SUPREME COURT OF AZAD JAMMU & KASHMIR

[Original Jurisdiction]

PRESENT:

Raja Saeed Akram Khan, C.J.
Kh. Muhammad Nasim, J.
Raza Ali Khan, J.

CR. ORIGINAL NO. 24 OF 2025

(Contempt proceedings)

Robkar e Adalat *versus* *Raja Imtiaz Ahmed*

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For the State: Sheikh Masood Iqbal, Advocate General.

For contemnor-respondent: In person

Date of hearing: 02.07.2025

JUDGMENT

Raja Saeed Akram Khan, C.J.- Through our short order dated 02.07.2025, we convicted the contemnor-respondent, Raja Imtiaz Ahmed, Sessions Judge, for contempt of Court and sentenced him to three (03) days simple imprisonment. We now proceed to record detailed reasons in support of the said order.

2. Let us first advert to the scope and philosophy of contempt proceedings. The jurisprudence on this subject stands well-settled through numerous pronouncements of superior Courts including *Robkar-e-Adalat vs. Shahid Mohi-ud-Din* [2017 SCR 1411], *Haji Javed Akram vs. Ch. Muhammad Saeed* [2022 SCR 816] and *Kh. Muhammad Maqbool War vs. Azad Government & others* [2022 SCR 1299] etc. The core purpose of the

law of contempt is to uphold the majesty and dignity of the Courts, ensure unimpeded administration of justice, and maintain the confidence of the public in the judicial process. In the case reported as *Kh. Muhammad Maqbool War vs. Azad Government & others* [2022 SCR 1299] this Court elaborated that contempt of Court is not initiated to protect the individual Judge but to vindicate the authority of the Court and the sanctity of its orders. It is useful to reproduce some of the text from the referred judgment as follows:-

> *"6. We have heard the learned counsel for the parties and gone through the record. At the very outset, it may be observed here that the purpose and philosophy of law of contempt is to maintain the confidence of the general public and the litigants in the Courts and to keep the course of justice free and to ensure the uninterrupted administration of law and justice. To speak generally, Contempt of Court may be said to be constituted by any conduct that tends to bring the authority and administration of the law into disrespect or disregard, or to interfere with or prejudice parties, litigants or their witnesses during the litigation. The contempt proceedings are not initiated just to protect the Judges but to vindicate the honour of the Court, so that the confidence which the public retains in superior Courts in the State is not weakened.[1] The purpose of the proceedings for contempt is to maintain the dignity of the Court. Committal for contempt of Court is a weapon which is to be used sparingly and always with reference to administration of justice where ex facie some contempt of Court has been committed."*
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> *7. With reference to the argument of the learned counsel for the appellant that the Contempt of Courts Act, 1993 provides a specific procedure including the framing of charge, provision of list of allegations and the right of hearing, which has not been adopted in this case; we would like to highlight here the scope of the powers vested in the Supreme Court and High Court in relation to contempt of Court. Article 45 of the Constitution provides that:-*
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> > *"45. Contempt of Court.- (1) In this Article "Court" means the Supreme Court of Azad Jammu and Kashmir or the High Court.*

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[1] *Robkar-e-Adalat vs. Shahid Mohi-ud-Din* [2017 SCR 1411].

(2) A Court shall have power to punish any person who-

(a) Abuses, interferes with or obstructs the process of the Court in any way or disobeys any order of the Court;

(b) Scandalizes the Court or otherwise does anything which tends to bring the Court or a Judge of the Court into hatred, ridicule or contempt;

(c) Does anything which tends to prejudice the determination of a matter pending before the Court; or

(d) Does any other thing, which by law, constitutes contempt of the Court.

(3) The exercise of the power conferred on a Court by this Article may be regulated by law and, subject to law, by rules made by the Court."

Sub-Article (3) of Article 45 of the Constitution postulates that powers of a Court under Article 45 may be regulated by law and rules made by Court. For that purpose, the Contempt of Courts Act, 1993 has been promulgated, section 7 of which is reproduced as under:-

"7. Procedure for Supreme Court and High Court.- (1) Whenever it appears to the Supreme Court or the High Court that there is sufficient ground for believing that a person has committed contempt of Court and that it is necessary in the interest of effective administration of justice to proceed against him, it shall make an order in writing to that effect setting-forth the substance of the charge against the accused, and, unless the Chief Justice is already on the Bench, the Judge or Judges who take cognizance of the matter, shall forward the case to the Chief Justice for constitution of Bench. The Bench shall comprise of not less than two Judges, unless the Chief Justice for the reason to be recorded, otherwise directs.

(2) The Court shall issue notice to the accused and inform him grounds on which he is charged.

(3) The Court, after holding such inquiry and taking such evidence as it deems necessary or is produced by the accused in his own defence and after hearing the accused and such other person as it deems fit, shall a decision in the case:

Provided that, in any such proceedings before the Supreme Court or the High Court, any finding given in its own proceedings by the Supreme Judicial Council about the nature of an averment made before it, that is relevant to the

requirements of clause (vi) of the proviso to Section 3, shall be conclusive evidence of the nature of such averment.

(4) If contempt of Court is committed in presence of the Court, the Court may cause the offender to be detained in custody and, at any time before the rising of the Court on the same day, may proceed against him in the manner provided for in the preceding sub-sections.

(5) If any case referred to in subsection (4) cannot be finally disposed of on the same day, the Court shall order the release of the offender from custody either on bail or on his own bond."

The Constitution confers jurisdiction on the Supreme Court and a High Court to punish any person who "abuses, interferes with or obstructs the process of the Court in any way or disobeys any order of the Court", whereas, in general terms the Contempt of Courts Act, 1993 indicates the area of exercise of jurisdiction by the Courts in a contempt case. ***To disobey or disregard an order, direction or process of Court which a person is legally bound to obey, willful breach of an undertaking given to a Court, any act intended to or tend to bring the authority of the Court or the administration of law into disrespect or disrepute and to obstruct, interfere, interrupt or prejudice the process of law or the due course of any judicial proceeding fall within the category of contempt of Court."***

In the case reported as *Haji Javed Akram vs. Ch. Muhammad Saeed* [2022 SCR 816], this Court has enumerated some instances which have been held to be the contempt of Court, in the following manner:-

"5. According to the settled principle of law following have been held to be the contempt of Court:-

(1) allegations against judges made by legal practitioner in letter to President;

(2) administrative acts of High Court … Criticism amounting to scandalizing the Court;

(3) interrupting work of Court and challenging legality of Court's order before it … gross contempt;

(4) to accuse a Judge of a superior Court of acting in an arbitrary manner and with personal hostility;

(5) scandalizing Court or a Judge i.e. attacking the character of the Judge or the quality of his work or by imputing improper motives to him or by suggesting that action is being contemplated to remove him from his office;

(6) floating orders of Courts on erroneous construction;

(7) threat of personal harm to Judge … worst kind of contempt;

(8) review of order of processor on the ground that Supreme Court had mis-interpreted the law;

(9) after verdict of conviction upheld by Supreme Court, holding of an inquiry to find in roads in the judgments of the superior Courts just to help out a convict;

(10) violation of status quo order granted by Supreme Court or the other Courts;

(11) **wilful disobedience of lawful order of the Supreme Court;**

(12) issuance of false medical certificate by doctor in respect of ailment of an under trial prisoner;

(13) differing with the interpretation placed by the High Court and the Supreme Court by using intemperate language by Commissioner;

(14) act of extreme highhandedness towards bailiff of Court, report to threat as well intimidatory behavior to bailiff during habeas corpus proceedings; and

(15) the intimidation of a lawyer, who is representing one of the parties, is also contempt of Court as it would seriously interfere with the administration of justice.

The above enumerated are few instances and not comprehensive or complete rather according to the facts and circumstances of each case, to be determined by the Court while applying its judicial mind, the actions falling within liberal connotation of contempt of Court as hereinabove mentioned may be included.

3. The facts leading to the present contempt proceedings are not in dispute. This Court vide judgment dated 19.01.2023 had categorically declined bail to one Raja Dilawar Sultan in a criminal case registered in the

offences under section 9(c) of the Control of Narcotic Substances Act, 1997. However, while doing so, this Court exercised judicial restraint and refrained from discussing the merits of the case, directing instead that the trial be concluded expeditiously within a period of six months from the date of communication of the order. It is useful to reproduce here the relevant portion of judgment dated 19.01.2023, which reads as follows:

> *"In view of the above, without touching the merits of the case as it may prejudice the case of either party, we issue the direction to the trial Court to conclude the trial within a period of six months positively from the date of communication of the order of this Court and submit the compliance report before this Court through the Registrar. If during the trial, while recording the evidence anything comes on the record, which the petitioner thinks favourable to him, he may file the fresh application for concession of bail."*

The purpose of the direction was clear i.e., to ensure swift administration of justice without compromising the trial proceedings.

4. Contrary to the explicit directions of this Court, the contemnor-respondent, within an unjustifiably brief period of less than one month from the date of the judgment, entertained and allowed an application under Section 265-K of the Code of Criminal Procedure, 1898, and acquitted the accused of the charge through judgment dated 16.02.2023. This acquittal was rendered in haste, without affording the prosecution a fair opportunity to prove its case, and in complete disregard of the direction of this Court. Such a course of action constitutes willful disobedience and amounts to direct defiance of the binding order of this Court.

5. More alarmingly, when confronted in open Court, the contemnor-respondent blatantly denied having passed any such order. It was only upon requisitioning the relevant file from the High Court that the truth came to light. The deliberate misstatement made by a serving judicial officer before the highest Court of the state is not only reprehensible but strikes at the very foundation of judicial integrity. Such conduct, when perpetrated by a judicial officer, is far more serious than by an ordinary litigant. Judges are expected to embody and uphold the law, not to subvert it. The judiciary is built on the edifice of public confidence, which gets severely shaken when a judicial officer engages in such dishonest and contemptuous behaviour.

6. It is pertinent to note that this Court, vide order dated 03.06.2025, not only issued a show-cause notice for contempt to the contemnor-respondent but also directed the then Chief Justice of the High Court to nominate a Judge to conduct an independent inquiry into his conduct. In compliance with the said order, Mr. Justice Syed Shahid Bahar was nominated as the inquiry officer. The learned Judge conducted the inquiry with due diligence: notices were issued to the contemnor-respondent; relevant service and judicial records, including the file of the case titled *State vs. Dilawar & others*, were summoned and examined; and the contemnor's statement was recorded. After observing all requirements of due process, the inquiry officer submitted a detailed report concluding that the contemnor-respondent was guilty of misconduct.

7. During the inquiry proceedings conducted by Mr. Justice Syed Shahid Bahar, the contemnor-respondent unabashedly took the stance that he had rendered the judgment of acquittal in accordance with the policy guidelines and circular dated 29.10.2021, and therefore, committed no wrong. Such a defence not only reflects an absence of remorse but also reveals an alarming degree of arrogance and defiance towards the authority of this Court. The findings of the inquiry report are unambiguously averse to the contemnor-respondent, concluding that he acted in clear violation of the judgment of this Court dated 19.01.2023. More disturbingly, he attempted to justify his act by giving preference to administrative policy over the judgment of this Court which is binding on other courts under Article 42-B of the Azad Jammu and Kashmir Interim Constitution, 1974. It is a settled principle that policy guidelines or executive circulars, cannot override or dilute the effect of a judgment passed by the apex Court. It may be stated here that even Judges of the High Court are not immune from contempt proceedings if they act in derogation of superior judicial orders. The contemnor, being a Sessions Judge, was under an unambiguous legal duty to abide by the directions of this Court. His conscious and willful defiance constitutes a serious affront to judicial authority. Such misconduct, repeated and unrepentant, warrants strict penal and administrative consequences.

8. This is not a solitary incident of misconduct. The overall record of judicial conduct of the contemnor-respondent reveals a persistent pattern of defiance,

favouritism, and disregard for judicial discipline. Notably, during his postings at Pallandri, Muzaffarabad, and Haveli, he exhibited a consistent inclination to acquit accused persons, particularly in narcotics cases. In order to assess the gravity of this pattern, a report was requisitioned from the Registrar of the High Court regarding the cases decided by the contemnor during his postings at the aforementioned stations. The report, duly submitted, paints a concerning picture. At Pallandri, in 20 cases, the accused were acquitted either on applications under section 265-K, Cr.P.C., or through acceptance of their appeals. During his tenure as Sessions Judge, Haveli (Kahuta), he similarly extended undue relief to accused persons. While posted at Muzaffarabad, out of 101 bail applications, only a few were declined, and bail was granted in the overwhelming majority of cases. Alarmingly, a significant number of these orders granted bail to clients represented by the same Advocate, indicating a pattern of preferential treatment. This data reveals a disturbing trend of consistent and suspiciously favourable treatment towards accused persons, thereby raising serious concerns about the impartiality, integrity, and judicial propriety of the contemnor. This consistent conduct, when considered alongside the findings of the inquiry, strongly suggests that the contemnor-respondent may have been motivated by extraneous considerations, including the possibility of receiving monetary benefits. Furthermore, the aforesaid report submitted by the Registrar High Court also points to several earlier incidents of serious misconduct. For example, while serving as Senior Civil Judge in Bhimber, the contemnor

respondent issued 52 compromise decrees—46 of which related to *shamilat deh* (common village land) and 6 to privately owned land. These decisions were made without legal authority and were against the provisions of the Registration Act. As a result, disciplinary action was taken against him by the then Chief Justice of the High Court. An inquiry was conducted by Mr. Khalid Hussain Gilani, the then District and Sessions Judge, Muzaffarabad, who recommended that two of the contemnor's annual increments be withheld. This punishment was approved and enforced through a formal notification dated 08.07.2010. Another serious incident of misconduct took place during the contemnor-respondent's posting as District and Sessions Judge, Rawalakot (Poonch). In this case, an audio clip went viral in which he used highly inappropriate and disrespectful language about the internal affairs of the judiciary. Due to the seriousness of this act, disciplinary proceedings were initiated and the then Chief Justice of the High Court appointed Mr. Justice Muhammad Habib Zia, Senior Judge, as the Authorized Officer to conduct the inquiry. After completing the process, the officer found the contemnor guilty of misconduct and recommended for punishment of stoppage of three annual increments. This punishment was approved and enforced through a notification dated 28.03.2022. Further, during his posting as District and Sessions Judge, Haveli (Kahuta), a complaint was filed by one Raja Shaukat Hussain Rathore before the then Chief Justice of the High Court. The complaint stated that the contemnor had insulted and abused him in open court in the presence of his nephew and other lawyers. He also

allegedly ordered the complainant to be sent to police custody for two days, while confirming the bails of the accused. The High Court took notice of the complaint and asked the contemnor to submit a written explanation, which he did along with affidavits from local bar members. However, the record shows that no final disciplinary action was taken in this matter, and it still remains unresolved. These repeated incidents show a clear and troubling pattern of misconduct, misuse of authority, and serious breach of judicial ethics by the contemnor-respondent. Even after facing multiple inquiries and punishments in the past, he did not mend his ways. His continued disregard for judicial norms, not only justifies the current contempt proceedings but also raises serious concerns about whether he should remain in judicial service at all.

9. It is also noticeable that despite several complaints and repeated inquiries initiated in the past, the contemnor-respondent failed to mend his ways. Such obdurate defiance over a period of time reflects a mindset incompatible with the high standards of judicial office. The fact that the High Court failed to exercise its supervisory powers and allowed such conduct to persist unchecked under its very nose is equally disconcerting. The constitutional responsibility of superintendence over the District Judiciary is a sacred trust, and any failure to exercise it effectively leads to a breakdown in judicial accountability.

10. As stated hereinabove the scope of contempt jurisdiction, particularly in the context of subordinate judiciary, has been well recognized. The Supreme Court,

as the guardian of the Constitution and the final arbiter of law, is empowered to protect its authority and dignity. Any act which tends to scandalize the Court or lower its authority, or which tends to obstruct the due course of justice, constitutes contempt. In the present case, the contemnor's conduct falls within the gravest category of criminal contempt: not only did he obstruct justice by acquitting an accused in a manner calculated to defeat the directions of this Court, but also misled the Court by denying the very act.

11. In this background, it is important to reproduce the charges that were framed against the contemnor-respondent by this Court:

> *"That you, Mr. Raja Imtiaz Ahmed, the then Sessions Judge-cum-Special Judge, Anti-Narcotics Court, Haveli, willfully and deliberately disobeyed the direction of this Court contained in the judgment dated 19.01.2023 by prematurely deciding the case titled State vs. Dilawar & others under Section 265-K, Cr.P.C. and acquitting the accused, and thereafter made a false statement before this Court when confronted with the said act, thereby committing gross misconduct and contempt of the august Supreme Court of Azad Jammu and Kashmir.*
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> *In addition to the above, during the course of inquiry conducted by Mr. Justice Shahid Bahar (in pursuance of this Court's order dated 03.06.2025), you very boldly took the stance that your judgment dated 16.02.2023 was rendered in accordance with the policy guidelines and circular dated 29.10.2021, and that you had committed no wrong at all. By doing so, you have not only defended your defiance but have also accorded preference to administrative policy over the judicial command of this Court; thereby committing contempt.*
>
> *What do you say in your defence?"*

Upon reading over and serving the charge-sheet to the contemnor-respondent, he simply answered *"I tender my unconditional apology and places myself at the mercy of the Court,"* and further stated that he does

not intend to produce any evidence in his defence. Such a bare and unqualified apology, without any explanation, is insufficient to purge the contempt. The apology is not a weapon of defence to purge the guilty of offence; it is an act of contrition. In order to merit consideration, an apology must be genuine, spontaneous, and indicative of sincere regret. The conduct of the contemnor, from the outset, does not reflect any contrition or repentance. Rather, it shows a persistent effort to deny, deflect, and then resort to apology only when no other defence remained plausible.

12. In view of the above, we found that the contemnor-respondent is guilty of willful disobedience of the order of this Court, deliberate misstatement before the Court, repeated misconduct in dealing with narcotic cases, and an utter disregard for the judicial hierarchy and discipline. His act amounts to gross judicial misconduct and criminal contempt of this Court.

13. Accordingly, while we have already sentenced him to three (03) days simple imprisonment by our short order dated 02.07.2025, we deem it necessary direct the competent authority to proceed against the convict-respondent and pass an appropriate order within a period of fortnight while issuing him the show cause notice under Rule 9 of the Civil Servants Efficiency and Discipline Rules, 1977, which reads as under:-

> ***"9. Certain rules not to apply in certain cases:-*** *(1) Where a civil servant is convicted of an offence involving moral turpitude which has led to a sentence of fine or imprisonment, he may, after being given a show cause notice be dismissed, removed from service or reduced in rank without following the procedure laid down in rule 5, 6, 7 and 8.*

> *(2) Where the authority is satisfied that for reasons to be recorded in writing it is not reasonably practicable to give the accused Civil Servant an opportunity of showing cause it may impose any of the penalties under these rules without following the procedure laid down in rules, 5, 6, 7, and 8."*

14. Before parting with, it is evident from the report filed by the Registrar, High Court that the contemnor-respondent during his posting as Senior Civil Judge, Bhimber passed 52 compromise decrees without legal authority and in violation of the Registration Act. Since the High Court is vested with revisional jurisdiction under section 115(d) of the Code of Civil Procedure, 1908[2], the matter is accordingly referred to the High Court for appropriate scrutiny. The High Court is expected to examine the legality and propriety of the aforesaid compromise decrees, after issuing notice to the concerned decree-holders. The High Court shall exercise its powers under the aforementioned provision and pass an appropriate order in the matter within a period of six months from the date of receipt of this order.

Let a copy of this judgment be sent to the Registrar High Court for placing the same before the authority.

CHIEF JUSTICE JUDGE JUDGE

Muzaffarabad,
03.07.2025

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[2] *AKLASC vs. Messrs. Muhammad Farid Khan & others* [PLD 1986 AJ&K 228].