

# **Court On Its Own Motion vs Mr. Gulshan Bajwa on 19 October, 2006**

**Equivalent citations: 141(2007)DLT111**

**Author: Swatanter Kumar**

**Bench: Swatanter Kumar, G.S. Sistani**

## **JUDGMENT**

Swatanter Kumar, J.

1. The meaning of the expression 'contempt' in normal parlance is an act of state of despising, the conduct that defies the authority or dignity of a Court. It is so because such conduct interferes with the administration of justice and is liable to be punished. Even in its liberal construction, it conveys a strong feeling of combined dislike and lack of respect. In order to protect the dignity of Court and ensure proper administration of justice, the Legislature has enacted 'the Contempt of Courts Act', which deals with the various situations and varied conduct of parties, counsel or any person to ensure that the orders of the court are implemented and administration of justice is not hampered. Every citizen has a Fundamental Right of personal liberty and freedom of expression. Despite such Right, this Act granted jurisdiction to the court to punish for contemptuous behavior made in writing or verbally. While reasonably protecting these rights and circumventing the Court's jurisdiction to punish for contempt, the initial Contempt of Courts Act, 1926 was replaced by the 1971 Act. The Legislature intended to caution the Courts that even where prima facie a contempt was committed, it still may not punish such a contempt if it had not substantially interfered with due course of justice and the defense was bona fide. Whatever be the enactment or the situation neither the Legislature is intended nor the courts vested with the duties of administration or dispensation of justice can condone acts of substantial interference with the administration of justice coupled with contempt in the face of the Court. These acts of contempt may be attempted by the party, their counsel and for that matter any person. The mode of committing such offence may be by filing applications, affidavits or submissions etc. Whosoever including an Advocate for a party, who are also called Officers of the Court, commits grave offences of contempt with the feeling of impunity and repeatedly, then there can hardly be any scope left for any Court to hold that they are entitled to the benefit of the provisions of Section 13 of the Act.

2. Compelled with somewhat similar circumstances, a Division Bench of this Court consisting of Dr. Mukundakam Sharma, J and Hima Kohli, J, on 8.8.2006 having perused the contents of CM No. 9695/2006, directed the Registry to issue notice to the petitioner to show cause why appropriate action under the provisions of the Contempt of Courts Act, 1971 or otherwise shall not be initiated against Mr. Gulshan Bajwa who is an Advocate practicing in this Court and Petitioner-in-person in

CWP No. 9244/2006. In that application, reckless and undesirable allegations were made against the Judges. Averments in regard to curses given by the petitioners to Judges, were made in that application. Thereafter, this Division Bench of this Court on 17.8.2006 had noticed the conduct of Mr. Gulshan Bajwa as giving threats to a lady counsel appearing on the other side and opposing him in some cases. By the same order, the Court had directed the counsel to appear on the next date to explain his conduct. However, notice for Contempt of Court was not issued at that stage. On 18.8.2006, none appeared when the case was called out at the initial stage, however, subsequently, Mr. Pankaj Aggarwal appeared and undertook to inform the petitioner/Mr. Gulshan Bajwa, Advocate to appear on the next date of hearing. Mr. Bajwa did not appear in the Court, though Mr. Rajeev Mehra standing counsel for Union of India informed that he was present in the premises of the High Court. Even on 21.8.2006, he did not appear but filed further applications making reckless allegations even against the Bench extending threats and filing transfer applications in the cases without taking instructions from the petitioners and, in fact, without their consent and knowledge. These facts were noticed in the order dated 21.8.2006. It was directed that all the Contempt Petitions may be listed before the same Bench, subject to and after obtaining order of Hon'ble the Acting Chief Justice. The Acting Chief Justice directed the matters to be listed before this Bench. On 22.8.2006, when the cases were listed, again nobody appeared on behalf of Mr. Bajwa, nor did he appear in person. There were certain subsequent orders passed, but despite all possible non-ordinary processes of service, Mr. Bajwa did not appear before the Court, nor any body appeared on his behalf. In fact, even the addresses given by him were found to be false and incorrect. It may not be necessary to refer to all those orders and we may refer to the order dated 31.8.2006, when the Court had issued formal notice to show cause as to why the petitioner be not dealt with and punished under the provisions of the Contempt of Courts Act read with Article 215 of the Constitution of India. The order reads as under:

SWATANTER KUMAR, J.

It is necessary for the Court to refer to background giving rise to these two contempt petitions in order to show the conduct of Mr. Gulshan Bajwa @ Flt. Lt. G.S. Bajwa.

Flt. Lt. G.S. Bajwa @ Gulshan Bajwa, had filed a review application before the Supreme Court being Review Petition No. 10465/2003 in CA No. 10383/96 praying for review of the judgment of the Supreme Court dated 2nd May, 2003. The review application was dismissed vide order dated 4th September, 2003, which reads as under:

We have carefully perused the review petition as well as the documents annexed therewith, but we find no merit in the review petition and the same is accordingly dismissed.

Having regard to the allegations and insinuations contained in the review petition, there is justification for action under the Contempt of Courts Act, against the petitioner. However, considering his background as is apparent from the record of the case and the apparent frustration caused to the petitioner as a result of his losing

his appeal before this Court, we do not propose to initiate any action under the said Act, since the respondent has preferred the review petition in-person.

However, we notice that the petitioner is an Advocate and is practicing as an Advocate-on-Record in this Court. The conduct of the petitioner in filing a review petition containing such baseless allegations and insinuations reflecting on the conduct of Judges of this Court does call for closer scrutiny, as to whether his conduct does no credit to the noble profession to which he belongs. However, since that matter is not within our jurisdiction and it is only the Bar Council of India which is empowered to take appropriate action, we refer this matter to the Bar Council of India for such action as it may consider appropriate. The Registry is directed to forward to the Bar Council of India a complete set of papers including the letter of the petitioner addressed to the Registrar (Judicial) dated 9th June, 2003 and the office reports to enable the Bar Council of India to take such action as it may consider appropriate.

3. The petitioner Mr. Gulshan Bajwa @ Flt. Lt. G.S. Bajwa had filed Civil Writ petition No. 245/86 praying for setting aside and quashing of entire proceedings of the General Court Martial held against the petitioner, the charge sheet dated 30.4.1983 passed by AOC, Air Force Station, New Delhi and that dated 24.11.1982 to which it was a sequel; order dated 30.4.1983 signed by the Director of Personnel Services, Air Headquarters, directing General Court Martial; Orders dated 10.7.1979 and 15.10.1979 lowering the petitioner's medical category and all orders to which these were a sequel; orders dated 18.6.1982 and 29.9.1982 ordering the petitioner's psychiatric examination; finding and sentence dated 21.6.1983 by General Court Martial; order dated 21.6.1983 passed by Adjutant Air Force Station, New Delhi placing the petitioner under arrest; the purported order dated 14.1.1985 passed by the Central Government under Section 161(2) of Air Force Act, 1950; Section 65 & 110 of Air Force Act; the order for arrest of the petitioner during the trial by General Court Martial from 10.6.1983 to 21.6.1983 and all adverse entries in the annual confidential reports of the petitioner and the effect of low reporting. It was further prayed that petitioner's dismissal from service be declared as null and void and also declare the petitioner in continuous service and entitled to all the consequent benefits including the higher rank (acting and substantive) emoluments and allowances (inclusive of rations allowance) as he would have been entitled to had he been in service but for the illegal orders as mentioned hereinbefore. Further it was prayed to declare the wrongful confinement of petitioner for 85 days from 15.6.1979 to 10.7.1979 and from 22.8.1979 to 19.10.1979 in psychiatric wards as illegal, as also the criminal assault on the petitioner on 28.9.1979 at Command Hospital (Southern Command) Pune as illegal, and award suitable compensation in lieu of that. It was further prayed to declare the arrest of petitioner on 21.6.1979 as illegal, and award suitable compensation in lieu of that.

4. The writ petition was allowed partially by an order of Division Bench of this Court dated 3.8.1995. Thereafter, two review applications being RA 43/95 and 5977A/95 were filed by the petitioner, which were dismissed by order dated 15th September, 1995 and 17th March, 2005 respectively. Thereafter, the petitioner has filed another application being CM 3882/2005 for restoration of RA No. 5977A/95. He had also filed CM 8361/2005 for amendment of the review petition. These two

applications were dismissed by order dated 5th October, 2005. Thereafter, the petitioner filed another application being CM No. 13143/2005.

5. Against the judgment of the High Court dated 3rd August, 1995, the Union of India had gone up in appeal being Civil Appeal No. 10383/96, which was allowed vide order dated 2nd May, 2003 and the judgment of the High Court in favor of the petitioner was set aside.

6. The petitioner had filed a review application before the Supreme Court being Review Petition No. 10465/2003 in CA No. 10383/96 praying for review of the judgment of the Supreme Court dated 2nd May, 2003, which was dismissed vide order dated 4th September, 2003 as reproduced above.

7. During this period, the petitioner filed two contempt petitions against Union of India and its officers being CCP Nos. 160/98 and 741/2006 inter-alia claiming violation of order dated 3rd August, 1995 and various orders of the Supreme Court viz. 14.8.1985, 22nd November, 1985 passed in WP(C) No. 12605/84.

8. The petitioner in person had filed another writ petition being WP No. 9244/2006 against Ministry of Human Resource Development and others saying that the authorities were not performing their duties. The main question was with regard to recognition, affiliation and no objection certificate to be issued to the institutions and the malpractices adopted by private educational institution. During the pendency of this petition, the petitioner had filed CM 9695/2006, which was not connected with the main petition and certain reckless allegations had been made in the said application, which compelled a Division Bench of this Court comprising HON'BLE DR. JUSTICE MUKUNDAKAM SHARMA AND HON'BLE MS. JUSTICE HIMA KOHLI to pass the following order on 8th August, 2006:

We have looked into the statement made in the application, which is registered as CM No. 9695/2006. Having gone through the same, we direct for issuance of a notice to the petitioner to show cause why appropriate action under the provisions of the Contempt of Courts Act or otherwise shall not be initiated against him. Notice shall be issued to the petitioner by the registry of this Court without process fee and shall be served by the Process Serving Agency of this Court, returnable on 3rd October, 2006

9. This gave rise to registration of Criminal Contempt No. 17/2006 against the petitioner. After issuance of notice, Mr. Gulshan Bajwa did not appear before this Court on number of occasions and the cases were adjourned to 23rd August, 2006, 25th August, 2006, 29th August, 2006, 30th August, 2006 and 31st August, 2006 (CCP Nos. 160/98 & 741/2006, WP(C) No. 245/86) and in WP(C) No. 9244/2006 the matter was adjourned to 25th August, 2006, 29th August, 2006, 30th August, 2006 and 31st August, 2006. Though Mr. Bajwa was filing applications day after day during this period but he did not appear in his personal cases as well as the cases where he was appearing as counsel.

10. Civil Writ Petition No. 5183/2005 was filed by Major Ajay Kumar through Ms. Jyoti Singh, Advocate. The case was heard by different Benches on different dates including the present Bench. On 31st July, 2006 when the case was heard and records were produced before the Court, the Court passed the following order:

The original records have been produced before us. The records reflect that the petitioner had himself signed the result as a consequence of which according to the respondent, he was taken out of the course. Secondly there were a number of complaints for which the petitioner had admitted his fault and sincerely regretted. The original records be shown to the counsel appearing for the petitioner. The petitioner to file an affidavit as to why these facts were not disclosed in the writ petition despite the fact that they were in his personal knowledge.

List on 7.8.2006.

11. On the adjourned date i.e. 7th August, 2006, the Major Ajay Kumar engaged another counsel i.e. Mr. G.S. Bajwa and Ms. Jyoti Singh was discharged. In the order it was clearly stated that no further adjournment would be granted and the case was adjourned to 10th August, 2006, On 10th August, 2006, the case was ordered to be listed on 11th August, 2006 and then on 17th August, 2006. After some arguments, on 17th August, 2006, counsel for the petitioner prayed that he wanted to file certain applications and requested for an adjournment, which was allowed by the Court. However, after grant of the prayer, Mr. Bajwa had passed comments on the lady counsel appearing for the Union of India. The Court then passed the following order:

Learned Counsel for the petitioner states that he wishes to file some applications and requests for adjournment. Request is allowed.

At this stage, after the request for filing the applications was allowed, learned Counsel appearing for the petitioner while going back passed a comment on the lady advocate opposing him in the case and appearing for the respondents. She brought it to the notice of the Court and we requested the counsel appearing for the petitioner to come back, which he did.

Learned Counsel for the petitioner made a threatening remark to her, saying that now she be prepared for the consequences. Shri Dipak Bhattacharya (Advocate), who was also present in the Court duly confirmed that he overheard this remark being made to the lady advocate appearing for the respondents.

We find this attitude of the counsel appearing for the petitioner to be undesirable and needs to be deprecated and dealt with in accordance with law. It is unfair for any counsel to give any threats to the counsel appearing on the other side, as all of them appear as officers of the Court and assist the Court on their respective clients. However, before we direct any further action or issue notice for contempt, learned Counsel for the petitioner made a request and the case is directed to be listed for

tomorrow.

List on 18.8.2006.

12. Neither the petitioner nor his counsel had appeared on subsequent dates but an application being CM 10154/2006 praying for transfer of matter to another Bench was filed. On 18th August, 2006 also nobody appeared on behalf of the petitioner and the case was passed over. A request for adjournment was made in the later part of the day on behalf of Mr. Bajwa on the ground that counsel (Mr. Bajwa) was unwell and he had left. This fact was disputed by the Standing Counsel appearing for the Union of India. He stated that he had seen Mr. Bajwa in Court and even an application was served upon them. In the interest of justice, the case was adjourned to 21st August, 2006. However, copy of the application and written statement was placed on record. As nobody was present on behalf of the petitioner on 21st August, 2006, the case was passed over. After taking into account the various averments made in the written submissions, reply to show cause notice, which was not even issued by the Court, the Court vide order dated 21st August, 2006 issued a notice as to why contempt proceedings be not initiated against the said counsel for making such averments and particularly threatening the lady counsel appearing on the other side of dire consequences for arguing the case against the petitioner. Certain more averments were made against the counsel for which she filed a reply. In all these matters, the petitioner had filed transfer petitions, which were ordered to be listed before Hon'ble the Acting Chief Justice and in all these cases, vide order 24th August, 2006 dated Hon'ble the Acting Chief Justice had directed the cases to be listed before this Bench. The petitioner Maj. Ajay Kumar appeared in person before the court on 29th August, 2006 and made the following statement:

I am the petitioner in the present case. I had not asked my counsel, Shri Gulshan Bajwa, Advocate, to file a transfer petition. However, I had left Delhi and I was informed on telephone by my counsel that he would be filing a transfer petition. I had told him that he could go ahead. I was not informed the grounds on which he wishes to file the transfer petition. Today, in the Court, I have read the copy of the application bearing No. CM 10154/2006 as well as reply filed to the show -cause notice wherein some allegations have been made against Ms. Rekha Palli, Advocate, appearing for the Union of India in my case. I had not instructed the counsel to state any of the allegations and averments which have been made in this reply/application. I was away. I have not signed any of the said documents.

I have also seen the written submissions on the Court file running into six pages. The contents at para 6 and contents at para 1 of page 1 & 2 have not been stated with my instructions. However, an interpretation has been made as per my instruction in regard to what is stated in para 2 referring to various laws.

13. The writ petition was finally adjourned vide order dated 30th August, 2006 at the request of the petitioner to 12th September, 2006.

14. Mr. Bajwa also filed another application in WP(C) No. 2705/2005 in which besides making wild allegations against various Judges of the Supreme Court and High Court he also made incorrect factual statement in para 4 that the transfer petitions were disposed of by this Bench and were not placed before Hon'ble the Acting Chief Justice, thus, causing great injustice. The same reads as under:

4. That the Applicant has not been able to inspect the judicial file since the same had not been released by the Ld. Court (it was with the Ld. Court all along and not been sent to the writ Branch for such time as is sufficient to complete any inspection-process)-- moreso, none of the Orders passed in the said W.P. No. 5183/2005 has been uploaded to the official website of the Delhi High Court.

Hence, the Applicant is not in a position to officially find out as to whether the above matter was taken up on 21.8.2006 out-of-the-way-even after court-hours; and what Order, if any, was passed therein on 21.8.2006.

Unofficially (hence unreliably) he has overheard that the said matter was taken up at 16.08 hours (4.08 PM) and the Show-Cause Notice issued to him earlier was improvised so as to fill-in the gaps and bring in certain ingredients of contemptwhereas none existed vide the original allegation. that is to say, certain fresh allegations (obviously false) were added, upon after-thought, to the initial Show-Cause Notice--moreso, suo motu contempt matters are to be listed before Hon'ble DB No. 2 (not D.B. No. 4) as per the Roster issued under the hand & seal of Hon'ble the Chief Justice. and any departure there from ought to have prior written sanction of only and only Hon'ble the Chief Justicemoreso, in the instant matter, it will amount to denial of effective opportunity of hearing if such a sanction is granted without hearing the Applicant on the aforesaid pre-existing Applications for Transfer.

In any case, listing any Contempt Matters before Ld. DB No. 4 would amount to a violation of the judicial maxim `none should sit as a judge in his own cause'--clearly, Justice will not also be seen to have been done. And it will also palpably show on the face of the record the animus/bias of the said Ld. Judge in not releasing those matters either to Hon'ble the Chief Justice or to that Hon'ble Court to which such matters are assigned by the official Roster.

15. It may be specifically noticed that all the transfer applications filed by Mr. Gulshan Bajwa @ Flt. Lt. G.S. Bajwa were not dealt with or disposed of by this Bench but were placed before Hon'ble the Acting Chief Justice. In accordance with the orders of Hon'ble the Chief Justice, all these cases were listed before this very Bench. This irresponsible statement with allegations made by Mr. Gulshan Bajwa is, thus, false and contrary to the judicial record.

16. The following allegations and reckless averments were made in list of dates & events filed in WP(C) No. 245/86 on 8th August, 2006, written submissions filed in CWP No. 5183/2005 on 11th August, 2006, copy of which was also placed in Crl. Contempt Petition No. 16/2006 and in CM No. 9695/2006 filed in WP(C) No. 9244/2006 on 7th August, 2006:

28.02.1995 Vide Note in judicial file, written by the Registrar (Judl.) the following Hon'ble Judges declined to hear the personal matters of the petitioner:

- 1) Hon'ble Mr. Justice Y K Sabharwal (now Chief Justice of India)
- 2) Hon'ble Mr. Justice Vijender Jain (now Acting Chief Justice of Delhi High Court)
- 3) Hon'ble Mr. Justice D.K. Jain (now a Judge of the Supreme Court)
- 4) Hon'ble Mr. Justice CM Nayar (now retired)
- 5) Hon'ble Mr. Justice AS Saharya (now retired) In addition, from time to time, the following Hon'ble Judges also declined to hear the Petitioner's Personal matters:
- 6) Hon'ble Mr. Justice M. Jagannadha Rao (later Judge of the Supreme Court and now retired)
- 7) Hon'ble Mr. Justice Dalveer Bhandari (now Judge of the Supreme Court)
- 8) Hon'ble Mr. Justice R.S. Sodhi
- 9) Hon'ble Mr. Justice Mahinder Narain (deceased)
- 10) Hon'ble Ms. Justice Sunanda Bhandare (deceased)
- 11) Hon'ble Mr. Justice DP Wadhwa (later a Judge of the Supreme Court)
- 12) Hon'ble Mr. Justice MSA Siddiqui (now retired)
- 13) Hon'ble Mr. Justice N Santosh Hegde (while in the Supreme Court) The said refusal stemmed partly from the death of Hon'ble Mr. Justice KJ Reddy's son & the death of Hon'ble Mr. Justice Yogeshwar Dayal as a result of the written curse ('shrap') made by the humble petitioner; Hon'ble Mr. Justice Bahri's son, too, died, and Hon'ble Mr. Justice BN Kirpal has been paralysed for life.

Written Submissions filed in CWP No. 5183/2005 Apparently, it is the ego of the judicial office and the accompanying powers-which can be used or mischievously abused/misused, which is making him ill-treat the Hon'ble Members of the Bar and to act in a whimsical, vengeant & harassing manner towards me, in particular. But the Ld. Judge overlooks the fact that he is not the Lord Almighty and there are Members of the Bar who are close to the real Lord Almighty- for example, I wrote to the then Hon'ble Chief Justice of India and therein cursed that the way justice had been delayed, there will be delay in medical aid and one son of Mr. Justice KJ Reddy shall die; his son died within 4 days. Again, I wrote to His Lordship that Mr. Justice Yogeshwar Dayal shall die- he died within 7 days. Similarly, Mr. Justice PK Bahri's died, Mr. BN Kirpal (retired Judge) has been



paralysed for life, Mr. Justice GP Mathur is also suffering with medical problems, etc. Since then at least 13 Hon'ble Judges have declined to hear my personal matters-including Mr. Chief Justice YK Sabharwal.

I, therefore, hereby curse that if due to the aforesaid egoistic & arrogant fixation of the above matter today, I am unable to go to Ghaziabad and my matter in Ghaziabad is dismissed-in-default, then one child each of Mr. Justice Swatantra Kumar & Mr. Justice Sistani shall die prematurely- so shall it happen soon ! Bismillah! CM 9695/2006 in WP(C) No. 9244/2006

3. That several Universal Legal Maxims/Principles/Premises-which are followed by all the civilised Nations, have been given a go-by in several legal cases (including the instant case). and the same is palpably apparent on the face of the record. Hence, the humble Applicant hereby curses that one son/child of each of the individuals who passed the motivated orders shall die prematurely- and so shall it happen soon. Bismillah! In this regard, it is pertinent to mention that it is on the written record of the Hon'ble Supreme Court that the Applicant herein had stated in writing that one son of the then Mr. Justice KJ Reddy would die-he died within 4 days, that the then Mr. Justice Yogeshwar Dayal would die- he, too died within 7 days. And the then Mr. Justice PK Bahri's son also died, Mr. BN Kirpal (retired Judge) has been paralysed. Moreover, ACM Dilbagh Singh (the individual, who had tried to harass the humble Applicant) was not only himself paralysed, but his daughter also committed suicide and his son died in an air-crash. It is pertinent to mention that blatant & motivated abuse of their powers by certain public officials has occasioned miscarriage of justice against the Ex-Servicemen/Servicemen, and their said acts are an open instigation to the Ex-Servicemen/Servicemen to abuse their powers, too- in any case, this is a reason enough for lowering the morale of the Armed Forces personnel who may even refuse to fight against the intruders to save the lives of such corrupted individuals. Hence a copy of this Application is being sent to the Supreme Commander of the Armed Forces

17. Following are the serious intentional, persistent and contemptuous acts and deeds of Mr. Gulshan Bajwa @ Flt. Lt. G.S. Bajwa:

(a) Use of undesirable language as afore-noticed with an intention to malign the court and to lower the dignity of the court. The intention is obvious i.e transferring of the cases in which he is the petitioner himself or counsel for the petitioner unless you are willing to pass favorable orders only in those cases, failing which the threats were extended to the various courts with dire consequences resulting from the curse written or otherwise of the said person. This amounts to apparent interference with the administration of justice and extending undesirable threats to the courts.

(b) Wild allegations are made in the transfer petitions filed by the said person without getting them signed from the petitioner concerned and in fact even without bringing it to the notice of the client as to what application was filed, obviously with an intention to hamper the administration of justice and making allegations in other cases, wherein he was not a petitioner, to browbeat the courts and filing applications even without the knowledge and contents of the application being known to the

petitioners in those cases.

(3) Extending threats in presence of the court to Ms. Rekha Palli, Advocate for the respondents of facing dire consequences in the case filed by the petitioner. This was done in presence of the court and the threats extended were even overheard by a senior member of the Bar Mr. Deepak Bhattacharya, (Refer to order dated 17th August, 2006)

18. From the above we are of the considered view and are satisfied that Mr. Gulshan Bajwa @ Flt. Lt. G.S. Bajwa has prima facie committed criminal contempt of Court and every magnanimity of justice shown to him has resulted in doing acts and commissions of graver nature, thus, treating the magnanimity of justice as weakness of administration of justice and with that intent has thrived to achieve selfish goals. The acts are intentional, malicious and have persisted over a long period and are now clearly interfering with the administration of justice and lowering the dignity of the Court.

19. From the record it is clear that it is not possible to ensure attendance of Mr. Gulshan Bajwa @ Flt. Lt. G.S. Bajwa before the Court in normal ways. He has not been appearing in the cases where contempt notices have been issued in his own capacity as petitioner or even as a counsel for petitioner. Notices were issued by the High Court telegraphically as well as in the ordinary manner but of no consequence. Even, the office of the Standing Counsel for Union of India, in terms of the order of this Court, had made all possible efforts to serve the contemnor but of no avail. Our request to the members of the Bar including the President and Secretary of Delhi High Court Bar Association has failed to yield any result despite adjourning the cases to different dates. In the applications referred above, he has not given any address. Even in the power of attorney filed by him in the case of Major Ajay Kumar, no address has been given. However, we direct that bailable warrants in the sum of Rs. 5000/- to the satisfaction of Officer/Official for his production in Court be issued, returnable on 5th September, 2006. Along with the bailable warrants, copy of this order shall also be provided to Mr. Bajwa. Though Mr. Bajwa has already filed reply to show cause earlier when even notice was not issued by the Court for initiation of contempt proceedings but still we grant him another opportunity to show cause why he be not dealt with and if found guilty be not punished in accordance with the provisions of Contempt of Courts Act read with Article 215 of the Constitution of India. The bailable warrants be issued at the following addresses:

1. Mr. Gulshan Bajwa, Advocate-on-Record, C/o 119, Lawyers' Chamber, Supreme Court of India, New Delhi.
2. Mr. Gulshan Singh Bajwa, Petitioner in person, C/o 126, Lawyers' Chamber, Supreme Court Compound, New Delhi-110001
3. Flt. Lt. G.S. Bajwa, C/o Shri G.S. Bajwa, S-443, Greater Kailash-II, New Delhi.
4. Mr. Gulshan Bajwa, Advocate-on-record, C/o 51, Lawyers' Chambers, Supreme Court of India, New Delhi-110001.

( SWATANTER KUMAR ) JUDGE ( G.S. SISTANI ) August 31, 2006 JUDGE

20. Vide order dated 5.9.2006 taking note of conduct of Mr. G.S. Bajwa @ Gulshan Singh Bajwa @ Gulshan Bajwa, as he describes himself by different names, the Court was compelled to issue non-bailable warrants for his production in the Court as well as notice was issued to the Bar Council of Delhi and Bar Council of India. The non-bailable warrants issued could not be executed and the Station Housing Officer, Tilak Marg, informed that Mr. Bajwa was not available on any of the addresses given and the addresses mentioned were false and incorrect. Though on 11.9.2006, Mr. Bajwa had filed some other applications accompanied by his affidavit which were attested by the Notary Public sitting in the Supreme Court, still the Police Authorities could not find Mr. Bajwa. Resultantly, the Court had directed the said authorities to ensure compliance of the order issuing non-bailable warrants against him. The Court despite his earlier reply gave him another opportunity to explain his conduct and also entertain the application CrI. Misc. No. 9715/2006 filed by him and on 12.9.2006 passed the following order:

12.09.2006 Present: Ms.Rekha Palli, Advocate for petitioner.

Mr.Sanjeev Sachdeva, Advocate Mr.Ashok Kashyap, Advocate for Bar Council of Delhi.

SHO, Tilak Marg in person.

Cont.Cas. (CrI.) No. 16/2006 & Cont.Cas.(CrI.)No.17/2006 Vide our order dated 31.8.06 we were compelled to issue bailable warrants against Mr.Gulshan Singh Bajwa @ G.S.Bajwa (Advocate). The bailable warrants could not be executed at various addresses given by the respondent/contemnor on the Court record. Compelled with the conduct of the said contemnor, vide our order dated 5.9.06, we had issued non-bailable warrants for production of Mr.Bajwa in Court in both cases of criminal contempt.

21. The Police Officer who was to execute the non-bailable warrants has reported to the Court that all the addresses given are false and incorrect. We are unable to accept that the Police Officer concerned made any serious efforts to execute the warrants. Even on 11.9.06, Mr.Bajwa has filed another application to which even an affidavit is attached which has been attested by a Notary Public sitting in the Supreme Court which happens to be at the back of Tilak Marg Police Station.

22. Be that as it may, the Station House Officer, Tilak Marg who is present in Court, prays for time to execute the warrants in accordance with law.

23. Consequently, we issue fresh non-bailable warrants for production of Mr.Gulshan Singh Bajwa @ G.S.Bajwa (Advocate) for his production in the Court, returnable on 15.9.06. We do hope that the concerned Police Officer would be able to execute the warrants in accordance with law, at least now.

24. This is an application in which Mr.Bajwa has stated that he was surprised to learn that the aforesaid two criminal contempt cases have been registered by the Court against him suo moto. He has also stated that the issuance of warrants suffers from the lack of jurisdiction. According to him,

no contempt is made out. On this basis, he has made the following prayer to the Court:

That in the aforementioned facts & circumstances, the execution of sentence/warrants, if any, is liable to be stayed Under Section 17(5), 19(3) & 13 read with the Proviso to Section 12 and Sections 13, 9, 8, 6, 5 & 3 of the Contempt of Courts Act, 1971 (as amended in 2006) and with ss. 3, 4 & 12 of the Probation of Offenders Act, 1958.

25. We would have been quite willing to stay the execution of the warrants against the contemnor provided he had been present in Court today or was even represented, though after issuance of non-bailable warrants for his production in Court, such an indulgence would be least called for. He has further prayed for staying of execution of the sentence. We make it clear here that we have not imposed any sentence on Mr. Bajwa as yet. Notice to show cause has been issued. In fact, he had earlier filed a short reply and in our detailed order, we had given him another chance to file the reply which has not been filed by him till today, however, he persisted with his attitude of filing unnecessary applications one after the other, rather than appearing before the Court and arguing the matter. In these circumstances, we have no choice but to dismiss this application. We order accordingly. The order directing issuance of non-bailable warrants for his production will stand.

26. The learned Counsel appearing for the All India Bar Council as well as the Delhi Bar Council submits that they need further time to report to the Court as to what steps the Bar Councils have taken in furtherance to order of the Supreme Court dated 4.9.03. They are also directed to examine the various applications filed by Mr. Bajwa on the basis of which contempt notices have been issued and his conduct in threatening the lady counsel appearing for the respondent.

List on 15.9.06.

27. The Registry shall also supply copies of both these contempt petitions and the copy of the order dated 31.8.06 to the counsels appearing for both the Bar Councils by tomorrow i.e 13.9.06.

Copy of this order be given duly to the counsel appearing for the parties.

SWATANTER KUMAR, J.

G.S. SISTANI, J.

SEPTEMBER 12, 2006

28. The non-bailable warrants could not be executed even thereafter and the Police Authorities on 15.9.2006 stated before the Court, The said respondent knows various ways to avoid arrest and that is why he could not be arrested. Applications after applications were being filed in the cases, but Mr. Bajwa despite being informed by various counsel, did not appear in the Court and the Police was not taking any positive interest in executing the non-bailable warrants for his production in the Court. Finally, the Court was compelled to direct the Deputy Commissioner, New Delhi to be present in the

Court. He was directed to ensure compliance of the orders of the Court and execution of the non-bailable warrants. The Police Authorities who again appeared on 18th September 2006 and produced the contemnor in Court, informed that a large number of police force had to be engaged to find out whereabouts of Mr. Bajwa and with great difficulty, they were able to arrest him. On that date, Mr. Bajwa was ordered to be released on furnishing personal bond in the sum of Rs. 5,000/- to the satisfaction of the Registrar General of the Court. On that very date, he was arrested by the Police of Uttaranchal in furtherance to issuance of another non-bailable warrant issued by the Family Court of Uttaranchal in a case filed by his wife for execution of the decree. Though all the documents had already been given to Mr. Bajwa, but again on his request direction was given to furnish him complete set of documents again. On 21.9.2006 when Mr. Bajwa appeared before the Court, he informed the Court that he had received all the orders as well as some money which was taken by the Police during personal search of the contemnor before taking him into custody. On 21.9.2006, Mr. Bajwa was directed to appear in Court on 5.10.2006 to file a further reply if he so desired and to argue the matter on that date.

29. The Bar Council of India and Bar Council of Delhi in furtherance to order of the Supreme Court had taken certain disciplinary action against Mr. Bajwa and he was directed to be produced before the said authorities, as per his own request. On that date, Mr. Bajwa filed another short reply by way of an affidavit and stated that he did not wish to file any further reply or documents on record nor had any further arguments to address. In view of the statement made, the Court passed the following order:

Mr. Bajwa submits that he does not wish to address any arguments and the reply filed on his behalf is sufficient. In view of the fact that he has been granted opportunity to argue the matter and he has declined to address any arguments, the case is reserved for judgment.

It is directed that even if he is in custody at Uttaranchal, he shall be produced in this Court on 19th October, 2006 for pronouncement of orders.

30. The contemptuous acts and behavior of Mr. Gulshan Bajwa @ Flight Lt. G.S. Bajwa is not a recent development in his professional career but relates back to the period when he filed writ petitions as well as Special Leave Petitions and Review Petitions in the case where he was a petitioner himself, before this Court as well as the Supreme Court of India. In the review application No. 10465/2003 in CA No. 10383/1996, as already noticed, the Supreme Court, vide order dated 3.5.2003, while giving indulgence to him by not initiating contempt proceedings at that stage, had directed the Bar Council of India to look into the matter and take appropriate action. In that petition also the petitioner had made reckless allegations. The Bar Council of India did not comply with the orders of the Court for a considerable time. This magnanimity of the Court and liberal attitude of the Bar Council of India in not taking timely action encouraged the contemnor to use this methodology as a means to pursue his professional work as well as his personal cases. Claiming that he possessed spiritual powers and was blessed with the powers to curse, the contemnor claims to have cursed a number of Judges for the past couple of years in writing in Court and all those Judges are alleged to have faced the brunt of his curses. He takes pride in saying that Justice K.J. Reddy, Justice

Yogeshwar Dayal and the son of Justice P.K. Bahri died because of his curse. He also states that Justice B.N.Kirpal suffered paralysis attack because of his curse and also that Justice G.P.Mathur is also suffering because of his curse. He continues with giving such curses to Judges even now and he takes credit that by use of such means he was able to get cases transferred from a number of Benches. He made some undesirable comments and threats in the applications filed in the Civil Writ Petition Nos. 5183/2005 and 9244/2006 giving rise to Crl. Contempt No. 16/2006 and 17/2006 respectively. Written submissions were submitted on behalf of himself as well as on behalf of his clients in other cases.

31. He filed transfer applications while again making factually incorrect averments and irresponsible allegations against the different Benches of this Court. Even before this Court he filed transfer applications in his personal cases as well as the cases where he was appearing as a Counsel. All these application were placed before Hon'ble the Acting Chief Justice who vide his different orders rejected some of the transfer applications and directed the matters to be listed before this Court while in other cases it was directed that even the transfer application and the cases be heard by this Bench itself. In the transfer application, he stated that the Judges harassed him and he is not likely to get justice. These allegations were imaginary, factually incorrect and were intended to scandalize the Court.

32. The purpose of this persistent contemptuous conduct of the contemnor was obvious that he wanted the cases to be transferred from one Court to another by making insinuations, scandalizing the Courts by giving threats openly and in writing to the Judges, unambiguously conveying that either the orders, which are favorable to the contemnor, should be passed or the Judges and their families would face the wrath of his curses by losing their lives, their children or by facing any such other harm. Extending such threats in the garb of his profession and taking undue advantage of appearing in person in some cases, is nothing but a patent interference with the administration of justice and to say the least an undesirable and an unprofessional practice adopted by him for achieving his selfish goals.

33. Having still been dissatisfied with his arrogant and contemptuous behavior in the Court the contemnor started giving similar threats to the counsel appearing for the respondents (Union of India), particularly in his own cases. During the hearing of W.P.(C) No. 5183/2005, Major Ajay Kumar (Med) v. Union of India and Ors., he extended similar threats to a lady Advocate, Ms. Rekha Palli, in the Court room and at the end of the hearing of the said case. She was threatened of dire consequences for opposing the counsel with some vehemence who was representing the petitioner in that case.

34. The contemnor first denied the incident entirely. Though he was seen saying something to the lady lawyer, but he completely denied the incident and said that the lady counsel was making a false statement. However, Mr. Dipak Bhattacharya, a counsel sitting in the Court stood up and stated that he had actually heard Mr. Gulshan Bajwa giving threats to Ms. Rekha Palli. The Court had still not issued any notice to show cause to the petitioner as to why contempt proceedings be not initiated against him for that act on that date but lost in his own thoughts, the contemnor filed reply to oral show cause notice, given ostensibly under 'The Contempt of Courts Act' on a matter which is neither

covered at all by the said Act nor is in issue between the petitioner and the respondents in the petition No. 5183/2005.

35. The Court had passed an order on that date which we have already referred above. As would be evident the Court only wanted Mr. Bajwa to explain his conduct and nothing more. However, in this reply, he made further wild allegations against the Court and the lady counsel stating that she had wrongly tried to put words into the mouth of the contemnor and tried to mislead the Court. He further stated that she also misled the Court in other cases and that it was a pre-planned attempt by her in collusion with her friends to somehow instigate the Court to obtain an order favorable to the Union of India. No statements were recorded on that date except the factum of threat being noticed by the Court. He made the allegations that Mr. B.Sinha, Advocate, was willing to testify before any impartial full-fledged trial wherein none sits as a Judge in his own cause. The whole tenor of this reply was to unnecessarily embarrass the lady counsel and to keep her under threat.

36. Furthermore, the contemnor, despite a very lenient view being taken by different Courts, treated the kindness by the Courts shown as weakness of the system. However, the cases of the petitioner were transferred before different Benches and even in Civil Writ Petition No. 9244/2006, another Bench of this Court consisting of Hon'ble Mr. Justice (Dr.) M.K. Sharma and Hon'ble Ms. Justice Hima Kohli had issued a notice of contempt on similar contemptuous behavior. This contempt petition, as already noticed, was registered as Crl. Contempt No. 17/2006.

37. Another matter of serious concern which directly and adversely affects the administration of justice is that the petitioner filed transfer petitions on behalf of the petitioners where he was appearing as a Counsel, without even showing them the applications, their contents, much less requiring his clients to read the applications. The contents were not even disclosed to them. On the contrary, he misguided his clients by saying as in the case of Cpl. R.S. Sahrawat v. Union of India W.P.(C) No. 2705/1998 that he would get the case transferred from this Bench and get it decided early before any other Court. This was told to the client by the contemnor on telephone where after he neither got the application signed nor the affidavit attested by the client and in fact, without his knowledge and proper information filed these transfer petitions at his own. He had acted in a somewhat similar manner even in the case of Manoj Yadav v. Union of India. These transfer applications, thus, were his own creation for scandalizing the Courts and were filed without specific instructions and knowledge of the clients in regard to the contents of those applications. This certainly is an abuse of the process of the Court undermining the system of law as well as interfering with the course of justice. The whole attempt was to get the cases transferred from the Court where the contemnor misbehaved by scandalizing the Court.

38. At the cost of repetition we may refer to the abstract of the written submissions made by the contemnor, which he had been repeating in all cases, of course, with some addition in the names of Judges. This reflects the kind of threats the contemnor has been extending to the Judges of all Courts and the pride he takes in saying that he was able to get the cases transferred from one Court to another. The relevant portion of the said written submission reads as under:

Written Submissions filed in CWP No. 5183/2005 Apparently, it is the ego of the judicial office and the accompanying powers-which can be used or mischievously abused/misused, which is making him ill-treat the Hon'ble Members of the Bar and to act in a whimsical, vengeant & harassing manner towards me, in particular. But the Ld. Judge overlooks the fact that he is not the Lord Almighty and there are Members of the Bar who are close to the real LordAlmighty- for example, I wrote to the then Hon'ble Chief Justice of India and therein cursed that the way justice had been delayed, there will be delay in medical aid and one son of Mr. Justice KJ Reddy shall die; his son died within 4 days. Again, I wrote to His Lordship that Mr. Justice Yogeshwar Dayal shall die- he died within 7 days. Similarly, Mr. Justice PK Bahri's died, Mr. BN Kirpal (retired Judge) has been paralysed for life, Mr. Justice GP Mathur is also suffering with medical problems, etc. Since then at least 13 Hon'ble Judges have declined to hear my personal matters-including Mr. Chief Justice YK Sabharwal.

I, therefore, hereby curse that if due to the aforesaid egoistic & arrogant fixation of the above matter today, I am unable to go to Ghaziabad and my matter in Ghaziabad is dismissed-in-default, then one child each of Mr. Justice Swatantra Kumar & Mr. Justice Sistani shall die prematurely- so shall it happen soon !Bismillah! CM 9695/2006 in WP(C) No. 9244/2006

3. That several Universal Legal Maxims/Principles/Premises-which are followed by all the civilised Nations, have been given a go-by in several legal cases (including the instant case). and the same is palpably apparent on the face of the record. Hence, the humble Applicant hereby curses that one son/child of each of the individuals who passed the motivated orders shall die prematurely- and so shall it happen soon. Bismillah! In this regard, it is pertinent to mention that it is on the written record of the Hon'ble Supreme Court that the Applicant herein had stated in writing that one son of the then Mr. Justice KJ Reddy would die-he died within 4 days, that the then Mr. Justice Yogeshwar Dayal would die- he, too died within 7 days. And the then Mr. Justice PK Bahri's son also died, Mr. BN Kirpal (retired Judge) has been paralysed. Moreover, ACM Dilbagh Singh (the individual, who had tried to harass the humble Applicant) was not only himself paralysed, but his daughter also committed suicide and his son died in an air-crash. It is pertinent to mention that blatant & motivated abuse of their powers by certain public officials has occasioned miscarriage of justice against the Ex-Servicemen/Servicemen, and their said acts are an open instigation to the Ex-Servicemen/Servicemen to abuse their powers, too- in any case, this is a reason enough for lowering the morale of the Armed Forces personnel who may even refuse to fight against the intruders to save the lives of such corrupted individuals. Hence a copy of this Application is being sent to the Supreme Commander of the Armed Forces

39. The above is only a reflection of the thoughts and threats over which the contemnor has thrived for all this period. It is certainly unfortunate that this attitude of the contemnor progressed more



and more with the passage of time. He started extending these threats not only to the Judges of different Courts but even to the Lawyers who were opposing him. The episode in regard to Ms. Rekha Palli, Advocate, Counsel for the Union of India speaks for itself.

40. The contemnor made a transfer application without approval of his clients by making irresponsible and reckless allegations against the Courts. He did not even spare any person with whom he came in contact during the pendency of these cases and made scandalous allegations to the extent that the Court was interested and persistent to deal with the cases in spite of the fact that the transfer applications had been filed by the contemnors. Undesirable comments were made in these applications without even inspecting the records that all the transfer applications had been listed before Hon'ble the Acting Chief Justice, who had directed the cases to be dealt with by this Bench.

41. Another very pertinent aspect of this case is the conduct of the contemnor after the notice to show cause was issued by two different Benches of this Court. Despite due knowledge of the proceedings, he did not appear before the Court in these proceedings, however, kept on filing applications after applications in these cases, including the transfer applications, application for stay of sentence, which in fact, had never been awarded to the contemnor at the relevant time. His presence before the Court could be secured only by issuance of non-bailable warrants, which according to the police could be executed only after deploying a large number of personnel as all the addresses given by this contemnor, even in the power of attorney which he had filed on behalf of his clients, were false and incorrect.

42. The law of contempt is primarily intended to maintain the dignity of the Court and to ensure that there is no undesirable interference with the administration of justice, particularly, where the offending acts are so grave that they directly interfere with the administration of justice and scandalize the Courts or the Judges. This special jurisdiction has to be invoked, more so, when the offending acts are intentional and are motivated. An attempt to earn small gains by a contemnor at the cost of hurting the system of administration of justice would necessarily require to be deprecated at the very initial stage.

43. In the case of Aligarh Municipal Board v. Ekka Tonga Mazdoor Union , the Supreme Court said that it is the seriousness of the irresponsible acts of the contemnors and the degree of harm caused to the administration of justice, which would decisively determine whether the matter should be tried as a criminal contempt or not. In another case of Prem Soran, Addl. Munsif v. Judicial Magistrate , the Supreme Court sternly came on a contemnor who had slapped the Presiding Officer holding that it was in fact a slap on the face of justice delivering system and as such no question of accepting any apology would arise nor any leniency is called for. Similarly, a Full Bench of this Court in the case of Court of its own motion v. B.D. Kaushik and Ors. , had unanimously held the contemnors, who were the Officer Bearers of the Bar Association with other groups of lawyers, guilty of criminal contempt on the facts that they had disturbed the working of the Court.

44. In the case of G.E. Motors India Pvt. Ltd. v. Mukesh Kumar 124 (2001) DLT 191, the Court while dealing with the case of the contemnors who were alleged to have obstructed the working of the Commissioner appointed by the Court, held as under:

An apology tendered even at the outset has to be bonafide, should be demonstrative of repentance and sincere regret on the part of the contemnor, lest the administration of justice is crudely interfered with immunity by a person like the respondents. The Court will check and punish the guilty in accordance with law at the appropriate stage as none is above the law. The basic ingredients of rule of law have to be enforced whatever be the consequences. An apology which lacks bonafide and is intended to truncate the process of law with ulterior motive of escaping the likely consequences of such flagrant violation of the orders of the Court and disrespect to the administration of justice cannot be permitted. In the case of Prem Soran, Addl. Munsif v. Judicial Magistrate the Supreme Court sternly came on a contemnor who had slapped the Presiding Officer holding that "it was in fact a slap on the face of justice delivering system and as such no question of accepting any apology would arise nor any leniency called for". Reference can also be made to a Division Bench judgment of the Punjab & Haryana High Court in the case of Court on its own motion v. Ranjit Bajaj (CM No. 15886 of 2000 in CW 7639/1995), decided on 30th April, 2003 where the Court held as under:

A Division Bench of this Court in the case of (contemnor) Ranjit Bajaj (in Civil Misc. No. 15886 of 2000 in Civil Writ Petition No. 7639 of 1995) decided on 30th April, 2003 held as under:

...in other words, the Courts have to derive a balance by reasoning of preferential view between the opportunity to reform and or inflictment of punishment forthwith, keeping in view the facts and circumstances of each case. A beneficial legislation obviously is not punitive and requires liberal construction. To us, it appears that essence of this reformatory procedure is to release the person on probation as in alternative to or in lieu of the sentence/punishment.

In the case of Court on its own Motion v. Kuldeep Kapoor CCP No. 93/2005 in CS(OS) No. 821/2005, the Court while finding the contemnor Kuldeep Kapoor guilty of criminal contempt and referring the matter to appropriate Court found even filing of false and misleading affidavit was a contemptuous conduct and the Court held as under:

The intention was obviously to mislead the Court. It was admitted by Kuldeep Kapoor that he was not living at the address which had been given in these affidavits. Filing of false and incorrect affidavit to mislead the court is apparently an contemptuous act on the part of the contemnors. The Supreme Court in the case of M.C. Mehta v. Union of India while deprecating the practice of filing affidavits containing incorrect or false averments and observing that contemnor's statement in reply to the contempt that all orders passed by the Supreme Court were at the behest of DPCC and not in public interest, was contemptuous and even an apology could not be accepted, and held as under:

15. The statement made in para 7 is all the more contemptuous. He is not only defending his action but to say that all the orders passed by this Court were at the behest of DPCC and not in public interest is by itself contumacious. Reading the entire paragraphs of the reply, it is in the tone of defiant posture. There is not even a whisper of an apology, much less unconditional apology, not to speak of remorse or contrition. ....

...Consequent upon the orders of 5-12-1997 and 16-1-1998, the draw of lots was held on 8-12-1998 at 4.00 p.m. In the office of NCR Board and the respondent had been allotted an alternative site at Dadri. His name appeared at Sl.No. 36 of the list....

18. In the facts and circumstances as adumbrated above and taking into account the entire course of conduct of the contemner, it is apparent that the contemner was taking the Court for a ride by raiding one court or the other deliberately with oblique motive to circumvent the Court's orders thereby salvaging himself by feigning ignorance of this Court's order which was in the knowledge of the contemner.

Apology tendered by the respondent

19. It is significant to note that in reply to the contempt notice dated 25-11-1999, a detailed reply was filed by the respondent on 6-3-2000. No apology, much less unconditional apology, was tendered by the respondent. In fact, as already noticed the respondent defended his action and also found fault with the orders passed by this Court on 10-10-1996 and 9-9-1999. The last affidavit filed by the respondent was on 28-1-2003. In para 6 of the said affidavit the respondent contemner categorically stated that he has not committed any cotempt of any order passed by this Court. This is what he has stated in para 6:

I most respectfully state that I have not committed any contem pt of any order passed by this Hon'ble Court. I state that no order passed by this Hon'ble Court prior to 9-9-1999 was available to me and I was not a party to this proceeding in this Hon'ble Court. Further I state that to my knowledge no alternative land had been allotted to me.

20. In the background of the facts, as noticed above, the statement of the contemner in para 6 of the affidavit is false to the knowledge of the contemner. Filing false affidavit/statement has been held to be criminal contempt. (See: Murray & Co. v. Ashok Kr. Newatia ; Bank of India v. Vijay Transport and Dhananjay Sharma v. State of Haryana .

21. However, in para 9 of the said affidavit the respondent tendered an apology, which is as under:

I tender an unconditional and unqualified apology to this Hon'ble Court for any of my actions which might be deemed to be in contempt of the orders of this Hon'ble Court and pray that the said apology be accepted. I state that I hold this Hon'ble Court in highest esteem and have no intention whatsoever to be in breach of any order passed

by this Hon'ble Court. I most respectfully pray that this Hon'ble Court may be pleased to recall the notice to show cause as to why proceedings for alleged contempt of court issued to mne and the said proceeding be dropped.

22. The conduct of the contemner, as recited above, is beyond condonable limit. It is now a well-settled principle that an apology is not a weapon of defense to purge the guilt of the contemner. At the same time, the apology must be sought at the earliest opportunity. The apology tendered by the respondent is at a belated stage to escape punishment of the Court. Furthermore, as already noticed, in para 6 of the affidavit he has stated that he has not committed any contempt and defended his action. In para 9 of the affidavit, as quoted above, though it is stated that he tenders unconditional apology, it is not really so, as in para 6 of the affidavit he has defended his apology, it is not really so, as in para 6 of the affidavit he has defended his action. Therefore, the apology so tendered by the contemner is not a product of remorse or contrition.

11. In the case of U.P. Residents Employees Coop. House Building Society and Ors. v. New Okhla Industrial Development Authority and Anr. , the Supreme Court reiterated that filing of false affidavit with a view to mislead the Court amounts to contempt and suo moto cognizance of contempt can be taken by the Court. Reliance can also be placed on the judgments in the case of Amar Nath v. Joginder Singh and Ors. 1960 Vol. 62 PLR 752 and Dhananjay Sharma v. State of Haryana and Ors. AIR 1995 SC 1789.

45. In the case of L.D. Jaikwal v. State of U.P. , the Court punished an Advocate scandalizing Special Judge before whom he appeared in corruption case and awarded a sentence. Again in the case of Pritam Pal v. High Court of M.P., Jabalpur, through Registrar libellous allegations were made against sitting Judges, the contemnor was punished with two months' imprisonment, as in these cases it was found that scandalizing or making libellous allegations against the Court or the Judges interferes with the administration of justice particularly when such allegations were motivated and were intended to show disrespect to the administration of justice and attempt was to clearly diminish the authority of process of 'Justice Delivery System'.

46. Again in the case of Ajay Kumar Pandey , the Supreme Court in the case where a litigant and his lawyer had made reckless imputation against the impartiality of the Judges deciding the cases held as under:

Thus, it is now settled that abuses, attribution of motives, vituperative terrorism and scurrilous and indecent attacks on the impartiality of the judges in the pleadings, applications or other documents filed in the Court or otherwise published which have the tendency to scandalize and undermine the dignity of the court and the majesty of law amounts to criminal contempt of court.

Judges cannot be intimidated to seek favorable orders. Only because a lawyer appears as a party in person, he does not get a license to commit contempt of the court by intimidating the Judges or scandalising the courts. He cannot use language, either in the pleadings or during arguments, which is either intemperate or

unparliamentary and which has the tendency to interfere in the administration of justice and undermine the dignity of the court and the majesty of law. These safeguards are not for the protection of any Judge individually but are essential for maintaining the dignity and decorum of the Courts and for upholding the majesty of law. The alleged contemner in this case has been making continuous attempts to subvert the course of justice in whichever court his case was. He has been acting not only as if he is above the law but as if he is law unto himself.

47. The dictum of law declared in the above judgments clearly state that freedom of speech and expression cannot be extended so as to clearly interfere with the course of administration of justice. Scandalizing the Courts by casting unwarranted, uncalled for and unjustified expression on the integrity, ability, impartiality or fairness of a Judge in the discharge of judicial functions as it would undoubtedly amount to interference with due course of administration of justice. In the first affidavit filed the contemnor had made further allegations which were again irresponsible and to a large extent, even scandalous. There rather than regretting his behavior with the lady counsel in Court, he made insinuating remarks against her without even withdrawing the threat extended to her in open court. In the second affidavit again there is no denial of any of the events and incidents and all that is said is that he regrets what has happened and most unwillingly an apology is offered.

48. It is a settled principle of law that an apology besides being expressed in words literally should be bona fide and a real repentance of the offending acts. Normally, offer of an apology should be right at the initial stages besides being bona fide and upon complete realisation of the mistakes done, should also be unequivocal declaration of genuine concern for due process of administration of justice and upholding of its dignity. If any of these ingredients are missing, the apology may not be accepted by the Court as it lacks real intent of bona fide. Let us apply these settled canons of exercise of jurisdiction under the Criminal Contempt to the facts of the present case. Mr. Bajwa first made reckless/scandalous allegations, extending written threats to different Judges of the Supreme Court and of this Court. When they were pointed out, he chose not to express any regret but on the contrary whenever leniency was shown by the Court, he reiterated them with greater emphasis. Being an Advocate, he made misstatements, levelled libelous allegations against Courts and filed transfer applications with scandalous averments without even showing them to his clients. During the pendency of the cases, even when this Court had not issued notice of contempt to him, he aggravated his contemptuous behavior by extending threat to counsel appearing for the respondent Ms. Rekha Palli. He again seriously undermined the administration of justice as he made it practically so difficult for the Court to secure his presence before the Court. The Court was compelled to issue non-bailable warrants for his production in Court and the police had to deploy large number of force to secure his presence as addresses given by him were incorrect and false. In the first reply filed in response to the show cause notice, there was no sense of regret on the part of the contemnor. He further made irresponsible statements even in that reply against the Court and against the Advocate appearing on the other side. In the second affidavit submitted by him on 5th October, 2006, the apology tendered appears to be a lip service rather than expression of genuine and bonafide regret. It is stated "The deponent submits that whatever had happened before this Hon'ble Court that paved way for issuing of the show cause notice was unintentional and due to stress and particular state of mind of deponent...." The affidavit lacks in particulars about the

alleged stress and strain of mind. The habit of making scandalous allegations, threatening Judges and lawyers is a conduct of the contemnor, which spreads over number of years. It was not the sole instance. Analysis of conduct of the petitioner in making such scandalous allegations and threats to Courts and Lawyers, which led to issuance of notice of contempt, during the pendency of the contempt petition, initial reply filed by him and a vague affidavit dated 5th October, 2006 compels the Court to arrive at an irresistible conclusion that such acts of the contemnor were contemptuous, amounted to intentional interference with the course of justice, undermined the dignity of Court and the apology tendered by the contemnor, lacks bonafide and is in no way sincere remorse of his previous conduct. In fact, his conduct, during the pendency of the proceedings, aggravates the contempt rather than is an indication of purging the contempt.

49. In the case of M.V. Shareef and Ors. v. The Hon'ble Judges of the High Court of Nagpur and Ors. AIR 1995 SC 19, the Supreme Court while explaining the requirement of genuine apology held as under:

45... With regard to apology in proceedings for contempt of Court, it is well-settled that an apology is not a weapon of defense to purge the guilty of their offence: nor is it intended to operate as a universal panacea, but it is intended to be evidence of real contriteness.

50. In the case of Jaikwal v. State of U.P. , the Court held as under:

6. We do not think that merely because the appellant has tendered his apology we should set aside the sentence and allow him to go unpunished. Otherwise, all that a person wanting to intimidate a Judge by making the grossest imputations against him has to do, is to go ahead and scandalize him, and later on tender a formal empty apology which costs him practically nothing. If a rule, and not as an exception, we would in fact be virtually issuing a 'license' to scandalize courts and commit contempt of court with impunity....

51. Reference can also be made to the decision of this Court in the case of Mukesh Kumar (supra) where the Court had declined to accept the apology.

52. The justification offered by the petitioner is inconsistent with the concept of apology. This is incompatible as the apology has come after the process is concluded. In other words, belated and unwilling apology would not satisfy the basics of law of contempt. It is certainly not a border line case where the Court would, because of its magnanimity, be inclined to accept an apology offered in a manner as the contemnor has done. A Contempt of a such grave nature should be punished rather than acceptance of unconditional apology. The repeated attempts of contempt are deliberate and ex-facie are not result of any stress or strain.

53. A Full Bench of this Court in the case of Omesh Saigal and Anr. v. R.K Dalmia while dealing with a matter where a person had stated that he had not intention to commit any contempt and had done so at the advice of the counsel but still if the Court consider that it constituted contempt, unqualified

apology was tendered, had concluded that the purpose of his contempt jurisdiction is to uphold the majesty and dignity of the law Courts and the image of such majesty in the minds of the public cannot be allowed to be distorted. Action for contempt is not for the purpose of placing Judges in a position of immunity from criticism but is aimed at protection of the freedom of individuals and the orderly and equal administration of laws. The Court declined to accept the apology and punished the person for contempt, who made a show of his wealth and threatened a Magistrate to teach him a lesson.

54. The apology, which is neither sincere nor satisfactory besides a belated one, will not be accepted by the Court especially in cases of gross contempt. The present case certainly is not an ordinary case of contempt but is a persistent conduct of a person, who is a part of the judicial system. In our view the apology tendered at this stage by the contemnor lacks bonafides, sincerity and is not real remorse of offence of such gravity, thus, we have no hesitation in rejecting the same.

55. Lawyer's profession gives dual status to its members where the advocates hold the status of 'Officer of the Court' there they also have the right to represent their clients with complete professional freedom and to the best of their ability. Conferment of such dual status necessarily imposes upon them, obligations of higher magnitude. They play a vital role in the dispensation of justice as they are an important link between the Bench and the public at large. This noble profession has long-standing traditions of service to masses not for money or gains alone but as their contribution to growth of a socialist welfare state. The profession is not only pro bono publico but is also aimed at pro bono et malo. These objects can only be achieved if the legal fraternity discharges its obligations of adherence to its high standards and with due respect for the institution to which they belong. Making scandalous allegations against the system of which they are a part and against the dignity of the Court is not only contemptuous but ex facie would be unprofessional. The conduct of the contemnor in the present case impinges upon the dignity of judicial dispensation system as well as on the values of advocacy. It is unfortunate but it is a reality with serious repercussions, where the contemnor has not only harmed and undermined the dignity of law but has lowered the majesty of the Court even in the eye of public. In fact, the deeds of Mr. Gulshan Bajwa, Advocate, which are apparently acts of criminal contempt of grave nature, has revived in our mind the observations of the Supreme Court in the case of M.B.Sanghi, Advocate and Ors. v. The High Court of Punjab and Haryana and Ors. 1991 (3) J.T. (S.C.) 318 where the Supreme Court, referred to the growing tendency of maligning the reputation of judicial officers by disgruntled element who fail to secure desired order while observing that it was high time that such tendency is nipped in the bud, said such causes raise larger issues touching the independence of not only the concerned Judge, but the entire institution.... It is high time that we realise that the much cherished judicial independence has to be protected not only from the executive or the legislature, but also from those who are an integral part of the system.

56. The welfare of people is the supreme law. This enunciates adequately the idea of law. This could only be achieved when justice is administered lawfully, judiciously, without fear and without being hampered and throttled and this cannot be effective unless respect for it is fostered and maintained, said the Supreme Court in the case of Pritam Pal (supra). In this case also the Court was concerned with an Advocate practicing in the High Court who having failed to wrench decision in his favor

scandalized the court by making libellous allegations against the Judge.

57. The acts of the contemnor in the present case are certainly one which not only hampered and throttled the administration of justice but also brought the Justice Delivery System into disrepute and disregard. Every indulgence given, every act of magnanimity shown by the Court was taken as a weakness of the judicial system by the contemnor and he committed repeated contemptuous acts of greater gravity with impugnt. Condoning such repeated contemptuous acts would amount to rewarding the persons with contemptuous behavior, particularly when they are an integral part of the system, which obviously would have a devastating effect on the faith of the public in the institution of judiciary.

58. Though painfully but unhesitantly, we hold that Mr. Gulshan Bajwa, Advocate, is guilty of charges of criminal contempt in both the contempt petitions i.e. Crl. Cont. Case Nos. 16/2006 and 17/2006 and award him punishment of Simple Imprisonment for a period of three months with fine of Rs. 2000/-, in each contempt. However, the sentence of civil imprisonment shall run concurrently.