of justice and that a sentence of imprisonment is necessary shall, instead of sentencing him to simple imprisonment, direct that he be detained in a civil prison for such period not exceeding six months as it may think fit.
>
> (4) Where the person found guilty of contempt of court in respect of any undertaking given to a court is a company, every person who, at the time the contempt was committed, was in charge of, and was responsible to, the company for the conduct of business of the company, as well as the company, shall be deemed to be guilty of the contempt and the punishment may be enforced, with the leave of the court, by the detention in civil prison of each such person:Provided that nothing contained in this sub-section shall render any such person liable to such punishment if he proves that the contempt was committed without his knowledge or that he exercised all due diligence to prevent its commission.
>
> (5) Notwithstanding anything contained in sub-section (4), where the contempt of court referred to therein has been committed by a company and it is proved that the contempt has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the contempt and the punishment may be enforced, with the leave of the court, by the detention in civil prison of such director, manager, secretary or other officer."

25. Thus, sub-section 1 of Section 12 of the Contempt of Courts Act gives discretion to this Court either to impose punishment with a simple imprisonment for a term which may

Uploaded on - 05/10/2026 Downloaded on - 06/10/2026 06:44:45

extend to six months, or with fine which may extend to two thousand rupees, or with both. Thus, a close and careful interpretation, particularly of Section 12(3) of the Contempt of Courts Act, leaves no room for doubt that, in the normal course, a sentence of fine alone should be imposed.

26. In the present case, considering that both the respondents have subsequently tendered the apology before the petitioner that it is on the oral direction of this Court. Awarding punishment under Section 12 of the Act, it is well settled that awarding fine is by way of rule and awarding simple imprisonment is by way of exception. We have no doubt in our minds that present respondents have committed the contempt of Court. However, they are practising lawyers and subsequently they have tendered apology before the petitioner as well as before this Court though it is not acceptable but considering the entire circumstances imposing fine and referring the matter to the Bar Council of Maharashtra and Goa for disciplinary action would be an adequate punishment. Being an Advocate it was the duty of the present respondents to represent their clients but representing the client does not mean that they should do something for their client which is not acceptable. Admittedly, during the presentation

Uploaded on - 05/10/2026 Downloaded on - 06/10/2026 06:44:45

of the case of the client, the Advocate is accepted to act in a dignified manner. However, whenever there is a proper ground for serious complaint against a Judicial Officer, the Advocate has the right and duty to submit his grievance to proper authorities. An Advocate should always show respect towards the Court. An Advocate has to bear in mind that the dignity and respect maintained towards Judicial Officer is essential for the survival of a free community. An Advocate who is protector of a layman and working in a Nobel profession. As already observed that contempt jurisdiction is not only to protect the reputation of the concerned Judge so that he can administer justice fearlessly and fairly, but also to protect "the fair name of judiciary.

27. Article 215 of the Constitution of India declares High Court to be a Court of record which reads as under:-

"**215. High Courts to be courts of record.-**

"Every High Court shall be a Court of record and shall have all the powers of such a Court including the power to punish for contempt of itself."

A court of record is a court, the records of which are admitted to be of evidentiary value and are not to be questioned

Uploaded on - 05/10/2026 Downloaded on - 06/10/2026 06:44:45

when produced before any court. The power that courts of record enjoy to punish for contempt is a part of their inherent jurisdiction and is essential to enable the courts to administer justice according to law in regular, orderly and effective manner and to uphold the majesty of law and prevent interference in the due administration of justice.

28. The Hon'ble Apex Court in the case of ***Supreme Court Bar Association vs. Union of India and ors*** reported in ***1998 (4) SCC 409*** held :- "All courts of record have an inherent jurisdiction to punish contempts committed in their face but the inherent power to punish contempts committed outside the court resides exclusively in superior courts of record."

29. An analysis of Section 12 of Contempt of Courts Act sub-section (1) states that the contemnor may be punished (a) with simple imprisonment by detention in a civil prison; or (b) with fine, or (c) with both.

30. A careful reading of sub-section (2) of Section 12 reveals that the Act places an embargo on the court not to impose a sentence in excess of the sentence prescribed under sub-section (1). A close scrutiny of sub-section (3) of Section 12 demonstrates

Uploaded on - 05/10/2026 Downloaded on - 06/10/2026 06:44:45

that the legislature intended that in the case of civil contempt a sentence of fine alone should be imposed except where the court considers that the ends of justice make it necessary to pass a sentence of imprisonment also. Dealing with imposition of punishment under Section 12(3) of the Act, in the case of ***Smt. Pushpaben and another vs. Narandas Vs. Badiani and another*** reported in ***(1979) 2 SCC 394***, this Court opined;

> *"A close and careful interpretation of extracted section (Section 12(3) leaves no room for doubt that the legislature intended that a sentence of fine alone should be imposed in normal circumstances. The statue, however, confers special power on the Court to pass a sentence of imprisonment if it thinks that ends of justice so require. Thus, before a Court passes the extreme sentence of imprisonment, it must give special reasons after a proper application of its mind that a sentence of imprisonment along is called for in a particular situation. Thus, the sentence of imprisonment is an exception while sentence of fine is the rule."*

31. In ***S.K. Sarkar, Member, Board of Revenue vs. Vinay Chandra Misra***, reported in ***(1981) 1 SCC 436*** the Apex Court opined;

Uploaded on - 05/10/2026 Downloaded on - 06/10/2026 06:44:45

> *"Article 129 and 215 preserve all the powers of the Supreme Court and the High Court, respectively, as a Court of Record which include the power to punish the contempt of itself. As pointed out by this Court in* ***Mohd. Ikram Hussain vs State of UP (AIR 1964 SC 1625)****, there are no curbs on the power of the High Court to punish for contempt of itself except those contained in the Contempt of Courts Act. Articles 129 and 215 do not define as to what constitutes contempt of court. Parliament has, by virtue of the aforesaid entries in List I and List III of the Seventh Schedule, Power to define and limit the powers of the Courts in punishing contempt of court and to regulate their procedure in relation thereto. Indeed, this is what is stated in the preamble of the Act of 1971".*

32. Paras 99 and 100 to 105 of Halsbury's Law deals with the other punishment which may be imposed for contempt of court observed by the Hon'ble Apex Court in the case of ***Supreme Court Bar Association vs. Union of India*** referred supra. Paragraph 105 of Halsbury's Law specifically deals of the cost which reads as under:-

> *"105. Costs. The costs of an application for committal are in the discretion of the court, and should be asked for on the hearing of the application. The respondent can as a general rule only be ordered to*

Uploaded on - 05/10/2026 Downloaded on - 06/10/2026 06:44:45

pay costs if he has been guilty of contempt. An action is maintainable in the Queen's Beach Division to enforce an order made in the chancery Division to pay the costs of a motion for committal."

33. Thus, the recognised and accepted punishment for civil or criminal contempt of court in English Law, which have been followed and accepted by the courts in this country and incorporated in the Indian law in so far as, civil contempt, is concerned are (i) Sequestration of assets and (ii) fine (iii) committal to prison the object of punishment being both curative and corrective these coercions are meant to assist an individual complainant to enforce his remedy and there is also an element of public policy for punishing civil contempt, since the administration of justice would be undermined if the order of any court of law is to be disregarded with impunity. In the case of ***C. Elumalal and Ors. vs. AGL Irudayaraj and another*** reported in ***AIR 2009 SCC 2214*** wherein also the Apex Court observed that in ***Anil Rataan Sarkar and ors. Vs. Hirak Ghosh and ors***. reported in ***(2002 (4) SCC 21)*** this Court held that the Contempt of Courts Act has been introduced in the statute-book for securing confidence of people in the administration of justice. If an order passed by a competent Court is clear and unambiguous and not capable of more than one

Uploaded on - 05/10/2026 Downloaded on - 06/10/2026 06:44:45

interpretation, disobedience or breach of such order would amount to contempt of Court. It is further observed that there can be no laxity in such a situation because otherwise the Court orders would become the subject of mockery and the Hon'ble Apex Court imposed exemplary costs of Rs.2,00,000/- on each of the contemnors to be deposited to the registry of the High Court within a period of eight weeks by exercising the jurisdiction under Article 129 of the Constitution of India. Similarly, Madhya Pradesh High Court in the case of ***Vivek Khedkar vs. Suman Singh Sikarwar*** relying upon its earlier Division Bench judgment in Contempt Petition (Criminal) 11/2012 (Mukesh Kumar Agrawal vs. Shri Gulab Kothari, Managing Director cum Owner, Patrika Daily Newspaper and others) by using Article 215 imposed fine as well as costs on the respondent Contemnor instead of sending him to jail.

34. In the light of above said catena of decisions and considering the facts of the present case as wherein already observed that apology is not a weapon of defence to purge the guilty of their offence nor is it intended to operate as universal panacea. We have already held present respondent guilty for the Contempt of Court Act. We are of the considered view that

Uploaded on - 05/10/2026 Downloaded on - 06/10/2026 06:44:45

instead of sending the respondent Nos.1 and 2 to jail, it would be just and proper to impose fine and direct them to pay costs of Rs.50,000/- each and to refer the proceedings to the Disciplinary Committee of the Bar Council of Maharashtra and Goa to initiate appropriate action against both the respondents.

35. Therefore, we are inclined to pass following order:-

ORDER

(i) The contemnor-respondent Nos.1 and 2 shall pay fine of Rs.2000/- (Rupees Two Thousand Only) each within a period of two weeks in this Court.

(ii) We refer the proceedings to the Disciplinary Committee of the Bar Council of Maharashtra and Goa to initiate the appropriate action against both the respondents.

(iii) In addition to fine the contemnor- Respondent Nos.1 and 2 shall pay costs of Rs.50,000/- (Rupees Fifty Thousand Only) each which shall be deposited in Public Welfare Account' bearing Account No.129712010001014 (IFSC Code : UBIN0812978), Union Bank of India, Branch High Court, Civil Lines, Nagpur,

Uploaded on - 05/10/2026 Downloaded on - 06/10/2026 06:44:45

36. With above directions reference stands disposed of.

(RAJ D. WAKODE, J.) (URMILA JOSHI PHALKE, J.)

manisha

Uploaded on - 05/10/2026 Downloaded on - 06/10/2026 06:44:45