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RAJIV K. GARG AND ORS.

v

SHANTI BHUSHAN AND OTHERS

OCTOBER 20, 1994

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[M.N. VENKATACHALIAH, CJ, A.M. AHMADI
AND KULDIP SINGH, JJ.]

C

CRIMINAL CONTEMPT—Some members of legal profession, taking active part in Sub-Committee on Judicial Accountability, permitted themselves some statements and utterances against Judges and Judicial System—Conduct deprecated—However, in larger interest of Bar itself, suo motu initiation of proceedings for criminal contempt not considered appropriate.

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This petition has been filed for *suo motu* initiation of proceedings for contempt against the respondents who are members of the legal profession. A Committee of lawyers called "Sub-Committee on Judicial Accountability" came to be formed in which the respondents took an active part and permitted themselves some statements and utterances against Judges and the judicial system. Certain statements attributed to them were the subject matter of the proceedings for initiation of proceedings of contempt against the respondents.

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Dismissing the petition, this Court

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HELD : 1.1 It is a matter of deep regret that there should have been any cause for such an unfortunate controversy. While the concern of the 'Sub-committee on Judicial Accountability', for maintenance of purity in the administration of justice, probity and rectitude of conduct, both private and public, of the Judges is understandable, (however), the means by which such objectives are achieved, should be consistent with and conform to permissible legal and constitutional means and limitation. It would be a great pity if the activities of such a body of persons, imbued with high and

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laudable motives, do things which incur the criticism that their actions have overstepped the limits of law and propriety or that they have become selective. The point to emphasise is that the corrective measures should not themselves be incorrect and that such efforts at ensuring the maintenance of judicial standards must themselves conform to highest standards of

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dignity and propriety. Agitational stances, in the ultimate analysis, become

counter productive and detract from the main objectives. In the ultimate analysis nothing enduring can be achieved by measures which are uninformed by propriety, dignity and good grace. Justice is the most precious concern of mankind. Its achievement through judicial institutions and processes is, at once, sensitive and fragile. The delicate balance is to be maintained by concerted and devoted efforts both by the Bench and the bar. However deep their commitment to the cause of purity in the administration of justice, members of the Bar cannot disregard propriety. The averments made in this petition indicate that perhaps, at some stage, the rules of the game were forgotten. Respondents will, no doubt, realise that indignation, however righteous, should no be susceptible to the perception that it has become riotous indignation. [645-E]

1.2 However, it is not appropriate in the larger interest of the Bar itself to *suo-motu* initiate proceedings for criminal contempt against the respondents. [645-F]

CRIMINAL ORIGINAL JURISDICTION : Contempt Petition (Crl.) No. 4 of 1992.

Under Section 15 of the Contempt of Courts Act, 1971.

Rajiv K. Garg, Adv.-In-person and R.S. Sodhi for the Petitioners.

Dipankar Gupta, Solicitor General, Ms. A. Subhashini, Ms. Niranjana Singh, Anil Srivastava and Sunil Kr. Singh for the Respondents.

The following Order of the Court was delivered :

In this petition for *suo motu* initiation of proceedings for contempt against the respondents, the petitioners, who are the members of the legal profession, express their concern over the manner in which certain selections of the Bar, in particular the respondents, have permitted themselves some statements and utterances against judges and the judicial system. Annexures I, II, III and III-A are said to contain reports and statements of the first respondent and the same are referred to as evidence of a trend which, if permitted, would seriously impair the public image of and scandalise the judicial system.

These proceedings are the fall-out of certain events that culminated in initiation of proceedings for the removal of a sitting Judge. A Committee

- A of lawyers called "Sub-Committee on Judicial Accountability" came to be formed in which the respondents, who are also the members of the legal profession, took an active part. Certain statements attributed to them are the subject matters of the present proceedings for initiation of proceedings of contempt against them. The allegations in the petition are "that the members of the legal profession who are members of the so-called Sub-Committee on Judicial Accountability..... are using the legal profession as a shield and committing the grossest criminal contempt and that this Hon'ble Court must take a serious note of this matter.....".
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It is also averred :

- C "..... If this Hon'ble Court, on the basis of the facts as already stated hereinabove, finds that the respondents even if found guilty, may not be punished, which, of course, is the prerogative of this Hon'ble Court, the natural consequence would be that others with the same motivation will be equally emboldened to attack the members of this great Institution and that the very independence of the judiciary is at stake."
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- E "That if this Hon'ble Court allows such statements to be made and does not proceed in contempt, the foundations of this great Institution will be shattered. The petitioners before this Hon'ble Court represent a large section of the Bar and are extremely concerned with the independence of the judiciary. They are extremely concerned that if acts which per se amount to grossest criminal contempt are allowed to be condoned and this Hon'ble Court does not take immediate action in that regard, the purity of the administration of justice would be the victim. It is, therefore, to protect this great Institution that the present petitioners are moving this contempt petition,"
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- G "It may also be mentioned that the members of the so-called Sub-Committee on Judicial Accountability and in particular the respondents, are misusing their privilege as advocates entitled to practice before this Hon'ble Court for the purposes of attaining certain partisan ends. The attempts of the respondents in appearing before this Hon'ble Court in their robes and espousing their cause as litigants tend to scandalise the Court and interfere with due course of justice."
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We have heard learned counsel. It is a matter of deep regret that there should have been any cause for such an unfortunate controversy. While the concern of the 'Sub-Committee on Judicial Accountability' for maintenance of purity in the administration of justice, probity and rectitude of conduct, both private and public, of the Judges is understandable, however, the means by which such objectives are achieved, should be consistent with and conform to permissible legal and constitutional means and limitations. It would be a great pity if the activities of such a body of persons, imbued with high and laudable motives, do things which incur the criticism that their actions have over-stepped the limits of the law and propriety or that they become selective. The point to emphasise is that the corrective measures should not themselves be incorrect and that such efforts at ensuring the maintenance of judicial standards must themselves conform to highest standards of dignity and propriety. Agitational stances, in the ultimate analyses, become counter-productive and detract from the main objectives. In the ultimate analyses nothing enduring can be achieved by measures which are uninformed by propriety, dignity and good grace. Justice is the most precious concern of mankind. Its achievement through judicial Institutions and processes is, at once, sensitive and fragile. The delicate balance is to be maintained by concerted and devoted efforts both by the Bench and the Bar. However deep their commitment to the cause of purity in the administration of justice, members of the Bar cannot disregard propriety. The averments made in this petition indicate that, perhaps, at some stage the rules of the game were forgotten. Respondents, will no doubt, realise that indignation, however righteous, should not be susceptible to the perception that it has become riotous indignation.

All the same, we think it is not appropriate in the larger interest of the Bar itself to *suo motu* initiate proceedings for criminal contempt against the respondents.

We, accordingly, decline the prayer and dismiss the petition.

A.G.

Petition dismissed.