

IN THE SUPREME COURT OF INDIA

Cr. M.P. NO. _____ OF 2010

IN

CRIMINAL CONTEMPT PETITION NO. 10 OF 2009

IN

I.A. NO. 1374, 1474, 2134 OF 2007

IN WP (C) NO. 202 OF 1995

IN THE MATTER OF:

AMICUS CURIAE

....PETITIONER

VERSUS

PRASHANT BHUSHAN AND ANR.

....RESPONDENTS

IN THE MATTER OF:

SHANTI BHUSHAN

R/O, B-16, SECTOR-14,

NOIDA- 201301

.....APPLICANT

APPLICATION FOR IMPLEADMENT AS RESPONDENT NO. 3

To

The Hon'ble Chief Justice &

His Companion Justices of the Supreme Court of India

The humble application of the Petitioners above named.

Most respectfully showeth:

1. That the applicant is filing the present application for his impleadment as Respondent No. 3 in the aforementioned contempt petition as the applicant is making a categorical statement in the present application that eight of the last sixteen Chief Justices of India were definitely corrupt and also providing the names of those eight definitely corrupt Chief Justices in a sealed cover as an annexure along with the present application.

2. The Applicant is a practicing advocate who was enrolled on 8th July 1948. He has appeared in each and every High Court in the country. He is well acquainted with the manner in which the Indian judiciary has been functioning and how its character has been changing over the years.
3. That the applicant has been a part of the campaign for judicial accountability since its inception in the year 1990.
4. That there was a time when it was almost impossible even to think that a judge of a High court or the Supreme Court could be corrupt. Things have changed drastically during the last 2 or 3 decades during which corruption has been growing in the Indian judiciary. So much so that even a sitting Chief Justice of India had to openly admit that 20% of the judges could be corrupt. Very recently in March 2010 a sitting Chief Justice of a high court openly made a statement. The statement of the sitting chief justice was published by the Times of India in its issue of 6th march 2010 with the headlines "*In our judiciary, anybody can be bought, says Gujarat chief justice*". A copy of the news paper report is being annexed hereto as **Annexure A**.
5. That the applicant believes that the reported statement may not be correctly reflecting the perception of the Gujarat Chief Justice, since he should be knowing as the applicant does that there are and have always been plenty of totally honest judges, but they are also becoming the victim of this public perception since no institution of governance in the country is taking any effective steps about dealing with corruption in the judiciary.
6. That India became a republic in 1950, when the people became sovereign. They got the right to constitute their institutions, the executive, the legislature and the judiciary, to serve them, who would be accountable to them.
7. That before 1950, corruption was almost non existent in the High Courts. The Federal Court had in 1949 got Justice Shiv Prasad Sinha removed from the Allahabad High Court, merely on the finding that he had passed 2 judicial orders on extra judicial considerations.

8. That it however appears that thereafter the judiciary has adopted the policy of sweeping all allegations of judicial corruption under the carpet in the belief that such allegations might tarnish the image of the judiciary. It does not realize that this policy has played a big role in increasing judicial corruption.
9. That the Constitution prescribed removal by impeachment as the only way of removing judges who commit misconduct since it was believed at the time of the framing of the Constitution that misconduct by judges of the higher judiciary would be very rare. However those expectations have been belied as is apparent from the surfacing of a series of judicial scandals in the recent past. The case of Justice V. Ramaswami and subsequent attempts to impeach other judges have shown that this is an impractical and difficult process to deal with corrupt judges. The practical effect of this has been to instill a feeling of impunity among judges who feel that they cannot be touched even if they misconduct.
10. That corruption by judges is a cognizable offence. The Code of Criminal Procedure requires that whenever an FIR is filed with respect to a cognizable offence, it is the statutory duty of the police to investigate the offence. The police has to collect evidence against the accused and charge-sheet him in a competent court. He would then be tried and punished by being sent to jail. The Supreme Court has however by violating this statutory provision in the CrPC given a direction in its Constitution bench judgement in the Veeraswamy case of 1991 that no FIR would be registered against any judge without the permission of the Chief Justice of India. In not a single case has any such permission ever been granted for the registration of an FIR against any judge after that judgement.
11. That the result of this direction has been that a total immunity has been given to corrupt judges against their prosecution. No wonder that judicial corruption has increased by leaps and bounds.
12. That an honest judiciary enjoying public confidence is an imperative for the functioning of a democracy, and it is the duty of every right thinking person to strive to achieve this end.

13. That unless the level of corruption in the judiciary is exposed and brought in the public domain, the institutions of governance cannot be activated to take effective measures to eliminate this evil.
14. That it is the common perception that whenever such efforts are made by anyone, the judiciary tries to target him by the use of the power of contempt. It is the reputation of the judge which is his shield against any malicious and false allegations against him. He doesn't need the power of contempt to protect his reputation and credibility.
15. That the applicant strongly believes that a responsible citizen should be prepared to undergo any amount of suffering in the pursuit of the noble cause of fighting for a clean judiciary.
16. That there are 2 statements of Respondent no. 1 published in Tehelka by Respondent no. 2 which are alleged to constitute contempt of court. In the 1st statement, Respondent no. 1 has expressed that in his view, out of the last 16 or 17 chief justices of India, half have been corrupt.
17. The applicant states that in his view too this statement is absolutely correct. At the time of the publication of this report in Tehelka, the last 16 Chief Justices of India were the following:

1. Justice Rangnath Mishra,
2. Justice K.N. Singh,
3. Justice M.H. Kania,
4. Justice L.M. Sharma,
5. Justice M.N. Venkatchalliah,
6. Justice A.M. Ahemadi,
7. Justice J.S. Verma,
8. Justice M.M. Punchhi,
9. Justice A.S. Anand,
10. Justice S.P. Bharucha,
11. Justice B.N. Kripal,
12. Justice G.B. Patnaik,
13. Justice Rajendra Babu,

14. Justice R. C. Lahoti,

15. Justice V.N. Khare,

16. Justice Y.K. Sabharwal

Out of these, in the applicant's opinion, eight were definitely corrupt, six were definitely honest and about the remaining two, a definite opinion cannot be expressed whether they were honest or corrupt. The signed lists identifying these eight, six and two Chief Justices of India are being enclosed in a sealed cover which is being annexed hereto as **Annexure B**.

18. That in fact two former chief justices of India had personally told the applicant while they were in office that their immediate predecessor and immediate successor were corrupt judges. The names of these four Chief Justices of India are included in the list of the 8 corrupt Chief Justices of India.
19. That since the applicant is publicly stating that out of the last sixteen Chief Justices of India, eight of them were definitely corrupt, the applicant also needs to be added as a respondent to this contempt petition so that he is also suitably punished for this contempt. The applicant would consider it a great honour to spend time in jail for making an effort to get for the people of India an honest and clean judiciary.
20. That the applicant also submits that since the questions arising in this case affects the judiciary as a whole, the petition needs to be decided by the entire court and not merely by three judges handpicked by a Chief Justice.

PRAYERS

In view of the above, it is most respectfully prayed that this Hon'ble Court may be pleased to:

- a) allow the present application and implead the Applicant as a contemnor in the aforementioned contempt petition as Respondent no. 3; and

b) pass any other or further order/s as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

(Shanti Bhushan)
Applicant-in-Person

New Delhi

Dated:

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....RESPONDENTS

AFFIDAVIT

I, Shanti Bhushan, S/o Late Shri Vishwamitra, R/o B-16, Sector-14, Noida, do hereby solemnly state and affirm as under:

1. That I am the applicant in the accompanying application and am fully acquainted with the facts of this case and I am competent to swear this affidavit.
2. That I have read and understood the facts mentioned in the accompanying application and I state and affirm that the facts mentioned in the said application as well as in the enclosed annexure under a sealed cover are true and correct to the best of my knowledge.
3. That the annexure annexed alongwith the application are true copies of their respective originals.

DEPONENT

VERIFICATION:

I, the above named Deponent, do hereby verify that the contents of the above Affidavit are true and correct to my knowledge, no part of it is false and nothing material has been concealed therefrom.

Verified at New Delhi on this ____ day of _____2010.

DEPONENT

IN THE SUPREME COURT OF INDIA

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IN THE MATTER OF:

SHANTI BHUSHAN

.....APPLICANT

**APPLICATION FOR PERMISSION TO FILE ANNEXURE B ANNEXED TO THE
ACCOMPANYING APPLICATION FOR IMPLEADMENT IN A SEALED COVER**

To

The Hon'ble Chief Justice &

His Companion Justices of the Supreme Court of India

The humble application of the Petitioners above named.

Most respectfully showeth:

1. That the applicant is filing the present application seeking permission to file Annexure B annexed to the accompanying application for impleadment in a sealed cover. The applicant has filed the accompanying application for his impleadment as Respondent No. 3 in the aforementioned contempt petition as the applicant is making a categorical statement in the present application that eight of the last sixteen Chief Justices of India were definitely corrupt and also providing the names of those eight definitely corrupt Chief Justices as an annexure along with the said application.

3. That the Applicant in the application for impleadment has mentioned that out of last sixteen Chief Justices, in the applicant's opinion, eight were definitely corrupt, six were definitely honest and about the remaining two, a definite opinion cannot be expressed whether they were honest or corrupt. The signed lists identifying these eight, six and two Chief Justices of India has been annexed as **Annexure B**. As the information given in Annexure B is of very sensitive nature, the Applicant feels that it would be appropriate to file it in a sealed cover only for the perusal of the Hon'ble Judges hearing the said contempt application.

PRAYERS

In view of the above, it is most respectfully prayed that this Hon'ble Court may be pleased to:

- a) permit the applicant to file Annexure B of the accompanying application for impleadment in a sealed cover; and
- b) pass any other or further order/s as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

(Shanti Bhushan)
Applicant-in-Person

New Delhi

Dated:

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1. That I am the applicant in the accompanying application and am fully acquainted with the facts of this case and I am competent to swear this affidavit.
2. That I have read and understood the facts mentioned in the accompanying application and I state and affirm that the facts mentioned in the said application are true and correct to the best of my knowledge.

DEPONENT

VERIFICATION:

I, the above named Deponent, do hereby verify that the contents of the above Affidavit are true and correct to my knowledge, no part of it is false and nothing material has been concealed therefrom.

Verified at New Delhi on this ___ day of _____2010.

DEPONENT