

**N. Eswaranathan**  
**v.**  
**State Represented by the Deputy Superintendent of Police**  
(SLP (Crl) No. 6029 of 2025)

17 April 2025

**[Bela M. Trivedi\* and Satish Chandra Sharma,\* JJ.]**

**Issue for Consideration**

Misconduct committed by Advocates. The Advocates offered an absolute and unconditional apology. Whether the advocates are worthy of pardon.

**Headnotes<sup>†</sup>**

**Supreme Court Rules, 2013 – Rule 10 of Order IV – Advocate-on-Record – Misconduct – Apology – Divergent opinions expressed by the Bench:**

**Held: [Per Court]** In view of the divergent opinions expressed by the Bench on the issue of acceptance of the apology tendered by the concerned Advocates, the matter directed to be placed before the Hon'ble Chief Justice of India for appropriate orders.

**Supreme Court Rules, 2013 – Rule 10 of Order IV – Advocate-on-Record (AOR) found guilty of misconduct or of conduct unbecoming of an AOR – The AOR has misused the process of law by filing the second SLP that is the present one on behalf of the petitioner after the dismissal of the first SLP, challenging the same impugned Judgment passed by the High Court – The AOR, instead of giving correct legal advice to the petitioner, has himself filed various applications with his own signatures and with the affidavits sworn by his colleague (advocate) on behalf of the petitioner and that too without stating the correct facts:**

**Held: [Per Bela M. Trivedi, J.]** In view of the findings, and taking recourse to the provisions contained in Order IV Rule 10 of the Supreme Court Rules, 2013, and following the precedent set by Three Judge Bench in Mohit Chaudhary, Advocate, Re, it is directed that the name of the AOR in question to be removed from the Register of Advocates-on-Record for a period of one month – Further, it is directed that the colleague-Advocate of AOR to pay a cost of Rs.1,00,000/- and deposit the same with the SCAORA to

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be utilized for the welfare of the Advocates. [Para 20] – **Per Satish Chandra Sharma, J.:** Though the conduct of the Advocates has been reprehensible and not worthy of being pardoned, however, considering the plea made by the Senior Advocates, Office Bearers of the Supreme Court Bar Association (SCBA) and Supreme Court Advocates-on-Record Association (SCAORA) and keeping in mind the absolute and unconditional apology tendered by the Advocates expressing remorse and promise made by them not to repeat the misconduct in future, the unconditional apology tendered by them is accepted and they are warned of and directed to be careful in not repeating any such misconduct in future. [Para 8]

**Case Law Cited**

**In the Judgment of Hon'ble Ms. Justice Bela M. Trivedi**

*Bhagwan Singh v. State of U.P. and Others* [2024] 9 SCR 774 : 2024 SCC Online SC 2599; *Chandra Shashi v. Anil Kumar Verma* [1994] Supp. 5 SCR 465 : (1995) 1 SCC 421; *Mohit Chaudhary, Advocate, In Re.* [2017] 8 SCR 764 : (2017) 16 SCC 78; *Saumya Chaurasia v. Directorate of Enforcement* [2023] 15 SCR 848 : (2024) 6 SCC 401 – relied on.

**In the Judgment of Hon'ble Mr. Justice Satish Chandra Sharma**

*Mohit Chaudhary, in Re.* [2017] 8 SCR 764 : (2017) 16 SCC 78; *Rameshwar Prasad Goyal, In Re.* [2013] 9 SCR 212 : (2014) 1 SCC 572 – relied on.

**List of Acts**

Supreme Court Rules, 2013; Penal Code, 1860.

**List of Keywords**

Advocate-on-Record; Misconduct; Apology; Acceptance of apology; Misuse of process of law; Register of Advocates-on-Record; Order IV Rule 10 of the Supreme Court Rules, 2013; Absolute and unconditional apology.

**Case Arising From**

CRIMINAL APPELLATE JURISDICTION: Special Leave Petition (Criminal) No. 6029 of 2025

From the Judgment and Order dated 29.09.2023 of the High Court of Judicature at Madras in CRLA No. 653 of 2011

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### Appearances for Parties

*Advs. for the Petitioner:*

P. Soma Sundaram, S. Muthukrishnan.

*Advs. for the Respondent:*

Mrs. Archana Pathak Dave, A.S.G., Mukesh Kumar Maroria.

### Judgment / Order of the Supreme Court

#### Judgment

**Bela M. Trivedi, J.**

1. Once again, this Court is called upon to discharge a very unpleasant and painful duty as the Court has noticed that the Petitioner and his Advocates Mr. P. Soma Sundaram, AOR and Mr. S. Muthukrishnan, have made a brazen attempt to take this Court for a ride by filing vexatious Petition, distracting the course of administration of justice and misusing the Process of Law. Just few months back this Court had to direct the CBI to conduct an investigation against a few Advocates who were found to have been involved in committing fraud on Court and in misusing the Process of the Court (***Bhagwan Singh vs. State of U.P. and Others***).<sup>1</sup> Just few weeks back this Court had issued certain directions in a proceeding arising out of the said case, for the strict compliance of the Supreme Court Rules, 2013 framed by the Supreme Court in exercise of its powers under Article 145 of the Constitution of India, for regulating the Practice and Procedure of the Court to be followed by the persons practising in the Supreme Court. This is yet another case, in which the Advocates appearing for the Petitioner have been found to have misused the Process of the Court. Unfortunately, the Advocates who are supposed to be the Officers of the Court and the Champions for the cause of justice, sometimes indulge themselves into a kind of unethical and unfair practices, and when caught by the Court, they tender an unconditional apology on the specious ground of inadvertent mistake.

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2. The relevant facts emerging from the record of the case are as under: -
- i. The Petitioner – N Eswaranathan (Accused No.35) alongwith the other accused, was convicted by the Sessions Court at Dharamapuri vide the Judgment and Order dated 29.09.2011 in Sessions Case No.1 of 2008 for the offences punishable under Sections 147, 342 readwith 149 and Section 355 of Indian Penal Code (IPC), and Sections 3(2)(iii), 3(1)(v) and 3(1)(x) of the Scheduled Castes and Schedules Tribes (Prevention of Atrocities) Act, 1989. The maximum punishment awarded to the Petitioner for the said offences was rigorous imprisonment for a period of three years.
  - ii. Being aggrieved by the said Judgment of Conviction and Sentence passed by the Sessions Court, the Petitioner alongwith the other accused had filed various Criminal Appeals before the High Court, which came to be dismissed vide the common impugned Judgment and Order dated 29.09.2023 by the High Court.
  - iii. The aggrieved Petitioner therefore filed a SLP being SLP (Crl.) D.No.5111 of 2024 (First SLP), through the Advocate-on-Record Mr. P. Soma Sundaram. In the said SLP, the Petitioner sought exemption from surrendering pending the SLP. The said prayer came to be granted by the Chamber Court vide the Order dated 01.04.2024. When the said SLP was listed for hearing on 29.04.2024 before us, it was dismissed after hearing the learned Advocates appearing for the Petitioner, with specific direction to the Petitioner to surrender within two weeks. The precise Order passed by this Court reads as under: -

**“ORDER**

1. Application seeking permission to file the Special Leave Petition is granted.
2. Delay condoned.
3. Having heard learned counsel for the petitioner at length and carefully perusing the material placed on record, we are not inclined to interfere with the impugned order passed by the High Court.

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4. The Special Leave Petition and all the pending applications are, accordingly, dismissed.

5. The petitioner shall surrender before the Trial Court within two weeks from today.”

- iv. The Petitioner instead of complying with the said direction of surrendering within two weeks, again filed the present SLP being SLP (CrI.) D.No.55057/2024 (Second SLP), engaging the same Advocate-on-Record Mr. P. Soma Sundaram on 26.11.2024, that is about 7 months after the dismissal of the earlier SLP, challenging the same impugned Judgment dated 29.09.2023 passed by the High Court.
- v. The AOR Mr. P. Soma Sundaram also filed various applications being I.A. No. 40358 of 2025 seeking exemption from filing official translation, I.A. No. 40361 of 2025 seeking exemption from filing certified copy of the impugned judgment and order, I.A. No. 40364 of 2025 seeking exemption from surrendering, I.A. No.40366 of 2025 seeking Condonation of delay occurred in filing the SLP, I.A. No.40369 of 2025 seeking permission to file additional documents and I.A. No.40370 of 2025 seeking Condonation of Delay occurred in re-filing the SLP etc. All these applications were filed by him with his own signatures, and below the said applications, the affidavits were filed by the Advocate Mr. S. Muthukrishnan stating therein that he was the Arguing Counsel of the Petitioner and was conversant with the facts and circumstances of the case and competent to swear the affidavit.
- vi. When the application seeking exemption from surrendering was listed before the Chamber Court on 21.02.2025, the Chamber Court allowed the said application by granting exemption to the petitioner from surrendering for a period of two months.
- vii. When the SLP was listed before us on 28.03.2025, we noticed certain incorrect statements having been made in the Synopsis of the SLP and therefore enquired about the presence of Mr. P. Soma Sundaram, AOR. The learned Senior Advocate Mr. R. Nedumaran who was present on behalf of the Petitioner as an Arguing Counsel stated that the AOR Mr. P. Soma Sundaram had gone to some interior village of Tamil Nadu and was not reachable. We therefore passed the following Order on 28.03.2025: -

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**“ORDER**

**1.** Today, when the matter was called out in the first session, Mr. R. Nedumaran, learned senior counsel appeared for the petitioner. Since, while going through the synopsis, we had found that there were certain incorrect statements made therein, We asked Mr. R. Nedumaran about the presence of Mr. P. Soma Sundaram, the Advocate on Record appearing for the petitioner. He stated that the learned AOR, Mr. P. Soma Sundaram, is not in the town at present and he is in remote village of Tamil Nadu. We asked him to make his presence available through virtual mode at 02:00 p.m.

**2.** At 02:00 p.m. when the matter was called out, one Mr. P.V. Yogeshwaran, learned Advocate appeared and stated that he tried to contact the AOR, Mr. P. Soma Sundaram telephonically, but he is not reachable as he is in some remote village of Tamil Nadu and therefore, he is not in a position to even appear through virtual mode. Mr. P.V. Yogeshwaran, also stated that he belongs to the same village where Mr. P. Soma Sundaram, has gone and therefore, he knows that there is a connectivity problem there.

**3.** Mr. S. Nagamuthu, learned senior counsel, who is also present in the Court and had earlier appeared in the group matter with which, the present special leave petition is sought to be tagged, assures this Court that the learned AOR shall be available before this Court on 01.04.2025.

**4.** It is therefore directed that the learned Advocate on Record, Mr. P. Soma Sundaram, shall remain physically present before this Court on 01.04.2025 at 10:30 a.m. along with all the tickets of his travel to Tamil Nadu and

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back, as it is stated at the Bar that he is at present in the remote village of Tamil Nadu and therefore, not in a position to enter his appearance.

**5.** List the matter on 01.04.2025 at 10:30 a.m. before this combination of Bench.”

- viii. When the matter was listed before us on 01.04.2025, the AOR Mr. P. Soma Sundaram and the Advocate Mr. Muthukrishnan appeared before the Court and tendered an unconditional apology with regard to the incorrect statements made by them in the SLP. Since the Court was quite annoyed with the misconduct committed by the Advocates and the Petitioner, the Court on 01.04.2025, passed the following Order: -

#### **“ORDER**

**1.** Pursuant to the Order passed by this Court on 28.03.2025, learned AOR, Mr. P. Soma Sundaram and learned counsel, Mr. S. Muthukrishnan, are present in the Court along with the travel tickets (as they say) and tender an unconditional apology before this Court with regard to the incorrect statements made in the SLP.

**2.** When we partly dictated the order, the representatives of Supreme Court Bar Association (SCBA) and the Supreme Court Advocates-on-Record Association (SCAORA), who were already present in the Court along with some senior advocates, requested the Court to hold back the order dictated, and further requested to simply give the concerned advocates, without recording the facts and the observations, an opportunity to explain on affidavit, the circumstances under which the second SLP has been filed.

**3.** With due reference to the said request made at this juncture, we simply call upon the petitioner-N. ESWARANATHAN and his

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advocates, Mr. P. Soma Sundaram and learned counsel, Mr. S. Muthukrishnan, to explain as to under what circumstances, the second SLP that is the present one was filed on the distorted facts and incorrect statements, after the dismissal of the first SLP, and why the application seeking exemption from surrendering was filed in this SLP though, in the earlier SLP, it was specifically directed by this Court that the petitioner shall surrender within two weeks.

4. Let the affidavits be filed within one week from today i.e. before 08.04.2025 in the Office. The learned AOR, Mr. P. Soma Sundaram, may produce the travel tickets along with his affidavit.

5. Registry is directed to send a copy of this Order to the petitioner to enable him to file his affidavit with detailed explanation as stated hereinabove. The concerned advocates are also directed to inform the petitioner about this order.

6. The petitioner is also directed to remain personally present before this Court on 09.04.2025 at 10:30 a.m.

7. List the matter on 09.04.2025 at 10:30 a.m. before the same combination of Bench.”

- ix. On 09.04.2025, the Court perused the affidavit of Mr. P. Soma Sundaram and another affidavit filed by the Son of the Petitioner named Leoraj Eswaranathan. The learned Advocate Mr. Muthukrishnan stated that he had e-filed his affidavit in the office but the same was not found to be on record. He therefore submitted another copy of his affidavit to the Court for perusal. On inquiry, it was found that neither the AOR Mr. P. Soma Sundaram had filed his travel tickets alongwith his affidavit, nor Mr. Muthukrishnan had filed his affidavit in the office. The Petitioner - N Eswaranathan had also neither filed any affidavit nor had remained present before the Court, though specifically directed in the Order dated 01.04.2025. The Son of the Petitioner Mr. Leoraj Eswaranathan had filed his affidavit stating that his father could not travel to New Delhi because of



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his medical condition. The Court, therefore passed the following Order on 09.04.2025.

#### “ORDER

1. At the outset, learned advocate, Mr. S. Muthukrishnan, submits the hard copy of the affidavit filed by him and prays that the same be taken on record as he has already efiled the same in the Registry yesterday.
2. The hard copy of the affidavit filed by Mr. S. Muthukrishnan is taken on record.
3. The affidavits filed by learned Advocate on Record, Mr. P. Soma Sundaram and the son (Leoraj Eswaranathan) of the petitioner (N. Eswaranathan), are also taken on record.
4. Since, the petitioner has not remained present before this Court today despite being specifically directed by this Court vide Order dated 01.04.2025, let non-bailable warrant be issued against the petitioner-N. Eswaranathan. On being arrested, he shall be produced before the concerned Trial Court, which shall handover him to the concerned Jail Authorities.
5. Learned Advocate on Record, Mr. P. Soma Sundaram and learned advocate, Mr. S. Muthukrishnan, have tendered unconditional apology in their respective affidavits.
6. The other learned senior counsels appearing for the SCBA and SCAORA, have also requested the Court to accept the unconditional apology tendered by Mr. P. Soma Sundaram, learned AOR and Mr. S. Muthukrishnan, learned counsel and pass appropriate orders.
7. Heard learned counsels appearing for the parties.
8. Arguments concluded.
9. Judgment is reserved.”

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3. Now, as transpiring from the affidavit filed by the AOR Mr. P. Soma Sundaram, there is no explanation offered by him as to under what circumstances, the second SLP that is the present one, was filed by him on behalf of the Petitioner, and that too stating distorted facts and incorrect statements, after the dismissal of the first SLP, and as to why the application seeking exemption from surrendering was filed in this SLP on behalf of the Petitioner, though while dismissing the earlier SLP, in which he himself was the AOR for the Petitioner, it was specifically directed by us that the Petitioner shall surrender within two weeks. Of course, Mr. P. Soma Sundaram has tendered an unconditional apology in his affidavit, for the mistake he committed of having not mentioned the factum of the dismissal of the first SLP (Crl.) D.No.5111 of 2024, however he has stated that the omission was neither wilful nor wanton. Similarly, the Advocate Mr. Muthukrishnan, who has filed the affidavits in the various applications filed in the present SLP, has also not, offered any explanation in this regard, and has tendered an unconditional apology in his affidavit filed pursuant to the Order passed by the Court on 01.04.2025.
4. Mr. Leoraj Eswaranathan, Son of the Petitioner - N Eswaranathan, has stated in his affidavit *inter alia* that his father had suffered a stroke on 15.02.2025 and taken treatment at the Government Mohan Kumara Mangalam Medical College Hospital at Salem, Tamil Nadu, and that because of his medical condition he could not travel to New Delhi to appear before the Court as directed. The said affidavit filed by the Son of the Petitioner does not inspire any confidence in as much as the so-called medical papers e-filed by him do not bear the name or stamp of any hospital nor of the doctor. Even if it is believed that the Petitioner had taken treatment in the said hospital, it appears that he was admitted on 15.02.2025 and discharged on 16.02.2025. There is no mention about the so-called stroke suffered by him, as stated by his Son in his Affidavit. There is also nothing on record to show that his health condition was so bad even after two months of his so-called stroke that he could not remain present before the Court on 09.04.2025, though he was specifically directed by the Court vide the Order dated 01.04.2025 to remain present.

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5. From the said affidavits filed by the AOR Mr. P. Soma Sundaram and his colleague Mr. Muthukrishnan it appears that the same have not been filed in compliance with order passed by the Court on 01.04.2025. Mr. P. Soma Sundaram has also not even produced his travel ticket to show that he was in some interior village of Tamil Nadu, when the Court required his presence on 28.03.2025. The Court when asked on 01.04.2025 a specific query as to why he had not produced all his travel tickets, Mr. P. Soma Sundaram had no answer. Similarly, when the Court asked as to why he had filed second SLP on behalf of the Petitioner after the dismissal of the first SLP, though he was AOR in both the Petitions, and why the Petitioner had not surrendered after the dismissal of the first SLP, Mr. P. Soma Sundaram had no explanation to offer, except stating that he was tendering an unconditional apology for his mistake.
6. From the afore-stated state of affairs, we are constrained to reach to the following irresistible conclusions: -
  - (i) The AOR Mr. P. Soma Sundaram has misused the process of law by filing the second SLP that is the present one on behalf of the Petitioner after the dismissal of the first SLP, challenging the same impugned Judgment passed by the High Court.
  - (ii) Mr. P. Soma Sundaram did not give proper and correct legal advice to the Petitioner that after the dismissal of the first SLP, the Petitioner was required to surrender within two weeks, and that he could not have filed the second SLP challenging the same impugned judgment of the High Court.
  - (iii) Mr. P. Soma Sundaram, instead of giving correct legal advice to the Petitioner, has himself filed various applications with his own signatures and with the affidavits sworn by his colleague Mr. Muthukrishnan on behalf of the Petitioner and that too without stating the correct facts.
7. The afore-stated undisputed facts constrain us to hold that Mr. P. Soma Sundaram as an AOR has not only failed to discharge his duties towards his client i.e. Petitioner and towards the Court, but has also misconducted himself by misusing the process of law and

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misleading the Court. Such acts of Mr. P. Soma Sundaram are nothing but the acts of fraud on Court and causing obstruction in the administration of justice. As held in **Chandra Shashi vs. Anil Kumar Verma**,<sup>2</sup> anyone who takes recourse to fraud, deflects the courts of judicial proceedings, the same interferes with the administration of justice, and such persons are required to be properly dealt with, not only to punish them for the wrong done, but also to deter others from indulging in similar acts which shake the faith of people in the system of administration of justice. It is further observed in Para-8 thereof that: -

“8. To enable the courts to ward off unjustified interference in their working, those who indulge in immoral acts like perjury, prevarication and motivated falsehoods have to be appropriately dealt with, without which it would not be possible for any court to administer justice in the true sense and to the satisfaction of those who approach it in the hope that truth would ultimately prevail. People would have faith in courts when they would find that “सत्यमेव जयते” (truth alone triumphs) is an achievable aim there; or “यतो धर्मस्ततो जय” (it is virtue which ends in victory) is not only inscribed in emblem but really happens in the portals of courts.”

8. A Three-Judge Bench of this Court in similar circumstances has made very apt observations after reviewing the judicial precedents and texts in respect of the conduct of an advocate, in **Mohit Chaudhary, Advocate, In Re**.<sup>3</sup> The observations are worth reproducing hereinbelow: -

“16. We consider it appropriate to review some of the judicial precedents and texts in respect of the conduct of an advocate. We recognise the duty of an advocate to put his best case for the litigant before the Court. This, however, does not absolve him of the responsibility as an officer of the Court. It is a dual responsibility. The

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2 (1995) 1 SCC 421

3 (2017) 16 SCC 78

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right of an Advocate-on-Record in the Supreme Court, is not an automatic right coming from the enrolment at the Bar. Something more has to be done. The rigours of an examination have to be gone through, which tests the advocate, not only on his legal ability of drafting and knowledge of law, but on ethical practices. It is only after going through the rigorous exercise that an advocate is enlisted as an Advocate-on-Record, giving him the right to act and file pleadings before this Court, in accordance with the Supreme Court Rules, 2013.

**17.** .....

**18.** To borrow the words of P.B. Sawant, J. in *Vinay Chandra Mishra, In re* [*Vinay Chandra Mishra, In re*, (1995) 2 SCC 584]: (SCC p. 616, para 38)

“38. ... Brazenness is not outspokenness and arrogance is not fearlessness. Use of intemperate language is not assertion of right nor is a threat an argument. Humility is not servility and courtesy and politeness are not lack of dignity. Self-restraint and respectful attitude towards the court, presentation of correct facts and law with a balanced mind and without overstatement, suppression, distortion or embellishment are requisites of good advocacy. A lawyer has to be a gentleman first. His most valuable asset is the respect and goodwill he enjoys among his colleagues and in the court.”

**19.** That the practice of law is not akin to any other business or profession as it involves a dual duty — nay a primary duty to the Court and then a duty to the litigant with the privilege to address the Court for the client is best enunciated in the words of Mookerjee, J. in *Emperor v. Rajani Kanta Bose* [*Emperor v. Rajani Kanta Bose*, 1922 SCC OnLine Cal 15 : ILR (1922) 49 Cal 732 : 71 IC 81] : (SCC OnLine Cal)

“... The practice of law is not a business open to all who wish to engage in it; it is a personal right

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or privilege ... it is in the nature of a franchise from the State....”

That you are a member of the legal profession is your privilege; that you can represent your client is your privilege; that you can in that capacity claim audience in court is your privilege. Yours is an exalted profession in which your privilege is your duty and your duty is your privilege. They both coincide.

**20.** *Warvelle’s Legal Ethics*, 2nd Edn. at p. 182 sets out the obligation of a lawyer as:

“A lawyer is under obligation to do nothing that shall detract from the dignity of the court, of which he is himself a sworn officer and assistant. He should at all times pay deferential respect to the Judge, and scrupulously observe the decorum of the courtroom.”

**21.** The contempt jurisdiction is not only to protect the reputation of the Judge concerned 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 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 *Ministry of Information & Broadcasting, In re [Ministry of Information & Broadcasting, In re]*, (1995) 3 SCC 619], would: (SCC p. 635, para 20)

“20. ... 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.””

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9. We too have nothing more to add to the afore-stated words of wisdom reiterated by the Three-Judge Bench with regard to the conduct of the Advocates. As such, we have already taken serious notice of the advertent and inadvertent errors committed by the Advocates practising in the Supreme Court while discharging their duties, and cautioned them time and again to be more careful but all in vain.
10. In ***Saumya Chaurasia vs. Directorate of Enforcement***,<sup>4</sup> it was observed as under: -

“13. It cannot be gainsaid that every party approaching the court seeking justice is expected to make full and correct disclosure of material facts and that every advocate being an officer of the court, though appearing for a particular party, is expected to assist the court fairly in carrying out its function to administer the justice. It hardly needs to be emphasised that a very high standard of professionalism and legal acumen is expected from the advocates particularly designated senior advocates appearing in the highest court of the country so that their professionalism may be followed and emulated by the advocates practising in the High Courts and the District Courts. Though it is true that the advocates would settle the pleadings and argue in the courts on instructions given by their clients, however their duty to diligently verify the facts from the record of the case, using their legal acumen for which they are engaged, cannot be obliterated.”

11. This very Bench taking serious note of the misconduct committed by the Advocates-on-Record practising in the Supreme Court, and other Advocates in case of ***Bhagwan Singh vs. State of U.P. & Others*** (supra) observed as under: -

“29. To create or to assist creating false documents and to use them as genuine knowing them to be false in the Court proceedings, to falsely implicate somebody in the false proceedings filed in the name of the person who had no knowledge whatsoever about the same are

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the acts attributable to the offences punishable under the Bhartiya Nyaya Sanhita, 2023. They are also acts of frauds committed not only on the person sought to be falsely implicated and on the person in whose name such false proceedings are filed without his knowledge and consent, but is a fraud committed on the Courts. No Court can allow itself to be used as an instrument of fraud and no Court can allow its eyes to be closed to the fact that it is being used as an instrument of fraud. As held by this Court in V. Chandrasekaran & Anr. vs. Administrative Officer & Ors.

“The judicial process cannot become an instrument of oppression or abuse, or a means in the process of the court to subvert justice, for the reason that the court exercises its jurisdiction, only in furtherance of justice. The interests of justice and public interest coalesce, and therefore, they are very often one and the same. A petition or an affidavit containing a misleading and/or an inaccurate statement, only to achieve an ulterior purpose, amounts to an abuse of process of the court.”

**30.** The matter assumes serious concern when the Advocates who are the officers of the Court are involved and when they actively participate in the ill-motivated litigations of the unscrupulous litigants, and assist them in misusing and abusing the process of law to achieve their ulterior purposes.

**31.** People repose immense faith in Judiciary, and the Bar being an integral part of the Justice delivery system, has been assigned a very crucial role for preserving the independence of justice and the very democratic set up of the country. The legal profession is perceived to be essentially a service oriented, noble profession and the lawyers are perceived to be very responsible officers of the court and an important adjunct of the administration of justice. In the process of overall depletion and erosion of ethical values and degradation of the professional ethics, the instances of professional misconduct are also on rise.



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There is a great sanctity attached to the proceedings conducted in the court. Every Advocate putting his signatures on the Vakalatnamas and on the documents to be filed in the Courts, and every Advocate appearing for a party in the courts, particularly in the Supreme Court, the highest court of the country is presumed to have filed the proceedings and put his/her appearance with all sense of responsibility and seriousness. No professional much less legal professional, is immuned from being prosecuted for his/her criminal misdeeds."

12. In the Miscellaneous Applications filed on behalf of the SCBA and SCAORA in the aforesaid Criminal Appeals, this Bench had again dealt with various provisions of Advocates Act and Supreme Court Rules, 2013, and issued various directions to the Advocates practising in the Supreme Court, emphasizing strict compliance of the Practice and Procedure laid down in the said Rules, 2013.
13. It would not be out of place to refer to the relevant provisions contained in the Contempt of Courts Act, 1971, with regard to the "Contempt of Court".

**"2(a)** "contempt of court" means civil contempt or criminal contempt;

**(b)** "civil contempt" means wilful disobedience to any judgment, decree, direction, order, writ or other process of a court or wilful breach of an undertaking given to a court;

**(c)** "criminal contempt" means the publication (whether by words, spoken or written, or by signs, or by visible representations, or otherwise) of any matter or the doing of any other act whatsoever which—

(i) scandalises or tends to scandalise, or lowers or tends to lower the authority of, any court; or

(ii) prejudices, or interferes or tends to interfere with, the due course of any judicial proceeding; or

(iii) interferes or tends to interfere with, or obstructs or tends to obstruct, the administration of justice in any other manner."

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14. Rule 10 of Order IV of Supreme Court Rules, 2013 pertaining to the Advocate-on-Record found guilty of misconduct or of conduct unbecoming of an Advocate-on-Record being relevant is also quoted below:

“10. When, on the complaint of any person or otherwise, the Court is of the opinion that an advocate-on-record has been guilty of misconduct or of conduct unbecoming of an advocate-on-record, the Court may make an order removing his name from the register of advocates on record either permanently or for such period as the Court may think fit and the Registrar shall thereupon report the said fact to the Bar Council of India and to State Bar Council concerned”.

15. On thorough and careful examination of the record of both the SLPs, we are convinced that the AOR Mr. P. Soma Sundaram, had attempted to interfere and obstruct the administration of justice, tantamounting to Contempt of Court under Section 2(c)(iii) of the Contempt of Courts Act, and had committed serious misconduct and the conduct unbecoming of an Advocate-on-Record as contemplated in Rule 10 of Order IV of the Supreme Court Rules, 2013.
16. The Advocate Mr. S. Muthukrishnan who had assisted the AOR Mr. P. Soma Sundaram in filing the SLP and other applications, by putting his signatures on the affidavits filed on behalf of the Petitioner, without any authority or law, is also equally responsible and guilty of having misused the process of law and causing obstruction in the administration of justice. The Petitioner N. Eswaranathan who himself has been held guilty of committing the offences alleged against him in Sessions Case No. 1 of 2008 by the Trial Court, and confirmed by the High Court and upheld by this Court, has also attempted to misuse the process of the Court and of Law with the able assistance of the AOR Mr. P. Soma Sundaram and the Advocate Mr. S. Muthukrishnan, and hence he is also found guilty of committing Contempt of Court within the meaning of Section 2(c)(iii) of the Contempt of Courts Act.
17. This takes us to the next question, whether the Court should let the Petitioner and his Advocates go scot-free without any consequences, accepting their unconditional apology, on the specious ground

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of inadvertent mistake committed by them? Though some of the Senior Advocates practising in the Supreme Court and the Office Bearers of the SCBA and SCAORA had urged the Court to pardon the advocates by accepting their apology, I am unable to persuade myself to let them go scot-free without any punishment. It is required to be borne in mind that the judges are selected from the rank of lawyers only. As someone has rightly said “the Integrity of the Judiciary is the safeguard of the Nation, but the Character of the Judges is, practically, the Character of the Lawyers. Like begets like. A degraded Bar will inevitably produce a degraded Bench, and just as certainly may we expect to find the highest excellence in judiciary drawn from the ranks of an enlightened, learned and moral Bar.”

18. With due deference to the requests made by the Senior Advocates and the other Representatives of the Bar Associations, who have stood up in support of the errant Advocates, the extreme step of holding the Advocates Mr. P. Soma Sundaram and Mr. Muthukrishnan guilty of committing the Contempt of Court and referring them to the Bar Council of India for taking disciplinary action against them is not proposed, however, some action is definitely required to be taken against them for their grave and seriousness misconduct of misusing the process of law and the conduct unbecoming of an Advocate. It deserves to be noted that we repeatedly come across the incidents of the litigants suffering because of the negligence and carelessness of their Advocates but we do not take any serious actions against the Advocates, taking lenient view, believing that to err is Human. However, our leniency should not be construed as the licence to commit errors or to behave in absolutely irresponsible manner. Being an officer of the Court, every Advocate is as much responsible for his role in the judicial proceedings, as a judicial officer or a staff member would be.
19. As stated earlier, the persons found taking recourse to fraud, deflecting the course of judicial proceedings, and interfering with the administration of justice should be properly dealt with, not only to punish them for the wrong done by them, but also to deter others from indulging in similar acts which shake the faith of people in the system of administration of justice. Ideally, the

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Advocates practising in the Supreme Court should be the Role models for the Advocates practising in the other Courts of the Country. The Judges are also selected from the ranks of lawyers, and the character of the Judges is nothing but the reflection of the character of the Advocates. The people of the nation are perfectly justified in expecting the highest level of excellence and integrity from the Judges. Such expectations could be fulfilled only when we have an enlightened, and erudite Bar possessing high level of integrity, ethics and morals. The very motto of the Supreme Court “यतो धर्मस्ततो जयः- **Where there is Dharma-righteousness, there will be victory**” is not only for the inscription in the emblem; it has to really happen in the portals of the Courts.

20. In view of the above discussion and findings, and taking recourse to the provisions contained in Order IV Rule 10 of the Supreme Court Rules, 2013, and following the precedent set by Three Judge Bench in ***Mohit Chaudhary, Advocate, Re*** (supra), it is directed that the name of Mr. P. Soma Sundaram shall be removed from the Register of Advocates-on-Record for a period of one month from today. It is further directed that the Advocate Mr. Muthukrishnan shall pay cost of Rs.1,00,000/- (Rupees One Lakh) from his own pocket to be deposited by him with the SCAORA to be utilized for the welfare of the Advocates.
21. We have already issued non-bailable warrant against the Petitioner – N Eswaranathan. On his arrest, he shall be produced before the concerned Trial Court, who shall send him to the concerned jail for undergoing the sentence imposed by the Trial Court and confirmed by the High Court and the Supreme Court.
22. Before parting, it is expected and hoped, that the Senior Advocates practising in the Supreme Court shall show serious concern about the repeated incidents of misconduct by the Advocates practising in the Supreme Court and take affirmative actions to uplift and raise the standard of Professionalism, Ethics and Moral in the Legal Profession, to have a better Bar and in turn a better Judiciary in the Country.
23. The Special Leave Petition stands dismissed.
24. All the pending applications are also dismissed.

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### Satish Chandra Sharma, J.

1. I have perused the judgment of my sister. I agree with my sister that Mr. P.Soma Sundaram, Advocate on Record and Mr. S.Muthukrishnan, Advocate, have not kept in mind the honour and dignity of the institution. They have also failed to discharge their duties to the Court. The “Standards of Professional Conduct and Etiquette” of the Bar Council of India Rules cast a duty upon Advocates to restrain and prevent their client from resorting to sharp or unfair practices. It is well settled that an Advocate cannot forget what he owes to himself and more importantly to the Court and not to mis-state facts. In ***Mohit Chaudhary, in Re. (2017) 16 SCC 78***, this Court has observed that the fundamentals of the profession require an Advocate not to be immersed in a blind quest of relief for his client. The dignity of the institution cannot be violated in this quest as “law is no trade, briefs no merchandise.”
2. Highlighting the importance of an Advocate on Record, this Court in ***Rameshwar Prasad Goyal, In Re (2014) 1 SCC 572*** has observed as under:

*“22. An AOR is the source of lawful recognition through whom the litigant is represented and therefore, he cannot deviate from the norms prescribed under the Rules. The Rules have been framed to authorise a legally trained person with prescribed qualification to appear, plead and act on behalf of a litigant. Thus, not only is his physical presence but effective assistance in the court is also required. He is not a guest artist nor is his job of a service provider nor is he in a professional business nor can he claim to be a law tourist agent for taking litigants for a tour of the court premises. An AOR is a seeker of justice for the citizens of the country. Therefore, he cannot avoid court or be casual in operating and his presence in the court is necessary. There are times when pleadings and records have to be explained and thus, he has to do a far more serious job and cannot claim that his role is merely a formal one or his responsibilities simply optional. An AOR is accountable and responsible for whatever is written and pleaded by putting his appearance to maintain solemnity of records of the court.”*

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3. In the aforesaid judgment, this Court has also cast a duty upon the Advocates on Record not to be conspicuous by his absence though his presence is maintained on record. Mr. P. Soma Sundaram, as an Advocate on Record, therefore, ought not to have filed the second Special Leave Petition (SLP) when a Special Leave Petition (SLP) had already been dismissed by this Court on 29.04.2024 against the impugned order dated 29.09.2023 passed by the High Court.
4. I, however, feel that the punishment imposed upon Mr. P. Soma Sundaram, Advocate on Record and Mr. S.Muthukrishnan, Advocate, is too harsh. Undoubtedly, the very motto of the Supreme Court is यतो धर्मस्ततो जयः (Yato Dharmastato Jayah) i.e., “Where there is Dharma – righteousness, there will be victory”, but at the same time, we also cannot forget क्षमा धर्मस्य मूलमः (Kshama Dharmasya Moolam) i.e., “Forgiveness is the root of Dharma”. In fact in the epic Mahabharata, there is a significant passage regarding forgiveness which reads as under:

“क्षमा धर्मः क्षमा यज्ञः क्षमा वेदाः प्रतिष्ठिता ।  
क्षमया सर्वलोकः स्थितं क्षमया सर्वं प्रतिष्ठितम् ॥

*Forgiveness is dharma: forgiveness is sacrifice: forgiveness upholds the Vedas. The world is held together by forgiveness – everything rests on forgiveness.”*

5. Mr. P.Soma Sundaram, Advocate on Record and Mr. S.Muthukrishnan, Advocate, at the very first opportunity have tendered their absolute and unconditional apology and have promised not to repeat the misconduct in future. Affidavit tendering unconditional apology have also been filed by Mr. P.Soma Sundaram, Advocate on Record and Mr. S.Muthukrishnan, Advocate, which read as under:

*“I, P.Soma Sundaram S/o G.Ponnu Pillai, aged about 52 years old, having office at 626, Additional Chamber Building, D Block, 6<sup>th</sup> Floor, Supreme Court of India, New Delhi, Pin – 110 001, do hereby solemnly affirm and sincerely states as follows:-*

- 1) *That I am the Advocate on Record in this instant Special Leave Petition (Criminal). In pursuance of the order dated 01.04.2025 passed by this Hon’ble Court in this instant case, I hereby state the circumstances*

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*leading to the filing of this second/instant Special Leave Petition (Criminal) Diary No. 55057/2024.*

- 2) *That the petitioner in this instant Special Leave Petition N.Eswaranathan was convicted by the Principal Sessions Judge, Dharmapuri, Tamil Nadu, in Sessions Case No. 1 of 2008 on 29.09.2008 for the following offences;*
  - a) *Convicted under Section 147 of IPC and sentenced to undergo rigorous imprisonment for 2 years.*
  - b) *Convicted under Section 342 r/w 149 of IPC and sentenced to undergo rigorous imprisonment for one year and with a fine of Rs. 1000/- and that in default to undergo simple imprisonment for three months.*
  - c) *Convicted under Section 3(2)(iii) of Scheduled Castes and Scheduled Tribes (Prohibition of Atrocities) Act, 1989 and sentenced to undergo rigorous imprisonment for three years, and with a fine of Rs. 1000/- and that in default to undergo simple imprisonment for three months.*
  - d) *Convicted under Section 3(1)(x) of Scheduled Castes and Scheduled Tribes (Prohibition of Atrocities) Act, 1989 and sentenced to undergo rigorous imprisonment for three years and with a fine of Rs. 1000/- and that in default to undergo simple imprisonment for four months.*
  - e) *Convicted under Section 355 of IPC and sentenced to undergo rigorous imprisonment for one year.*
  - f) *Convicted under Section 355 of IPC and sentenced to undergo rigorous imprisonment for one year.*
  - g) *Convicted under Section 3(1)(v) of Scheduled Castes and Scheduled Tribes (Prohibition of Atrocities) Act, 1989 and sentenced to undergo*

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*rigorous imprisonment for three years, and with a fine of Rs. 1000/- and that in default to undergo simple imprisonment for nine months.*

- 3) *Along with the petitioner there were a total number of 269 Accused persons who were tried together in the Court of the Principal Sessions Judge, Dharmapuri, Tamil Nadu, in Sessions Case No. 1 of 2008.*
- 4) *That the Hon'ble High Court of Judicature at Madras passed the common impugned order and judgment dated 29.09.2023 dismissing a batch of Criminal Appeals preferred by the convicts against the judgment dated 29.09.2011 passed by the Principal Sessions Judge, Dharmapuri, Tamil Nadu, in Sessions Case No. 1 of 2008, and thereby confirmed the conviction of the Trial Court.*
- 5) *As some of the other convicted persons have preferred Special Leave Petitions against their conviction challenging the above said common impugned order of the Hon'ble High Court, the petitioner also wished to the prefer a Special Leave Petition before this Hon'ble Court. Thereafter, the petitioner informed Advocate S.Muthukrishnan that he had not preferred a Criminal Appeal before the Hon'ble High Court against the conviction of the Trial Court. Advocate S.Muthukrishnan was informed by the petitioner that he was not having any of the documents relating to the litigation such as chargesheet, copy of the deposition, Section 313 Cr.P.C. statement etc.*
- 6) *The petitioner instructed Advocate S.Muthukrishnan to prefer a Special Leave Petition before this Hon'ble Court, and the petitioner handed over a website copy of the impugned judgment downloaded from the official website of the Hon'ble High Court of Madras to Advocate S.Muthukrishnan. The said downloaded website copy did not contain the names of all the appellants as well as the name of the petitioner, and it only mentions the Criminal Appeal numbers.*



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- 7) *Thereafter, the first Special Leave petition was drawn by Advocate S.Muthukrishnan with an application seeking permission to file a Special Leave Petition, and then its accompanying affidavit was signed by the petitioner before a Notary Public at Eduthanur Post, Villupuram District, Tamilnadu. The said first Special Leave Petition (Criminal) was filed in the Hon'ble Supreme Court on 01.02.2024 vide SLP (Criminal) Diary No. 5111/2024 (hereinafter mentioned as first SLP) titled N.Eswaranathan Vs. State Represented by the Deputy Superintendent of Police through Advocate on Record P.Soma Sundaram challenging the impugned judgment and order dated 29.09.2023 passed by the Hon'ble High Court of Madras in Criminal Appeal No. 618 of 2011. The said Criminal Appeal No. 618 of 2011 was the lead matter in the batch of appeals before the Hon'ble High Court. The website copy of the impugned judgment downloaded from the official website of the Hon'ble High Court of Madras was filed in this first Special Leave Petition.*
- 8) *The said first Special Leave Petition (Criminal) was listed before the Hon'ble Chamber Judge on 01.04.2024, and the petitioner was exempted from surrendering. Thereafter, the said first Special leave petition (Criminal) Diary No. 5111/2024 came up for hearing before this Hon'ble Court on 29.04.2024, and this Hon'ble Court was pleased to dismiss the first Special Leave Petition and all the pending applications, and this Hon'ble Court had further directed that the petitioner shall surrender before the Trial Court with two weeks from the date of the order.*
- 9) *It was after the dismissal of the above said first Special Leave Petition (Criminal) that the petitioner informed Advocate S.Muthukrishnan that he had come to know that he had actually filed a Criminal Appeal being Criminal Appeal No. 653 of 2011 challenging the judgment of the Trial Court. Thereafter, the second/instant Special Leave Petition was drawn by Advocate*

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*S.Muthukrishnan, and then its accompanying affidavit was signed by the petitioner before a Notary Public at Eduthanur Post, Villupuram District, Tamil Nadu.*

- 10) *Article 136 of the Constitution provides discretionary jurisdiction to this Hon'ble Court to render complete justice. This Hon'ble Court is vested with plenary powers to set aside any order or judgment passed by any court or tribunal in the territory of India wherein this Hon'ble Court is of the opinion that the impugned judgment or order is in violation of fundamental rights and shocks judicial conscience notwithstanding the fact that this Hon'ble Court had previously declined to exercise its power under Article 136 of the Constitution against the same impugned order. Thus, under the given circumstances, this Hon'ble Court is not precluded from exercising its power under Article 136 to examine the legal validity of the impugned order.*
- 11) *It is pertinent to mention that the petitioner belongs to a Scheduled Caste and the petitioner has also been convicted under various sections of the Scheduled Castes and Scheduled Tribes (Prohibition of Atrocities) Act, 1989, and the prosecution and conviction under the said Act violates due process of law and the rule of law.*
- 12) *The said second/instant Special Leave Petition (Criminal) was filed in the Hon'ble Supreme Court on 26.11.2024 vide SLP(Criminal) Diary No. 55057/2024 (hereinafter mentioned as Second SLP) titled N.Eswaranathan Vs. State Represented by the Deputy Superintendent of Police through Advocate on Record P.Soma Sundaram challenging the impugned judgment and order dated 29.09.2023 passed by the Hon'ble High Court of Madras in Criminal Appeal No. 653 of 2011. The website copy of the impugned judgment downloaded from the official website of the Hon'ble High Court of Madras was filed in this second Special Leave Petition.*

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- 13) *The said /instant second Special Leave petition was listed before the Hon'ble Chamber Judge on 21.02.2025, and the petitioner was exempted from surrendering.*
- 14) *It is humbly submitted that the deponent tenders unconditional apology for the mistake of not having mentioned the factum of the filing of the first Special Leave Petition (Criminal) Diary No. 5111/2024 against the impugned order dated 29.09.2023 passed by the Hon'ble High Court of Madras in Criminal Appeal No. 618 of 2011 in Para No. 3 of this second/instant Special Leave Petition (Criminal). This omission is neither wilful nor wanton.*
- 15) *It is also humbly submitted that the factum of having filed the first Special Leave Petition (Criminal) and its dismissal order dated 29.04.2024 has been mentioned in pages G, H and I of the List of Dates and Events, and a copy of the dismissal order passed in the first Special leave Petition (Criminal) Diary No. 5111/2024 has been filed as Annexure P-6 at Pages 406-407 of this second/instant Special Leave Petition (Criminal).*
- 16) *Thus, it is humbly prayed that this Hon'ble Court may graciously be pleased to accept the unconditional apology of the deponent and thus render justice.*

*I, S.Muthukrishnan S/o. G.Seenivasan, aged about 44 years old, having office at 5A/11006, Sat Nagar, WEA, Karol Bagh, New Delhi, Pin : 110005, do hereby solemnly affirm and sincerely states as follows:-*

- 1) *That I completed law at Dr. Ambedkar Govt. Law College, Chennai in the year 2005 and got enrolled as an Advocate at Delhi Bar Council in the year 2006. I am the Advocate in this instant Special Leave Petition (Criminal). In pursuance of the order dated 01.04.2025 passed by this Hon'ble Court in this instant case, I hereby state the circumstances leading to the filing of this second/instant Special Leave Petition (Criminal) Diary No. 55057/2024.*

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- 2) *That the petitioner in this instant Special Leave Petition N.Eswaranathan was convicted by the Principal Sessions Judge, Dharmapuri, Tamil Nadu, in Sessions Case No. 1 of 2008 on 29.09.2008 for the following offences;*
- a) *Convicted under Section 147 of IPC and sentenced to undergo rigorous imprisonment for 2 years.*
  - b) *Convicted under Section 342 r/w 149 of IPC and sentenced to undergo rigorous imprisonment for one year and with a fine of Rs. 1000/- and that in default to undergo simple imprisonment for three months.*
  - c) *Convicted under Section 3(2)(iii) of Scheduled Castes and Scheduled Tribes (Prohibition of Atrocities) Act, 1989 and sentenced to undergo rigorous imprisonment for three years, and with a fine of Rs. 1000/- and that in default to undergo simple imprisonment for three months.*
  - d) *Convicted under Section 3(1)(x) of Scheduled Castes and Scheduled Tribes (Prohibition of Atrocities) Act, 1989 and sentenced to undergo rigorous imprisonment for three years and with a fine of Rs. 1000/- and that in default to undergo simple imprisonment for four months.*
  - e) *Convicted under Section 355 of IPC and sentenced to undergo rigorous imprisonment for one year.*
  - f) *Convicted under Section 355 of IPC and sentenced to undergo rigorous imprisonment for one year.*
  - g) *Convicted under Section 3(1)(v) of Scheduled Castes and Scheduled Tribes (Prohibition of Atrocities) Act, 1989 and sentenced to undergo rigorous imprisonment for three years, and with a fine of Rs. 1000/- and that in default to undergo simple imprisonment for nine months.*

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- 3) *Along with the petitioner there were a total number of 269 Accused persons who were tried together in the Court of the Principal Sessions Judge, Dharmapuri, Tamil Nadu, in Sessions Case No. 1 of 2008.*
- 4) *That the Hon'ble High Court of Judicature at Madras passed the common impugned order and judgment dated 29.09.2023 dismissing a batch of Criminal Appeals preferred by the convicts against the judgment dated 29.09.2011 passed by the Principal Sessions Judge, Dharmapuri, Tamil Nadu, in Sessions Case No. 1 of 2008, and thereby confirmed the conviction of the Trial Court.*
- 5) *As some of the other convicted persons have preferred Special Leave Petitions against their conviction challenging the above said common impugned order of the Hon'ble High Court, the petitioner also wished to the prefer a Special Leave Petition before this Hon'ble Court. Thereafter, the petitioner informed the deponent that he had not preferred a Criminal Appeal before the Hon'ble High Court against the conviction of the Trial Court. Further, the deponent was informed by the petitioner that he was not having any of the documents relating to the litigation such as chargesheet, copy of the deposition, Section 313 Cr.P.C. statement etc.*
- 6) *The petitioner instructed the deponent to prefer a Special Leave Petition before this Hon'ble Court, and the petitioner handed over a website copy of the impugned judgment downloaded from the official website of the Hon'ble High Court of Madras to the deponent. The said downloaded website copy did not contain the names of all the appellants as well as the name of the petitioner, and it only mentions the Criminal Appeal numbers.*
- 7) *Thereafter, the first Special Leave petition was drawn by the deponent with an application seeking permission to file a Special Leave Petition, and then its accompanying affidavit was signed by*

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*the petitioner before a Notary Public at Eduthanur Post, Villupuram District, Tamilnadu. The said first Special Leave Petition (Criminal) was filed in the Hon'ble Supreme Court on 01.02.2024 vide SLP (Criminal) Diary No. 5111/2024 (hereinafter mentioned as first SLP) titled N.Eswaranathan Vs. State Represented by the Deputy Superintendent of Police through Advocate on Record P.Soma Sundaram challenging the impugned judgment and order dated 29.09.2023 passed by the Hon'ble High Court of Madras in Criminal Appeal No. 618 of 2011. The said Criminal Appeal No. 618 of 2011 was the lead matter in the batch of appeals before the Hon'ble High Court. The website copy of the impugned judgment downloaded from the official website of the Hon'ble High Court of Madras was filed in this first Special Leave Petition.*

- 8) *The said first Special Leave Petition (Criminal) was listed before the Hon'ble Chamber Judge on 01.04.2024, and the petitioner was exempted from surrendering. Thereafter, the said first Special leave petition (Criminal) Diary No. 5111/2024 came up for hearing before this Hon'ble Court on 29.04.2024, and this Hon'ble Court was pleased to dismiss the first Special Leave Petition and all the pending applications, and this Hon'ble Court had further directed that the petitioner shall surrender before the Trial Court with two weeks from the date of the order.*
- 9) *It was after the dismissal of the said first Special Leave Petition (Criminal) that the petitioner informed the deponent that he had come to know that he had actually filed a Criminal Appeal being Criminal Appeal No. 653 of 2011 challenging the judgment of the Trial Court. Thereafter, the second/instant Special Leave Petition was drawn by the deponent, and then its accompanying affidavit was signed by the petitioner before a Notary Public at Eduthanur Post, Villupuram District, Tamil Nadu.*

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- 10) *Article 136 of the Constitution provides discretionary jurisdiction to this Hon'ble Court to render complete justice. This Hon'ble Court is vested with plenary powers to set aside any order or judgment passed by any court or tribunal in the territory of India wherein this Hon'ble Court is of the opinion that the impugned judgment or order is in violation of fundamental rights and shocks judicial conscience notwithstanding the fact that this Hon'ble Court had previously declined to exercise its power under Article 136 of the Constitution against the same impugned order. Thus, under the given circumstances, this Hon'ble Court is not precluded from exercising its power under Article 136 to examine the legal validity of the impugned order.*
- 11) *It is pertinent to mention that the petitioner belongs to a Scheduled Caste and the petitioner has also been convicted under various sections of the Scheduled Castes and Scheduled Tribes (Prohibition of Atrocities) Act, 1989, and the prosecution and conviction under the said Act violates due process of law and the rule of law.*
- 12) *The said second/instant Special Leave Petition (Criminal) was filed in the Hon'ble Supreme Court on 26.11.2024 vide SLP(Criminal) Diary No. 55057/2024 (hereinafter mentioned as Second SLP) titled N.Eswaranathan Vs. State Represented by the Deputy Superintendent of Police through Advocate on Record P.Soma Sundaram challenging the impugned judgment and order dated 29.09.2023 passed by the Hon'ble High Court of Madras in Criminal Appeal No. 653 of 2011. The website copy of the impugned judgment downloaded from the official website of the Hon'ble High Court of Madras was filed in this second Special Leave Petition.*
- 13) *The said /instant second Special Leave Petition was listed before the Hon'ble Chamber Judge on 21.02.2025, and the petitioner was exempted from surrendering.*

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- 14) *It is humbly submitted that the deponent tenders unconditional apology for the mistake of not having mentioned the factum of the filing of the first Special Leave Petition (Criminal) Diary No. 5111/2024 against the impugned order dated 29.09.2023 passed by the Hon'ble High Court of Madras in Criminal Appeal No. 618 of 2011 in Para No. 3 of this second/instant Special Leave Petition (Criminal). This omission is neither wilful nor wanton.*
  - 15) *It is also humbly submitted that the factum of having filed the first Special Leave Petition (Criminal) and its dismissal order dated 29.04.2024 has been mentioned in pages G, H and I of the List of Dates and Events, and a copy of the dismissal order passed in the first Special leave Petition (Criminal) Diary No. 5111/2024 has been filed as Annexure P-6 at Pages 406-407 of this second/instant Special Leave Petition (Criminal).*
  - 16) *Thus, it is humbly prayed that this Hon'ble Court may graciously be pleased to accept the unconditional apology of the deponent and thus render justice."*
6. The apology appears to be honest and genuine and comes from a penitent heart. Both Advocates have expressed their remorse with a promise not to repeat the misconduct in future. Several eminent leaders of the Supreme Court Bar Association (SCBA), Office Bearers of the SCBA and Supreme Court Advocates-on-Record Association (SCAORA) have appealed to this Court for mercy which should not be ignored.
  7. Suspending an Advocate -on-Record for a period of one month would cast a stigma on the future of the Advocate-on-Record. It is said that Mr. P.Soma Sundamram, Advocate-on-Record, comes from a very remote village in the State of Tamil Nadu and this stigma can possibly cost him his entire future. Mr. S.Muthukrishnan, Advocate, also comes from a very remote village in the State of Tamil Nadu and imposing costs of Rs. 1,00,000/- will be too onerous on him. Both the Advocates have an unblemished track record which persuades me to take a lenient view.



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8. Though the conduct of the Advocates has been reprehensible and not worthy of being pardoned, however, considering the plea made by the Senior Advocates, Office Bearers of the Supreme Court Bar Association (SCBA) and Supreme Court Advocates-on-Record Association (SCAORA) and keeping in mind the absolute and unconditional apology tendered by the Advocates expressing remorse and promise made by them not to repeat the misconduct in future, the unconditional apology tendered by them is accepted and they are warned of and directed to be careful in not repeating any such misconduct in future. They are also directed to ensure that they shall appear before all cases where they have entered appearances. The case stands closed.

#### Order\*\*

In view of the divergent opinions expressed by us on the issue of acceptance of the apology tendered by the concerned Advocates, the matter be placed before the Hon'ble Chief Justice of India for appropriate orders.

*Result of the case:* In view of the divergent opinions, matter referred to the Chief Justice of India for appropriate orders.

*<sup>†</sup>Headnotes prepared by: Ankit Gyan*

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\*\* Common order of the Bench.