**MAHIPAL SINGH RANA V. STATE OF UP (2016 SC)**

**Facts**- This case is an appeal under Section 19 of Contempt of Court Act against the judgement of Allahabad High Court where the High Court had found him guilty of contempt of a Jugde at Etah court in UP and imposed a imprisonment of two months with a fine of Rs. 2,000/.

**Issues**- 1. Whether a case has been made out for interference with the order passed by the High Court convicting the appellant for criminal contempt and sentencing him to simple imprisonment for two months with a fine of Rs.2,000/?-

2. Whether on conviction for criminal contempt, the appellant can be allowed to practice?

**Background of the case**- The appellant-advocate shouted in the court of Etah and used rude, insulting and indecent language for the Judge on two occasions in the year 2003. He had even threatened him and said that if the Judge didn’t pass an order on the file against his, it will not be good for the Judge. The Etah Senior Civil Judge made a reference to the High Court under Section 15 of Contempt of Courts Act via a letter. The advocate contended that he wasn’t present in the court premises and further that even if an action is liable to be taken against him, the same must be taken under the Advocates Act 1961 which was rejected by the High Court.

**Judgement of High Court**

1. The criminal history of the contemnor, the acceptance of facts in which his actions were found contumacious and he was discharged on submitting apologies on two previous occasions, and the allegations against him in which he was found to continue with intimidating the judicial officers compelled the High Court to issue interim orders restraining his entry of the contemnor in the judgeship at Etah. The Bar Council of Uttar Pradesh, is fully aware of his activities but has chosen not to take any action in the matter. The Court did not interfere with the statutory powers of the Bar Council of Uttar Pradesh to take appropriate proceedings against the contemnor with regard to his right of practice, and did not take away right of practice vested in him by virtue of his registration with the Bar Council. He was not debarred from practice but was only restrained to appear in the judgeship at Etah.
2. The appellant was not suffering from any mental imbalance. He was fully conscious of his actions and take responsibility of the same. He suffers from an inflated ago, and has a tremendous superiority complex.
3. Under the Rules of this Court, the contemnor shall not be permitted to appear in courts in the Judgeship at Etah, until he purges the contempt.
4. The Learned Additional Solicitor General of India made a reference to Section 24A of the Advocates Act which provides for a bar on enrolment as an advocate of a person who has committed any offence involving moral turpitude. It was further submitted that if a person is disqualified from enrolment, it could not be the intention of the legislature to permit a person already enrolled as an advocate to continue him in practice if he is convicted of an offence involving moral turpitude. Bar against enrolment should also be deemed to be bar against continuation. It was further submitted that Article 145 of the Constitution empowers the Supreme Court to make rules for regulating practice and procedure including the persons practicing before this Court. Section 34 of the Advocates Act empowers the High Courts to frame rules laying down the conditions on which an advocate shall be permitted to practice in courts. Thus, there is no absolute right of an advocate to appear in court.

**Observations of Supreme Court**

1. The Apex Court Court, while examining its powers under Article 129 read with Article 142 of the Constitution with regard to awarding sentence of imprisonment together with suspension of his practice as an Advocate, referred to **Supreme Court Bar Association Case** where the Constitution Bench held that while in exercise of contempt jurisdiction, this Court cannot take over jurisdiction of disciplinary committee of the Bar Council and it is for the Bar Council to punish the advocate by debarring him from practice or suspending his licence as may be warranted on the basis of his having been found guilty of contempt. Under Article 144 of the Constitution “*all authorities, civil and judicial, in the territory of India shall act in aid of the Supreme Court*”. The Bar Council which performs a public duty and is charged with the obligation to protect the dignity of the profession and maintain professional standards and etiquette is also obliged to act “in aid of the Supreme Court”. If the Bar Council fails to take action, this Court could invoke its appellate power under Section 38 of the Advocates Act.
2. In **Pravin C. Shah V KA Mohd Ali**, Court held that an advocate found guilty of contempt cannot be allowed to act or plead in any court till he purges himself of contempt. When the Rules stipulate that a person who committed contempt of court cannot have the unreserved right to continue to appear and plead and conduct cases in the courts without any qualm or remorse, the Bar Council cannot overrule such a regulation concerning the orderly conduct of court proceedings. Courts of law are structured in such a design as to evoke respect and reverence for the majesty of law and justice. The machinery for dispensation of justice according to law is operated by the court. Proceedings inside the courts are always expected to be held in a dignified and orderly manner. The very sight of an advocate, who was found guilty of contempt of court on the previous hour, standing in the court and arguing a case or cross-examining a witness on the same day, unaffected by the contemptuous behaviour he hurled at the court, would erode the dignity of the court and even corrode the majesty of it besides impairing the confidence of the public in the efficacy of the institution of the courts.
3. In **Prayag Das v. Civil Judge, Bulandshahr,** Court held that “*The High Court has a power to regulate the appearance of advocates in courts. The right to practise and the right to appear in courts are not synonymous.”*
4. In **Harish Uppal V UOI** - The right to practise, no doubt, is the genus of which the right to appear and conduct cases in the court may be a specie. But the right to appear and conduct cases in the court is a matter on which the court must and does have major supervisory and controlling power. Hence courts cannot be and are not divested of control or supervision of conduct in court merely because it may involve the right of an advocate. It was also held that the power to frame such rules should not be confused with the right to practise law. While the Bar Council can exercise control over the latter, the courts are in control of the former. This distinction is clearly brought out by the difference in language in Section 49 of the Advocates Act on the one hand and Article 145 of the Constitution of India and Section 34(1) of the Advocates Act on the other. Section 49 merely empowers the Bar Council to frame rules laying down conditions subject to which an advocate shall have a right to practise i.e. do all the other acts set out above. However, Article 145 of the Constitution of India empowers the Supreme Court to make rules for regulating this practice and procedure of the court including inter alia rules as to persons practising before this Court. Similarly Section 34 of the Advocates Act empowers High Courts to frame rules, inter alia to lay down conditions on which an advocate shall be permitted to practise in courts. Article 145 of the Constitution of India and Section 34 of the Advocates Act clearly show that there is no absolute right to an advocate to appear in a court. An advocate appears in a court subject to such conditions as are laid down by the court. It must be remembered that Section 30 has not been brought into force and this also shows that there is no absolute right to appear in a court.
5. **In Re: Sanjiv Dutta &Ors**, it was observed that the members of legal profession are required to maintain exemplary conduct in and outside of the Court. The respect for the legal system was due to role played by the stalwarts of the legal profession and if there was any deviation in the said role, not only the profession but also the administration of justice as a whole would suffer.
6. **In Amit Chanchal Jha V. Registar, High Court of Delhi** this Court again upheld the order of debarring the advocate from appearing in court on account of his conviction for criminal contempt.
7. In “Browbeating, prerogative of lawyers”, published in the Hindu newspaper dated 7th June, 2016, Shri S. Prabhakaran, Co-Chairman of Bar Council of India has highlighted the rising instances of misconduct by the lawyers, “when rallies and processions were taken out inside court halls obstructing the proceedings, (ii) when courts were boycotted for all and sundry reasons in violation of the law laid down by the Supreme Court in Ex-Capt. Harish Uppal, (iii) when two instances of murder of very notorious lawyers inside the Egmore court complex took place on the eve of elections to the Bar Associations, (iv) when a lady litigant who came to the Family Court in Chennai was physically assaulted by a group of lawyers who also coerced the police to register a complaint against the victim, (v) when a group of lawyers barged into the chamber of a magistrate in Puducherry and wrongfully confined him till he released a lawyer on his own bond in a criminal complaint of sexual assault filed by a lady, (vi) when a group of lawyers gheraoed a magistrate for not granting bail and one of them spat on his face, leading to strong protests by the Association of Judicial Officers, and (vii) when very recently, a lady litigant was physically assaulted by a group of lawyers for sitting in the chair intended for lawyers inside the court hall.

**Conclusion**

In the present case, inspite of direction of the High Court as long back as more than ten years, no action is shown to have been taken by the Bar Council. Notice was issued by this Court to the Bar Council of India and after all the facts having been brought to the notice of the Bar Council of India, the said Bar Council has also failed to take any action. In view of such failure of the statutory obligation of the Bar Council of the State of Uttar Pradesh as well as the Bar Council of India, this Court has to exercise appellate jurisdiction under the Advocates Act in view of proved misconduct calling for disciplinary action.

Apart from upholding the conviction and sentence awarded by the High Court to the appellant, except for the imprisonment, the appellant will suffer automatic consequence of his conviction under Section 24A of the Advocates Act which is applicable at the post enrollment stage.

**Decision**

* Conviction of the appellant is justified and is upheld; Sentence of imprisonment awarded to the appellant is set asidevin view of his advanced age but sentence of fine and default sentence are upheld.
* The appellant shall not be permitted to appear in courts in District Etah until he purges himself of contempt is also upheld; Under Section 24A of the Advocates Act, the enrollment of the appellant will stand suspended for two years from the date of this order.
* As a disciplinary measure for proved misconduct, the licence of the appellant will remain suspended for further five years.