

**IN THE SUPREME COURT OF INDIA**  
**CRIMINAL ORIGINAL JURISDICTION**  
**CRIMINAL WRIT PETITION No. \_\_\_\_\_ of 2021**

**A3**

**IN THE MATTER OF:**

**Rashid Khan Pathan**

**...Petitioner**

**Versus**

**Shri Justice J.B. Pardiwala & Ors.**

**...Respondent**

**PAPER BOOK**

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**ADVOCATE FOR THE PETITIONER – PETITIONER IN PERSON**



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**OFFICE REPORT ON LIMITATION**

1. The petition is / are within time.
2. The petition is barred by time and there is delay of \_\_\_\_\_ days in filing the same against order dated \_\_\_\_\_ and petition for condonation of \_\_\_\_\_ days delay has been filed.
3. There is delay of \_\_\_\_\_ days in refilling the petition and petition for condonation of \_\_\_\_\_ days delay in refilling has been filed.

**BRANCH OFFICER**

**NEW DELHI**

**DATED: 20.12.2021**

**LISTING PROFORMA****SECTION: WRIT**

**The case pertains to** (Please tick/check the correct box):

- Central Act :
- Section :
- Central Rule : N.A.
- Rule No (s) : N.A.
- State Act : N.A.
- Section : N.A.
- State Rule : N.A.
- Rule No (s) : N.A.
- Impugned Interim Order : N.A.
- Impugned Final Order/Decree : N.A.
- High Court : N.A.
- Names of Judges : N.A.
- Tribunal/Authority : (Name) N.A.
- Nature of matter: Civil  **Criminal**
- (a) Petitioner/Appellant No.1: **Rashid Khan Pathan**  
E-Mail ID:  
(b) Mobile phone number:
- (a) Respondent No.1: **Shri Justice J.B. Pardiwala & Ors.**  
(b) E-Mail ID: N.A..  
(c) Mobile Phone Number: N.A.
- (a) Main category classification: 18, Ordinary Criminal matters  
(b) Sub classification: 1807, others

- Note to be listed before: N.A.
- 6(a). Similar disposed of matter with citation, if any & case details:  
No similar matter is disposed of
- (b). Similar pending matter with case details: No similar matter is pending

**7. Criminal Matters:**

- (a) Whether accused/convict has surrendered:  
 Yes                       No.
- (b) FIR No. N.A.                      Date : N.A.
- (c) Police Station: N.A.
- (d) Sentenced Awarded: NO
- (e) Sentenced Under gone: NO

**8. Land Acquisition Matters: N.A.**

- (a) Date of Section 4 notification: N.A.
- (b) Date of Section 6 notification: N.A.
- (c) Date of Section 17 notification: N.A.

**9. Tax Matters: State the tax effect: N.A.**

**10. Special Category (first Petitioner/Appellant only): N.A.**

- Senior citizen    65 years    SC/ST    Woman/child    Disabled
- Legal Aid case    in custody

**11. Vehicle Number (in case of Motor Accident Claim matters): N.A.**

**Date: 20.12.2021**

**ADVOCATE FOR PETITION**

**IN THE SUPREME COURT OF INDIA**  
**CRIMINAL ORIGINAL JURISDICTION**  
**CONTEMPT PETITION (CRL.) NO. \_\_\_\_\_ OF 2021**

**RASHID KHAN PATHAN** )  
Age: 62 Years Occ. Business )  
Residing At Vasant Nagar, )  
Pusad, Dist. Yawatmal - 445203. ) **...PETITIONER**

**VERSUS**

- 1. SHRI. JUSTICE J.B. PARDIWALA** )  
Judge, Gujarat High Court, )  
High Court of Gujarat Sola, )  
Ahmedabad, Gujarat - 380 060. )
- 2. SHRI. JUSTICE NIRAN R. MEHTA** )  
Judge, Gujarat High Court, )  
High Court of Gujarat Sola, )  
Ahmedabad, Gujarat - 380 060. )
- 3. SHRI. DEVAN VYAS** )  
A.S.G. Gujarat High Court, )  
A-101, Ganesh Meridian, )  
Opp. Kargil Petrol Pump, S. G. )  
Highway, Ahmedabad- 380 060. )
- 4. SHRI. K.M. ANTONI** )  
A.G.P. Gujarat High Court. )  
High Court of Gujarat Sola, )  
Ahmedabad Gujarat - 380 060. ) **...CONTEMNORS**

**PETITION UNDER SECTION 3 OF THE RULES TO  
REGULATE PROCEEDINGS FOR CONTEMPT OF  
SUPREME COURT, 1975 R/W ARTICLE 129 AND 142  
OF THE CONSTITUTION AND AS PER LAW LAID  
DOWN IN PARA 1 & 60 OF CONSTITUTION BENCH  
JUDGMENT IN RE: C.S. KARNAN (2017) 7 SCC 1.**

To,

**THE HON'BLE CHIEF JUSTICE OF  
INDIA AND HIS COMPANION JUDGES  
OF THE HON'BLE SUPREME COURT  
OF INDIA.**

**THE HUMBLE PETITION OF  
THE PETITIONER ABOVE-  
NAMED.**

**MOST RESPECTFULLY SHOWETH:**

1. That, the Contemnors No. 1 and 2 are ex-facie guilty of willful disregard, defiance and Contempt of binding precedents of Hon'ble Supreme Court in various judgments and more particularly in the case of **Pradip J. Mehta v. CIT, (2008) 14 SCC 283, Ramphal Vs B.S. Bhalla (2009) 3 SCC 258, Neeharika Infrastructure Pvt. Ltd vs. State of Maharashtra 2021 SCC OnLine SC 315.**
2. That, the Contemnor Judges Shri. Justice J.B. Pardiwala and **Shri. Justice Niran R. Mehta** vide order dated 17.12.2021 dismissed the **PIL No. 142 of 2021** between **Nishant B. Prajapati & Ors. Vs. Union of India & Ors.**
3. That, the said order dated **17.12.2021** passed by the Contemnor No. 1 and 2 is not only in Contempt of Hon'ble Supreme Court directions but also



discloses serious penal offences u/s **166, 219, 218, 202, 409, 304-A, 323, 336, 115, 109, 511, 120(B), 34** etc., of IPC.

4. Deliberate Contempt of Supreme Court's binding precedents. Offence u/s **2(b), 12** of the Contempt of Court's Act, 1971 along with Article **129** of the Constitution of India.
  - 4.1. That, the main grievance of the Petitioner was that the circular dated **17.09.2021** issued by Municipal Commissioner, Ahmedabad Municipal Corporation is illegal and unconstitutional as it discriminates the people on the basis of their vaccination status. It also restricts the entry of the unvaccinated people to the public places.
  - 4.2. The Petitioner in his Petition relied upon the landmark judgments of Hon'ble Supreme Court and Division Bench of Meghalaya and Gauhati High Court in following cases:-
    - (i) **Common Cause Vs. Union of India (2018) 5 SCC 1.**
    - (ii) **Registrar General, High Court of Meghalaya Vs. State of Meghalaya 2021 SCC OnLine Megh 130.**
    - (iii) **Re: Dintar Incident Aizawl Vs. State of Mizoram 2021 SCC OnLine Gau 1313.**
  - 4.3. The Petitioner in para **4.13, 4.14, 4.15** of the Petition has reproduced the relative paras of the above judgments.
  - 4.4. The Petitioner also relied on the reply given by the Central Government in RTI and also in Loksabha, where it is made clear that the taking of vaccine is voluntary and not mandatory.
  - 4.5. When matter came up for the hearing on **17.12.2021**, the counsel for Petitioner have pointed out the court about abovesaid factual and legal position. But the Contemnor No. 1 and 2 refused to accept the said

judgment and even did not referred the abovesaid precedents and information and dismissed the order by passing a cryptic and unlawful order.

**4.6.** The illogical reasoning given by the Contemnor No, 1 during the hearing in not accepting the judgment of Meghalaya High Court is that the population of Meghalaya is very less. The judgment of Supreme Court is **Common Cause Vs. Union of India (2018) 5 SCC 1**, is not referred and order is passed against the said ratio.

**4.7.** That, the abovesaid conduct of Contemnor Judges (No. 1 & 2) is a gross Contempt of Supreme Court, where Hon'ble Supreme Court made it clear that all the Judges including High Court Judges are bound to refer the citations/judgments and then pass a reasoned order explaining as to why and how said judgments/precedents are binding or not binding.

Supreme Court also made it clear that referring the precedents and passing orders against said precedents is an act of 'Judicial Adventurism'. Such Judges will be punished under Contempt. Such Judges should also face departmental action and may be dismissed from the post.

Relied on:-

- (i) **Dwarikesh Sugar Industries Ltd. v. Prem Heavy Engineering Works (P) Ltd. and Anr. 1997 (6) SCC 450.**
- (ii) **In Re M.P. Dwivedi and Ors. AIR 1996 SC 2299.**
- (iii) **Pradip J. Mehta v. CIT, (2008) 14 SCC 283.**
- (iv) **Baradkanta Mishra (1974) 1 SCC 374.**
- (v) **Re: C.S. Karnan (2017) 7 SCC 1.**
- (vi) **Spencer & Co. Ltd. Vs. Vishwadarshan Dist. Pvt. Ltd. (1995) 1 SCC 259.**

- (vii) **Prabha Sharma Vs. Sunil Goyal (2017) 11 SCC 77.**
- (viii) **Prominent Hotels Case 2015 SCC OnLine Del 11910.**
- (ix) **Dattani & Co. Vs. Income Tax Officer 2013 SCC Online Guj 8841.**

**4.8.** Hon'ble Supreme Court in many judgments made it clear that the High Court Judges should not dispose of the Writ Petition without dealing with all the grounds taken by a reasoned order. The order must show the application of judicial mind by the Judge. The reasons must be intelligent reasons and not the casual reasons. The Writ Petition cannot be dismissed in a cavalier fashion by a cryptic order only appreciating the impugned act of authority.

Relied on:-

- (i) **Ram Phal Vs. B.S. Bhalla (2009) 3 SCC 258.**
- (ii) **Neeharika Infrastructure Pvt. Ltd vs. State of Maharashtra 2021 SCC OnLine SC 315.**
- (iii) **Bhagabhai Dhanabhai Barad 2018 SCC OnLine Guj 1535.**
- (iv) **Central Public Information Officer, Supreme Court of India Vs. Subhash Chandra Agarwal (2020) 5 SCC 481.**
- (v) **Union of India Vs. Essel Mining & Industries Ltd. (2005) 6 SCC 675.**

**4.9.** That, in **Pradip J. Mehta v. CIT, (2008) 14 SCC 283**, it is ruled as under;

*“Precedent - View taken by other High Court though not but should be referred and appreciated - High*

*Court would be within its right to differ with the view taken by the other High Courts, but, in all fairness, the High Court should record its dissent with reasons therefor. Thus, the judgment of the other High Court, though not binding, have persuasive value which should be taken note of and dissented from by recording its own reasons. (Para 24)”*

4.10. In Dwarikesh Sugar Industries Ltd. v. Prem Heavy Engineering Works (P) Ltd. and Anr. 1997 (6) SCC 450, it is ruled as under;

*“29. It is unfortunate that the High Court did not consider it necessary to refer to various judicial pronouncements of this Court in which the principles which have to be followed while examining an application for grant of interim relief have been clearly laid down. The observation of the High Court that reference to judicial decisions will not be of much importance was clearly a method adopted by it in avoiding to follow and apply the law as laid down by this Court. Yet another serious error which was committed by the High Court, in the present case, was not to examine the terms of the bank guarantee and consider the letters of invocation which had been written by the appellant. If the High Court had taken the trouble of examining the documents on record, which had been referred to by the trial court, in its order refusing to grant injunction, the court would not have granted the interim injunction. We also do not*

*find any justification for the High Court in invoking the alleged principle of unjust enrichment to the facts of the present case and then deny the appellant the right to encash the bank guarantee. If the High Court had taken the trouble to see the law on the point it would have been clear that in encashment of bank guarantee the applicability of the principle of undue enrichment has no application.”*

**4.11. In Dattani & Co. Vs. Income Tax Officer 2013 SCC Online Guj 8841**, it is ruled as under;

*“Precedents - Applicabilty of case Law - Held, whenever any decision has been relied upon and/or cited by any party, the authority/tribunal is bound to consider and/or deal with the same and opine whether in the facts and circumstances of the particular case, the same will be applicable or not. In the instant case, the tribunal has failed to consider and/or deal with the aforesaid decision cited and relied upon by the assessee. Under the circumstances, all these appeals are required to be remanded to the tribunal.”*

**4.12. In State Bank of Travancore Vs. Mathew K.C. 2018 (3) SCC 85**, it is ruled as under;

***“JUDICIAL ADVENTURISM BY HIGH COURT – PASSING ORDER BY IGNORING LAW SETTLED BY COURT.***

*It is duty of the court to apply the correct law even if not raised by the party. If any order against settled law is to be passed then it can be done only by a reasoned order, containing a discussion after noticing the relevant law settled.*

*18. We cannot help but disapprove the approach of the High Court for reasons already noticed in Dwarikesh Sugar Industries Ltd. v. Prem Heavy Engineering Works (P) Ltd. and Anr. MANU/SC/0639/1997 : 1997 (6) SCC 450, observing:*

*32. When a position, in law, is well settled as a result of judicial pronouncement of this Court, it would amount to judicial impropriety to say the least, for the subordinate courts including the High Courts to ignore the settled decisions and then to pass a judicial order which is clearly contrary to the settled legal position. Such judicial adventurism cannot be permitted and we strongly deprecate the tendency of the subordinate courts in not applying the settled principles and in passing whimsical orders which necessarily has the effect of granting wrongful and unwarranted relief to one of the parties. It is time that this tendency stops.”*

**4.13.** In Re M.P. Dwivedi and Ors. AIR 1996 SC 2299, it is ruled as under;

*“17. ....“Contempt of court is disobedience to the court, by acting in opposition to the authority, justice*

*and dignity thereof. It signifies a wilful disregard or disobedience of the court's order; it also signifies such conduct as tends to bring the authority of the court and the administration of law into disrepute". (See: Baradakanta Mishra, Ex-Commr. of Endowments v. Bhimsen Dixit [(1973) 1 SCC 446 : 1973 SCC (Cri) 360 : (1973) 2 SCR 495] , at p. 499 SCC p. 449, para 11.)*

*Wilful disregard or disobedience of the court's order presupposes an awareness of the order that has been disregarded or disobeyed. In view of the affidavits filed by Contemners 1 to 5 stating that they were not aware of law laid down by this Court in Prem Shankar Shukla v. Delhi Admn. [(1980) 3 SCC 526 : 1980 SCC (Cri) 815 : (1980) 3 SCR 855] and Sunil Gupta v. State of M.P. [(1990) 3 SCC 119 : 1990 SCC (Cri) 440] , we refrain from taking action to punish them for contempt of this Court.*

**18. ... Contemners 1 and 2, even though not directly involved in the said incidents since they were not present, must be held responsible for having not taken adequate steps to prevent such actions and even after the said actions came to their knowledge, they condoned the same by not taking stern action against persons found responsible for this illegality. We, therefore, record our disapproval of the conduct of all the five Contemners 1 to 5 in this regard and direct that a note regarding the disapproval of their**

**conduct by this Court be placed in the personal files of all of them.”**

4.14. In **Somabhai Patel (2001) 5 SCC 65**, it is ruled as under;

*“(A) Contempt of Courts Act (70 of 1971), S.2 – Contempt by the Judges by misinterpretations of judgment of Supreme Court.*

15. *Reverting now to the contempt proceedings initiated against the judicial officer, tendering unconditional and unqualified apology, he says that “with my limited understanding, I could not read the order correctly” .....*

.....

*...The officer is holding a responsible position of a Civil Judge of Senior Division. Even a new entrant to judicial service would not commit such mistake assuming it was a mistake. Despite these glaring facts we assume, as pleaded by the judicial officer, that he could not understand the order and, thus, on that assumption it would be a case of outright negligence, which, in fact, stands admitted but wilful attempt to violate the order for any extraneous consideration or dishonest motive would, therefore, be absent. In this view, we drop these contempt proceedings against the officer by issue of severe reprimand.*

16. **What we have said above, however, is not the end of the matter. It cannot be ignored that the level**



*of judicial officer's understanding can have serious impact on other litigants. There is no manner of doubt that the officer has acted in a most negligent manner without any caution or care whatsoever. Without any further comment, we would leave this aspect to the disciplinary authority for appropriate action, if any, taking into consideration all relevant facts. We do not know whether present is an isolated case of such an understanding. We do not know what has been his past record. In this view, we direct that a copy of the order shall be sent forthwith to the Registrar General of the High Court of Gujarat.’*

4.15. In Prominent Hotels Case 2015 SCC OnLine Del 11910, it is ruled as under;

*“30.29. The impugned judgment is based on mere conjectures and pure hypothetical exercises, absolutely divorced from rationality and reality, inevitably making law, equity and justice, in the process, a casualty. The impugned judgment is so perverse, arbitrary and irrational that no responsible judicial officer could have arrived at such a decision.*

*30.35. The Trial Court failed in the duty and obligation to maintain purity of standards and preserve full faith and credibility in the judicial system. The impugned judgment, on the face of it, is shown to be based upon a proposition of law which is*

*unsound and findings recorded are absurd, unreasonable and irrational.*

*Conscious disregard of well settled law by the Licensee as well as by the Trial Court*

**30.26.** *The impugned judgement and decree is vitiated on account of conscious disregard of the well settled law by the Trial Court. The Trial Court, who was obliged to apply law and adjudicate claims according to law, is found to have thrown to winds all such basic and fundamental principles of law. The Trial Court did not even consider and apply its mind to the judgments cited by NDMC at the time of hearing. The judicial discipline demands that the Trial Court should have followed the well settled law. The judicial discipline is one of the fundamental pillars on which judicial edifice rests and if such discipline is routed, the entire edifice will be affected. It cannot be gainsaid that the judgments mentioned below are binding on the Licensee who could not have bypassed or disregarded them except at the peril of contempt of this Court. This cannot be said to be a mere lapse. The Trial Court has dared to disregard and deliberately ignore the following judgments:-*

**30.31.** *The conclusions in the impugned judgment are seriously vitiated on account of gross misreading of the materials on record. Conclusions directly contrary to the indisputable facts placed on record throwing*

*over board the well-settled norms, the basic and fundamental principle that a violator of reciprocal promises cannot be crowned with a prize for his defaults.*

*30.32. The conclusions arrived at by the Trial Court are nothing but sheer perversity and contradiction in terms. Even common sense, reason and ordinary prudence would commend for rejecting the claim of the Licensee.*

*30.33. The manner in which the Trial Court has chosen to decree the suit not only demonstrates perversity of approach, but per se proves flagrant violation of the principles of law. The principles of well settled law are found to have been observed more in their breach.*

*30.34. The Trial Court appears to have relied upon mere surmises and conjectures as though it constituted substantive evidence. The impugned judgment suffers from obvious and patent errors of law and facts.”*

## **22. Consequences of the Trial Court disregarding well settled law**

*22.1. If the Trial Court does not follow the well settled law, it shall create confusion in the administration of justice and undermine the law laid down by the constitutional Courts. The consequence of the Trial*

*Court not following the well settled law amounts to contempt of Court. Reference in this regard may be made to the judgments given below.*

*22.2. In East India Commercial Co. Ltd. v. Collector of Customs, Calcutta, AIR 1962 SC 1893, Subba Rao, J. speaking for the majority observed reads as under:*

*“31. ....This raises the question whether an administrative tribunal can ignore the law declared by the highest Court in the State and initiate proceedings in direct violation of the law so declared under Art. 215, every High Court shall be a Court of record and shall have all the powers of such a Court including the power to punish for contempt of itself. Under Art. 226, it has a plenary power to issue orders or writs for the enforcement of the fundamental rights and for any other purpose to any person or authority, including in appropriate cases any Government within its territorial jurisdiction. Under Art. 227 it has jurisdiction over all Courts and tribunals throughout the territories in relation to which it exercises jurisdiction. It would be anomalous to suggest that a tribunal over which the High Court has superintendence can ignore the law declared by that Court and start proceedings in direct violation of it. If a tribunal can do so, all the subordinate Courts can equally do so, for there is no specific provision, just like in the case of Supreme Court, making the law declared by the High Court binding on subordinate*

*Courts. It is implicit in the power of supervision conferred on a superior tribunal that all the tribunals subject to its supervision should conform to the law laid down by it. Such obedience would also be conducive to their smooth working; otherwise there would be confusion in the administration of law and respect for law would irretrievably suffer. We, therefore, hold that the law declared by the highest Court in the State is binding on authorities, or tribunals under its superintendence, and that they cannot ignore it either in initiating a proceeding or deciding on the rights involved in such a proceeding. If that be so, the notice issued by the authority signifying the launching of proceedings, contrary to the law laid down by the High Court would be invalid and the proceedings themselves would be without jurisdiction.*”

*(Emphasis supplied)*

22.3. The above legal position was reiterated in *Makhan Lal v. State of Jammu and Kashmir*, (1971) 1 SCC 749, in which Grover, J. observed (at page 2209)—

*“6. The law so declared by this Court was binding on the respondent-State and its officers and they were bound to follow it whether a majority of the present respondents were parties or not in the previous petition.”*

*(Emphasis supplied)*

*22.4. In Baradakanta Mishra Ex-Commissioner of Endowments v. Bhimsen Dixit, (1973) 1 SCC 446, the appellant therein, a member of Judicial Service of State of Orissa refused to follow the decision of the High Court. The High Court issued a notice of contempt to the appellant and thereafter held him guilty of contempt which was challenged before the Supreme Court. The Supreme Court held as under:-*

*“15. The conduct of the appellant in not following previous decisions of the High Court is calculated to create confusion in the administration of law. It will undermine respect for law laid down by the High Court and impair the constitutional authority of the High Court. His conduct is therefore comprehended by the principles underlying the law of Contempt. The analogy of the inferior court's disobedience to the specific order of a superior court also suggests that his conduct falls within the purview of the law of Contempt. Just as the disobedience to a specific order of the Court undermines the authority and dignity of the court in a particular case, similarly the deliberate and mala fide conduct of not following the law laid down in the previous decision undermines the constitutional authority and respect of the High Court. Indeed, while the former conduct has repercussions on an individual case and on a limited number of persons, the latter conduct has a much*

*wider and more disastrous impact. It is calculated not only to undermine the constitutional authority and respect of the High Court, generally, but is also likely to subvert the Rule of Law and engender harassing uncertainty and confusion in the administration of law”*

*(Emphasis supplied)*

*22.5. In Re: M.P. Dwivedi, (1996) 4 SCC 152, the Supreme Court initiated suo moto contempt proceedings against seven persons including the Judicial Magistrate, who disregarded the law laid down by the Supreme Court against handcuffing of under-trial prisoners. The Supreme Court held this to be a serious lapse on the part of the Magistrate, who was expected to ensure that basic human rights of the citizens are not violated. The Supreme Court took a lenient view considering that Judicial Magistrate was of young age. The Supreme Court, however, directed that a note of that disapproval to be placed in his personal file. Relevant portion of the said judgment is reproduced hereunder: -*

*“22. ... It appears that the contemner was completely insensitive about the serious violations of the human rights of the undertrial prisoners in the matter of their handcuffing inasmuch as when the prisoners were produced before him in court in handcuffs, he did not think it necessary to take any action for the removal of*

*handcuffs or against the escort party for bringing them to the court in handcuffs and taking them away in handcuffs without his authorisation. This is a serious lapse on the part of the contemner in the discharge of his duties as a judicial officer who is expected to ensure that the basic human rights of the citizens are not violated. Keeping in view that the contemner is a young judicial officer, we refrain from imposing punishment on him. We, however, record our strong disapproval of his conduct and direct that a note of this disapproval by this Court shall be kept in the personal file of the contemner. **We also feel that judicial officers should be made aware from time to time of the law laid down by this Court and the High Court, more especially in connection with protection of basic human rights of the people and, for that purpose, short refresher courses may be conducted at regular intervals so that judicial officers are made aware about the developments in the law in the field.***

*(Emphasis supplied)*

22.7. In *Maninderjit Singh Bitta v. Union of India*, (2012) 1 SCC 273, the Supreme Court held as under:-

***“26. ... Disobedience of orders of the court strikes at the very root of the rule of law on which the judicial system rests. The rule of law is the foundation of a***



*democratic society. Judiciary is the guardian of the rule of law. If the judiciary is to perform its duties and functions effectively and remain true to the spirit with which they are sacredly entrusted, the dignity and authority of the courts have to be respected and protected at all costs...*

xxx xxx xxx

**29. Lethargy, ignorance, official delays and absence of motivation can hardly be offered as any defence in an action for contempt.** *Inordinate delay in complying with the orders of the courts has also received judicial criticism. ... Inaction or even dormant behaviour by the officers in the highest echelons in the hierarchy of the Government in complying with the directions/orders of this Court certainly amounts to disobedience. ... Even a lackadaisical attitude, which itself may not be deliberate or wilful, have not been held to be a sufficient ground of defence in a contempt proceeding. Obviously, the purpose is to ensure compliance with the orders of the court at the earliest and within stipulated period.”*

*(Emphasis supplied)*

**22.8.** *In Mohammed Ajmal Mohammed Amir Kasab v. State of Maharashtra (2012) 9 SCC 1, the Supreme Court directed that it is the duty and obligation of the magistrate before whom a person*

*accused of committing a cognizable offence is first produced to make him fully aware that it is his right to consult and be defended by a legal practitioner and, in case he has no means to engage a lawyer of his choice, it should be provided to him from legal aid at the expense of the State. The Supreme Court further directed that the failure of any magistrate to discharge this duty would amount to dereliction in duty and would made the concerned magistrate liable to departmental proceedings. The relevant portion of the judgment is reproduced hereunder:*

*“484. We, therefore have no hesitation in holding that the right to access to legal aid, to consult and to be defended by a legal practitioner, arises when a person arrested in connection with a cognizable offence is first produced before a magistrate. We, accordingly, hold that it is the duty and obligation of the magistrate before whom a person accused of committing a cognizable offence is first produced to make him fully aware that it is his right to consult and be defended by a legal practitioner and, in case he has no means to engage a lawyer of his choice, that one would be provided to him from legal aid at the expense of the State. The right flows from Articles 21 and 22(1) of the Constitution and needs to be strictly enforced. **We, accordingly, direct all the magistrates in the country to faithfully discharge the aforesaid duty and obligation and further make it clear that any failure***

to fully discharge the duty would amount to dereliction in duty and would made the concerned magistrate liable to departmental proceedings.”

(Emphasis supplied)

22.9. In *Priya Gupta v. Addl. Secy. Ministry of Health and Family Welfare*, (2013) 11 SCC 404, the Supreme Court held as under:-

“12. The government departments are no exception to the consequences of wilful disobedience of the orders of the Court. Violation of the orders of the Court would be its disobedience and would invite action in accordance with law. The orders passed by this Court are the law of the land in terms of Article 141 of the Constitution of India. No court or tribunal and for that matter any other authority can ignore the law stated by this Court. Such obedience would also be conducive to their smooth working, otherwise there would be confusion in the administration of law and the respect for law would irretrievably suffer. There can be no hesitation in holding that the law declared by the higher court in the State is binding on authorities and tribunals under its superintendence and they cannot ignore it. This Court also expressed the view that it had become necessary to reiterate that disrespect to the constitutional ethos and breach of discipline have a grave impact on the credibility of judicial institution and encourages chance litigation.

*It must be remembered that predictability and certainty are important hallmarks of judicial jurisprudence developed in this country, as discipline is sine qua non for effective and efficient functioning of the judicial system. If the Courts command others to act in accordance with the provisions of the Constitution and to abide by the rule of law, it is not possible to countenance violation of the constitutional principle by those who are required to lay down the law. (Ref. East India Commercial Co. Ltd. v. Collector of Customs [AIR 1962 SC 1893] and Official Liquidator v. Dayanand [(2008) 10 SCC 1 : (2009) 1 SCC (L&S) 943].) (SCC p. 57, paras 90-91)*

*13. These very principles have to be strictly adhered to by the executive and instrumentalities of the State. It is expected that none of these institutions should fall out of line with the requirements of the standard of discipline in order to maintain the dignity of institution and ensure proper administration of justice.*

xxx xxx xxx

*19. It is true that Section 12 of the Act contemplates disobedience of the orders of the court to be wilful and further that such violation has to be of a specific order or direction of the court. **To contend that there cannot be an initiation of contempt proceedings where directions are of a general nature as it would***

*not only be impracticable, but even impossible to regulate such orders of the court, is an argument which does not impress the court. As already noticed, the Constitution has placed upon the judiciary, the responsibility to interpret the law and ensure proper administration of justice. In carrying out these constitutional functions, the courts have to ensure that dignity of the court, process of court and respect for administration of justice is maintained. Violations which are likely to impinge upon the faith of the public in administration of justice and the court system must be punished, to prevent repetition of such behaviour and the adverse impact on public faith. With the development of law, the courts have issued directions and even spelt out in their judgments, certain guidelines, which are to be operative till proper legislations are enacted. The directions of the court which are to provide transparency in action and adherence to basic law and fair play must be enforced and obeyed by all concerned. The law declared by this Court whether in the form of a substantive judgment inter se a party or are directions of a general nature which are intended to achieve the constitutional goals of equality and equal opportunity must be adhered to and there cannot be an artificial distinction drawn in between such class of cases. Whichever class they may belong to, a contemnor cannot build an argument to the effect that the disobedience is of a general direction and not*

*of a specific order issued inter se parties. Such distinction, if permitted, shall be opposed to the basic rule of law.*

*xxx xxx xxx*

*23. ... The essence of contempt jurisprudence is to ensure obedience of orders of the Court and, thus, to maintain the rule of law. History tells us how a State is protected by its courts and an independent judiciary is the cardinal pillar of the progress of a stable Government. If over-enthusiastic executive attempts to belittle the importance of the court and its judgments and orders, and also lowers down its prestige and confidence before the people, then greater is the necessity for taking recourse to such power in the interest and safety of the public at large. The power to punish for contempt is inherent in the very nature and purpose of the court of justice. In our country, such power is codified...”*

*(Emphasis*

*supplied)*

**22.10.** *In Subrata Roy Sahara v. Union of India (2014) 8 SCC 470, the Supreme Court held that the decisions rendered by the Supreme Court have to be complied with by all concerned. Relevant portion of the said judgment is as under: -*

*“17. There is no escape from, acceptance, or obedience, or compliance of an order passed by the Supreme Court, which is the final and the highest Court, in the country. Where would we find ourselves, if the Parliament or a State Legislature insists, that a statutory provision struck down as unconstitutional, is valid? Or, if a decision rendered by the Supreme Court, in exercise of its original jurisdiction, is not accepted for compliance, by either the Government of India, and/or one or the other State Government(s) concerned? What if, the concerned government or instrumentality, chooses not to give effect to a Court order, declaring the fundamental right of a citizen? Or, a determination rendered by a Court to give effect to a legal right, is not acceptable for compliance? Where would we be, if decisions on private disputes rendered between private individuals, are not complied with? The answer though preposterous, is not far-fetched. In view of the functional position of the Supreme Court depicted above, non-compliance of its orders, would dislodge the cornerstone maintaining the equilibrium and equanimity in the country's governance. There would be a breakdown of constitutional functioning, It would be a mayhem of sorts.*

**185.2. Disobedience of orders of a Court strikes at the very root of the rule of law on which the judicial system rests. Judicial orders are bound to be obeyed**

at all costs. Howsoever grave the effect may be, is no answer for non-compliance with a judicial order. Judicial orders cannot be permitted to be circumvented. In exercise of the contempt jurisdiction, courts have the power to enforce compliance with judicial orders, and also, the power to punish for contempt.”

22.11. In *State of Gujarat v. Secretary, Labour Social Welfare and Tribunal Development Deptt. Sachivalaya*, 1982 CriLJ 2255, the Division Bench of the Gujarat High Court summarized the principles as under:-

“11. From the above four decisions, the following propositions emerge:

(1) It is immaterial that in a previous litigation the particular petitioner before the Court was or was not a party, but if a law on a particular point has been laid down by the High Court, it must be followed by all authorities and tribunals in the State;

(2) The law laid down by the High Court must be followed by all authorities and subordinate tribunals when it has been declared by the highest Court in the State and they cannot ignore it either in initiating proceedings or deciding on the rights involved in such a proceeding;



*(3) If in spite of the earlier exposition of law by the High Court having been pointed out and attention being pointedly drawn to that legal position, in utter disregard of that position, proceedings are initiated, it must be held to be a wilful disregard of the law laid down by the High Court and would amount to civil contempt as defined in section 2(b) of the Contempt of Courts Act, 1971.*

*(Emphasis supplied)*

4.16. In **Ram Phal Vs B.S. Bhalla (2009) 3 SCC 258**, it is ruled as under;

*“Constitution of India - Article 226 - Writ petition - Several issues raised in support of relief sought- Without examining any of issues, High Court by cryptic and non-reasoned order dismissed writ petition-It is not way to dispose of writ petition-Giving of reasons required by ordinary man's sense of justice-Impugned order set aside-Matter remitted to High Court.”*

4.17. In **Neeharika Infrastructure Pvt. Ltd. Vs. State of Maharashtra 2021 SCC OnLine SC 315**, it is ruled as under;

*“76. While considering the importance of the reasons to be given during the decision-making process, in the case of Kranti Associates (P) Ltd. v. Masood Ahmed, (2010) 9 SCC 496, in paragraph 47, this Court has summarised as under:*

“47. Summarising the above discussion, this Court holds:

....

**(l) Reasons in support of decisions must be cogent, clear and succinct. A pretence of reasons or “rubber-stamp reasons” is not to be equated with a valid decision-making process.**

.....

***(n) Since the requirement to record reasons emanates from the broad doctrine of fairness in decision-making, the said requirement is now virtually a component of human rights and was considered part of Strasbourg Jurisprudence. See Ruiz Torija v. Spain [(1994) 19 EHRR 553] EHRR, at 562 para 29 and Anya v. University of Oxford [2001 EWCA Civ 405], wherein the Court referred to Article 6 of the European Convention of Human Rights which requires”***

**4.18. In Bhagabhai Dhanabhai Barad 2018 SCC OnLine Guj 1535, it is ruled as under;**

***“Reasoned Order – Any Order should be with intellectual reasons on each point- Any Judge or quasi judicial authority is bound to pass a reasoned order Reasons in support of decisions must be cogent, clear and succinct.***

***“adequate and intelligent reasons must be given for judicial decisions”.***

*A pretence of reasons or 'rubber-stamp reasons' is not to be equated with a valid decision making process.*

*The Apex Court further held that a litigant who approaches the Court with any grievance is entitled to know the reasons for grant or rejection of his prayer.*

*It further held that insistence on recording of reasons is meant to serve the wider principle of justice that justice must not only be done, but it must also appear to be done, as well. Recording of reasons also operates as a valid restraint on any possible arbitrary exercise of judicial and quasi-judicial or even administrative power. Insistence on reason is a requirement for both judicial accountability and transparency. If a judge or a quasi judicial authority is not candid enough about his/her decision-making process, then, it is impossible to know whether the person deciding is faithful to the doctrine of precedent or to principles of incrementalism.*

*Since the requirement to record reasons emanates from the broad doctrine of fairness in decision making, the said requirement is now virtually a component of human rights and was considered part of Strasbourg Jurisprudence. See (1994) 19 EHRR 553, at 562 para 29 and Anya vs. University of Oxford, MANU/UKWA/0114/2001 : 2001 EWCA Civ 405, wherein the Court referred*

*to Article 6 of European Convention of Human Rights which requires "adequate and intelligent reasons must be given for judicial decisions".*

*The doctrine of audi alteram partem has three basic essentials. Firstly, a person against whom an order is required to be passed or whose rights are likely to be affected adversely must be granted an opportunity of being heard. Secondly, the concerned authority should provide a fair and transparent procedure and lastly, the authority concerned must apply its mind and dispose of the matter by a reasoned or speaking order. This has been uniformly applied by courts in India and abroad.*

*"the orderly functioning of the process of review requires that the grounds upon which the administrative agency acted be clearly disclosed and adequately sustained."*

*To sub-serve the purpose of justice delivery system, therefore, it is essential that the Courts should record reasons for its conclusions, whether disposing of the case at admission stage or after regular hearing.*

*The requirement of recording reasons is applicable with greater rigour to the judicial proceedings. The orders of the court must reflect what weighed with the court of granting or declining the relief claimed by*

*the applicant. In this regard we may refer to certain judgments of this Court."*

*Considering these decisions and also noticing that the combined order impugned, passed below Ex h. Nos. 3 and 4 of the Criminal Appeal No. 4 of 2019 lacks completely reasons and is a cryptic, non-speaking order, therefore, cannot stand to leg nor can it be sustained. The application, which had been tendered on the part of respondent No. 1 even though contains requirements of respondent No. 1 and also has conveyed the details as would be required to be placed before the Court concerned, however, that which is obligatory on the part of the Court can have no other substitute and the appellate Court while dealing with such application, when has totally failed in its duty in giving reasons, this Court would be failing in its duty if it does not interfere and quash the said order.*

*Reasons being the soul of any order, this opaqueness on account of absence of reasons, if not checked, it may give impetus to the arbitrariness and to trade on extraneous grounds. Our democracy based on rule of law, favours the reasoned order and decisions based on facts and hence, to upkeep the objectives of judicial accountability and transparency, this Court is required to interfere with the order impugned.*

*Resultantly, the petition is allowed. The order of the appellate Court dated 07.03.2019 passed below Exh s. 3 and 4 in Criminal Appeal No. 4 of 2019 is quashed and set aside. Considering the fact that this order would leave a void.*

*32. Considering these decisions and also noticing that the combined order impugned, passed below Exh. Nos. 3 and 4 of the Criminal Appeal No. 4 of 2019 lacks completely reasons and is a cryptic, non-speaking order, therefore, cannot stand to leg nor can it be sustained. The application, which had been tendered on the part of respondent No. 1 even though contains requirements of respondent No. 1 and also has conveyed the details as would be required to be placed before the Court concerned, however, that which is obligatory on the part of the Court can have no other substitute and the appellate Court while dealing with such application, when has totally failed in its duty in giving reasons, this Court would be failing in its duty if it does not interfere and quash the said order.*

**4.19. In Dhanuben Lallubhai Patel Vs. Oil And Natural Gas Corporation Of India 2014 SCC Online Guj 15949, it ruled as under;**

*“REASONED ORDER: The Court cannot lose sight of the fact that a losing litigant has a cause to plead and a right to challenge the order if it is adverse to him. Opinion of the Court alone can explain the*

*cause which led to passing of the final order. Whether an argument was rejected validly or otherwise, reasoning of the order alone can show. To evaluate the submissions is obligation of the Court and to know the reasons for rejection of its contention is a legitimate expectation on the part of the litigant. Another facet of providing reasoning is to give it a value of precedent which can help in reduction of frivolous litigation.*

*B] "The giving of reasons is one of the fundamentals of good administration." In Alexander Machinery (Dudley) Ltd. v. Crabtree it was observed: "Failure to give reasons amounts to denial of justice." "Reasons are live links between the mind of the decision-taker to the controversy in question and the decision or conclusion arrived at." Reasons substitute subjectivity by objectivity. The emphasis on recording reasons is that if the decision reveals the "inscrutable face of the sphinx", it can, by its silence, render it virtually impossible for the Courts to perform their appellate function or exercise the power of judicial review in adjudging the validity of the decision. Right to reason is an indispensable part of a sound judicial system; reasons at least sufficient to indicate an application of mind to the matter before Court. Another rationale is that the*

*affected party can know why the decision has gone against him.*

*Absence of reasoning did not find favour with the Supreme Court. The Supreme Court also stated the principle that powers of the High Court were circumscribed by discussed and declared by judicial decision and it cannot transgress the limits on the basis of whims or subjective opinion varying from Judge to Judge. That even when the petition under Article 226 is dismissed in limini, it is expected of the High Court to pass a speaking order, may be briefly.*

*"reason is the heartbeat of every conclusion, and without the same it becomes lifeless."*

**4.20.** In the case of **Central Public Information Officer, Supreme Court of India Vs. Subhash Chandra Agarwal (2020) 5 SCC 481**, it is ruled as under;

*“The oath of office postulates that the judge shall discharge the duties of the office without fear or favour, affection or ill-will. Any action that abridges the discharge of judicial duty in conformity with the principles enunciated in the oath negates the fundamental precept underlying the conferment of judicial power.*

*“225. As constitutional functionaries tasked with adjudication, Judges of the High Courts and Supreme Court are bound to discharge their duties in a fair and*



*impartial manner in accordance with law and the principles enshrined in the Constitution.*

*228. The rule of law commands compliance with the law, without exception. It requires the protection of individuals against the unfettered discretion by officials on one hand and the protection of individuals from depredations by other private individuals.*

*229..... “however good a Constitution may be, it is sure to turn out bad because those who are called to work it, happen to be a bad lot.”*

*230.... The institution cannot be called upon to insulate and protect a Judge from actions which have no bearing on the discharge of official duty. It is for this reason that judicial accountability is an inherent component of the justice delivery system. Accountability is expected to animate the day-to-day functioning of the courts. Judges are required to issue reasoned orders after affording an opportunity to both sides of a dispute to present their case. Judicial ethic requires that a Judge ought to recuse herself from hearing a case where there is a potential conflict of interest. These illustration norms serve to further the democratic ideal that no constitutional functionary is above the rule of law.*

*231.... The legitimacy of the institution which depends on public trust is a function of an assurance that the*

*judiciary and the people that work it are free from bias and partiality.*

*232.... An independent judiciary is the guardian and final arbiter of the text and spirit of the Constitution.*

*.... The stringent procedure adopted by Parliament for the impeachment of a Judge draws a balance between ensuring the independence of Judges from political will and ensuring the accountability of Judges for their actions.*

*233. Judicial independence does not mean the insulation of Judges from the rule of law. In a constitutional democracy committed to the rule of law and to the equality of its citizens, it cannot be countenanced that Judges are above the law.*

*234.... Judges who are accountable to the trust which is vested in them as independent decision-makers. Making them accountable in the discharge of that trust does not dilute their independence. The independence of Judges is designed to protect them from the pressures of the executive and the legislature and of the organised interests in society which may detract Judges from discharging the trust as dispassionate adjudicators. Scrutiny and transparency, properly understood are not placed in an antithesis to independence. They create conditions where Judges are protected against unwholesome influences. Scrutiny and transparency are allies of the*

*conscientious because they are powerful instruments to guard against influences which threaten to suborn the judicial conscience. To use judicial independence as a plea to refuse accountability is fallacious. Independence is secured by accountability. Transparency and scrutiny are instruments to secure accountability.”*

5. Abating the offences of pushing the common man to death causing consequences and loss thousands of crores of public money by incorrect and wrong observations about vaccines and booster dose.
- 5.1. That, the contemnor No. 1 and 2 in their order dated **17.12.2021** made following observations.

*“10. We take this opportunity of making a fervent appeal to all the citizens of the State of Gujarat to get themselves vaccinated, if not yet till this date. It is very essential to get vaccinated with two doses as prescribed to protect themselves from the threat of Covid-19, more particularly the new variant, namely, Omicron. It’s time for people to take the third dose of booster.”*

- 5.2. That, above observations are not only incorrect and without jurisdiction but also have serious impact on the health of the citizen and also abatement of an offence of misappropriation of public fund.
- 5.3. That, the Government data and more particularly the recent data makes it clear that the vaccine is no protection from Covid – 19. The person getting vaccines can get infection, can spread infection and can die with Covid - 19. The recent data also proved that the vaccine failed against

omicron and the person getting booster doses are also infected with omicron.

**(i) VACCINE FAILED**

**82.5% Omicron patients in Maharashtra are fully vaccinated.**

**One is having booster dose.**

TNN | Dec 18, 2021,04.37 AM IST

Publisher:- TIMES OF INDIA

MUMBAI: Eight new cases of the Omicron variant were detected in the state on Friday, taking the tally in Maharashtra to 40. Six were from Pune, and one each from Mumbai and Kalyan-Dombivli. All of them had been fully vaccinated, and one had even got a booster, said health authorities. Of the total 40 infected, 33 were vaccinated.

**Link:-**

<https://timesofindia.indiatimes.com/city/mumbai/mumbai-8-more-omicron-cases-found-in-state-6-in-rural-pune-2-in-mmr/articleshow/88348393.cms>

**(ii) Assam: 80% Covid-19 infections among vaccinated in Guwahati**

**Link:-**

<https://timesofindia.indiatimes.com/city/guwahati/assam-80-covid-19-infections-among-vaccinated-in-guwahati/articleshow/86791235.cms>

**(iii) In Bangalore more than 56% of hospitalization of covid positive patient are vaccinated.**

**Link:** [https://www.deccanherald.com/amp/state/top-karnataka-stories/more-than-half-of-hospitalised-covid-19-cases-among-vaccinated-in-bengaluru-1015918.html?\\_twitter\\_impression=true&s=04%5C](https://www.deccanherald.com/amp/state/top-karnataka-stories/more-than-half-of-hospitalised-covid-19-cases-among-vaccinated-in-bengaluru-1015918.html?_twitter_impression=true&s=04%5C)

***“Source Name: Deccan Herald***

***Date:03.08.2021***

***More than half of hospitalised Covid-19 cases among vaccinated in Bengaluru***

*These hospitalisations are indicative of the extent of vaccine penetration in the public, explained BBMP Chief Commissioner, Gaurav Gupta”*

- (iv) **Over 50% new COVID-19 cases, deaths in Kerala from vaccinated section.**

<https://www.onmanorama.com/news/kerala/2021/10/12/kerala-covid-cases-deaths-among-vaccinated.html>

- (v) In K.E.M Hospital 27 out of 29 Covid-19 positive patients were vaccinated. [Around 93%]

**Link:** <https://www.freepressjournal.in/mumbai/mumbai-29-mbbs-students-at-kem-hospital-test-positive-for-covid-19-27-were-fully-vaccinated>

***“29 MBBS students at KEM hospital test positive for COVID-19, 27 were fully vaccinated***

***SOURCE:- FREE PRESS JOURNAL”***

- (vi) In Nagpur 13 people tested positive for the virus out of which 12 were already vaccinated.”.

**Link:-** <https://www.freepressjournal.in/mumbai/covid-19-third-wave-has-entered-nagpur-guardian-minister-nitin-raut-urges-people-to-avoid-crowding>

**“Source:-** *Free Press Journal.*

**Date:-** *Monday, September 06, 2021, 11:02 PM IST*

***Relevant Important Para to be taken;***

*The district guardian minister, Dr Nitin Raut, told the Free Press Journal after a review meeting, ‘The third wave has started in Nagpur, which is reporting a rise in positive cases for the last few days. Notably, on Monday, 13 people tested positive for the virus out of which 12 were already vaccinated.’*

- 5.4.** Hence the suggestions given by the contemnor No.1 & 2 are wrong and incorrect and seems to have given with a purpose of giving profits to the vaccine companies by putting the life, liberty & money of the common man into jeopardy.
- 5.5.** That, if the contemnor Judges were honest, then they should have taken the note of the fact that the most safest persons are the persons having natural immunity developed due to Covid-19 infection.

That as per the 140 research studies and also as per suggestions given by domain experts, more particularly by:

- i)** Dr. Sanjay Rai, Epidemiologist AIIMS, New Delhi and President, of Indian Public Health Association (IPHA).

ii) Dr. Arvind Kushwala, Epidemiologist AIIMS, Nagpur.

It is clear that, the person with natural immunity which is developed due to Covid-19 infection is the safest person, as he cannot get infected and there is no chance of him spreading the infection. On the other hand the person with vaccine immunity can get infected & die due to Covid-19. He can be a super-spreader of infection. The natural immunity is 13 times more robust than the vaccine immunity.

The natural immunity is life long lasting on the other hand vaccine immunity wanes within 6 to 9 months.

The study also proved that giving vaccine to the persons with natural immunity causes serious harm to his body.

**5.6.** Hence, by the order dated **12.12.2021** the Contemnor Judges abated the offences of causing harm & misappropriation of public funds. Their orders are in fact causing wrongful benefit of the vaccine companies.

**5.7.** This is also an offence u/s **52, 166, 218, 219, 220, 341, 342, 323, 336, 115, 109, 409, 120(B), 34, 511 etc.**, of Indian Penal Code.

**6. Undue haste in rejecting Petition when matter is also subjudice before the Supreme Court.**

**6.1.** That, Hon'ble Supreme Court on **29.11.2021** have taken note of the unlawful circulars of the states regarding vaccine mandates and asked counsel for Petitioner to add the concerned states as party and on next date issued notice to the Chief Secretary of the States.

**6.2.** The observation of the Hon'ble Supreme Court (Shri. Justice Nageshwar Rao & Shri. Justice B. R. Gavai) on **29. 11. 2021** were that if the

restriction on vaccinated people are violative of their fundamental rights then the court will certainly intervene.

**“If Vaccine Mandates Are Not Proportionate To Personal Liberty, We Will Go Into It: Supreme Court.”**

**Link:-<https://www.livelaw.in/top-stories/supreme-court-covid-19-vaccination-mandates-imposed-implead-states-186563?infinitescroll>**

- 6.3. Needless to mention that the obiter dicta of the Supreme Court is also binding. **[Sarwan Singh Lamba Vs. Union of India AIR 1995 SC 1729]**
- 6.4. Under these circumstances the prudent course to be adopted by the contemnor Judges was to grant interim relief and to wait for final outcome by the Hon’ble Supreme Court if they are not willing to allow petition but the contemnor Judges shown undue haste to dismiss the petition by making observation against the view taken by the Supreme Court.

The unlawful, illegal and absurd observation of the contemnor Judges in Para 6 of the order dated **17.12.2021** were that;

*“6. Having heard the learned counsel appearing for the parties and having gone through the materials on record, we are of the view that we should not entertain this Public Interest Litigation and reject the same in limine. Assuming for the moment that some action or order or circular is without jurisdiction or not in accordance with law, still a Writ Court in exercise of its extraordinary jurisdiction may decline to interfere in larger public*



*interest. We clarify that we do not agree with the submission of the learned counsel that the Circular is without any authority of law or jurisdiction.”*

- 6.5. Full Bench of Hon’ble Supreme Court in the case of S. Abdul Karim Vs. M.K. Prasad(1976) 1 SCC 975, has ruled that the Judges showing undue haste in disposing of the petition despite having knowledge of the pendency of the issue before higher courts is an offence under contempt on the part of the said Judge. It is ruled as under;

*“Contempt of Courts Act (32 of 1952), S.3 - CONTEMPT OF COURT - Criminal Contempt committed by sub ordinate officer – Issue regarding possession of property was challenged and pending before Higher Court - the officer instead of waiting result of order by High Court passed order in favour of respondents thereby giving delivery of possession - Held, even if there is no stay , the prudent course for officer in such a situation was to postpone the making of any final order in regard to the subject matter till the final disposal of the petition by the High Court- the officer had at the most committed only a technical contempt of High Court, in absence of any mens rea penal action was not called for. So long as a judicial Officer in the discharge of his official duties, acts in good faith and without any motive to defeat, obstruct or interfere with the due course of justice, the courts will not, as a rule, punish him for a "criminal contempt".*

7. Role played by the Government Pleader:-

7.1. In E.S. Reddi Vs. Chief Secretary, Government of A.P (1987) 3 SCC 258 it is ruled as under;

*A) Duty of Advocates towards Court – Held, he has to act fairly and place all the truth even if it is against his client – he should not withhold the authority or documents which tells against his client – It is a mistake to suppose that he is a mouthpiece of his client to say that he wants – He must disregard with instruction of his client which conflicts with their duty to the Court.*

*B) Duty and responsibility of senior counsel - By virtue of the pre-eminence which senior counsel enjoy in the profession, they not only carry greater responsibilities but they also act as a model to the junior members of the profession. A senior counsel more or less occupies a position akin to a Queen's counsel in England next after the Attorney General and the Solicitor General. It is an honor and privilege conferred on advocates of standing and experience by the chief justice and the Judges of this court. They thus become leading counsel and take precedence on all counsel not having that rank- A senior counsel though he cannot draw up pleadings of the party, can nevertheless be engaged "to settle" i.e. to put the pleadings into "proper and satisfactory form" and hence a senior counsel settling pleadings has a more onerous responsibility as otherwise the*

*blame for improper pleadings will be laid at his doors. (Para 10)*

*“(11) Lord Reid in Rondel v. Worsley has succinctly set out the conflicting nature of the duties a counsel has to perform in his own inimitable manner as follows:*

*Every counsel has a duty to his client fearlessly to raise every issue, advance every argument, and ask every question, however distasteful, , which he thinks will help his client's case. As an officer of the court concerned in the administration of justice, he has an overriding duty to the court, to the standards of his profession, and to the public, which may and often does lead to a conflict with his client's wishes or with what the client thinks are his personal interests. Counsel must not mislead the court, he must not lend himself to casting aspersions on the other party or witnesses for which there is no sufficient basis in the information in his possession, he must not withhold authorities or documents which may tell against his clients but which the law or the standards of his profession require him to produce. By so acting he may well incur the displeasure or worse of his client so that if the case is lost, his client would or might seek legal redress if that were open to him.*

*( 12 ) Again as Lord Denning, M. R. in Rondel v. W would say :*

*He (the counsel) has time and again to choose between his 265 duty to his client and his duty to the*

*court. This is a conflict often difficult to resolve; and he should not be under pressure to decide it wrongly. . . . When a barrister (or an advocate) puts his first duty to the court, he has nothing to fear. (words in brackets added).*

*In the words of Lord Dinning:*

*It is a mistake to suppose that he is the mouthpiece of his client to say what he wants :. . . . He must disregard the most specific instructions of his client, if they conflict with his duty to the court. The code which requires a barrister to do all this is not a code of law. It is a code of honor. If he breaks it, he is offending against the rules of the profession and is subject to its discipline.”*

7.2. In Hindustan Organic Chemicals Ltd. Vs. ICI India Ltd. 2017 SCC Online Bom 74 it is read as under;

**“DUTY OF ADVOCATES TO NOT TO MISLED THE COURT EVEN ACCIDENTALLY – THEY SHOULD COME BEFORE COURT BY PROPER ONLINE RESEARCH OF CASE LAW BEFORE ADDRESSING THE COURT.**

*I have found counsel at the Bar citing decisions that are not good law.*

**The availability of online research databases does not absolve lawyers of their duties as officers of the Court. Those duties include an obligation not to mislead a Court, even accidentally. That in turn casts**

*on each lawyer to carefully check whether a decision sought to be cited is or is not good law. The performance of that duty may be more onerous with the proliferation of online research tools, but that is a burden that lawyers are required to shoulder, not abandon. Every one of the decisions noted in this order is available in standard online databases. This pattern of slipshod research is inexcusable.”*

7.3. In **Heena Nikhil Dharia Vs. Kokilaben Kirtikumar Nayak and Ors.** **2016 SCC OnLine Bom 9859** it is ruled as under ;

**“DUTY OF ADVOCATE”**

*A] The counsel in question was A. S. Oka, now Mr. Justice Oka, and this is what Khanwilkar J was moved to observe in the concluding paragraph of his judgement:*

*While parting I would like to make a special mention regarding the fairness of Mr. Oka, Advocate. He conducted the matter with a sense of detachment. In his own inimitable style he did the wonderful act of balancing of his duty to his client and as an officer of the Court concerned in the administration of justice. He has fully discharged his overriding duty to the Court to the standards of his profession, and to the public, by not withholding authorities which go against his client. As Lord Denning MR in *Randel v W.* (1996) 3 All E. R. 657 observed: “Counsel has time and again to choose between his duty to his client and his duty to the Court. This is a conflict often*

*difficult to resolve; and he should not be under pressure to decide it wrongly. Whereas when the Advocate puts his first duty to the Court, he has nothing to fear. But it is a mistake to suppose that he (the Advocate) is the mouthpiece of his client to say what he wants. The Code which obligates the Advocate to disregard the instructions of his client, if they conflict with his duty to the Court, is not a code of law — it is a code of honour. If he breaks it, he is offending against the rules of the profession and is subject to its discipline.*

*This view is quoted with approval by the Apex Court in Re. T. V. Choudhary, [1987] 3 SCR 146 (E. S. Reddi v Chief Secretary, Government of AP & Anr.). The cause before Khanwilkar J may have been lost, but the law gained, and justice was served.*

*B] Thirteen years ago, Khanwilkar J wrote of a code of honour. That was a time when we did not have the range, width and speed of resources we do today. With the proliferation of online databases and access to past orders on the High Court website, there is no excuse at all for not cross-checking the status of a judgement. I have had no other or greater access in conducting this research; all of it was easily available to counsel at my Bar. Merely because a judgement is found in an online database does not make it a binding precedent without checking whether it has been confirmed or set aside in appeal. Frequently, appellate orders reversing reported decisions of the*

*lower court are not themselves reported. The task of an advocate is perhaps more onerous as a result; but his duty to the court, that duty of fidelity to the law, is not in any lessened. If anything, it is higher now.*

*C] Judges need the Bar and look to it for a dispassionate guidance through the law's thickets. When we are encouraged instead to lose our way, that need is fatally imperilled. Judges need the Bar and look to it for a dispassionate guidance through the law's thickets. When we are encouraged instead to lose our way, that need is fatally imperilled."*

**7.4. In Lal Bahadur Gautam Vs. State of UP 2019 SCC OnLine SC 687 it is ruled as udner;**

***"10. Before parting with the order, we are constrained to observe regarding the manner of assistance rendered to us on behalf of the respondent management of the private college. Notwithstanding the easy access to information technology for research today, as compared to the plethora of legal Digests which had to be studied earlier, reliance was placed upon a judgment based on an expressly repealed Act by the present Act, akin to relying on an overruled judgment. This has only resulted in a waste of judicial time of the Court, coupled with an onerous duty on the judges to do the necessary research. We would not be completely wrong in opining that though it may be negligence also, but the consequences could have been fatal by***

*misleading the Court leading to an erroneous judgment.*

*11. Simply, failure in that duty is a wrong against the justice delivery system in the country. Considering that over the years, responsibility and care on this score has shown a decline, and so despite the fact that justice is so important for the Society, it is time that we took note of the problem, and considered such steps to remedy the problem. We reiterate the duty of the parties and their Counsel, at all levels, to double check and verify before making any presentation to the Court. The message must be sent out that everyone has to be responsible and careful in what they present to the Court. Time has come for these issues to be considered so that the citizen's faith in the justice system is not lost. It is also for the Courts at all levels to consider whether a particular presentation by a party or conduct by a party has occasioned unnecessary waste of court time, and if that be so, pass appropriate orders in that regard. After all court time is to be utilized for justice delivery and in the adversarial system, is not a licence for waste.*

12. As a responsible officer of the Court and an important adjunct of the administration of justice, the lawyer undoubtedly owes a duty to the Court as well as to the opposite side. He has to be fair to ensure that justice is done. He demeans himself if he acts merely



*as a mouthpiece of his client as observed in State of Punjab & Ors. vs. Brijeshwar Singh Chahal & Ors., (2016) 6 SCC 1: “34....relationship between the lawyer and his client is one of trust and confidence. As a responsible officer of the court and an important adjunct of the administration of justice, the lawyer also owes a duty to the court as well as to the opposite side. He has to be fair to ensure that justice is done. He demeans himself if he acts merely as mouthpiece of his client.....”*

*13. The observations with regard to the duty of a counsel and the high degree of fairness and probity required was noticed in D.P. Chadha vs. Triyugi Narain Mishra and others, (2001) 2 SCC 221: “22. A mere error of judgment or expression of a reasonable opinion or taking a stand on a doubtful or debatable issue of law is not a misconduct; the term takes its colour from the underlying intention. But at the same time misconduct is not necessarily something involving moral turpitude. It is a relative term to be construed by reference to the subjectmatter and the context wherein the term is called upon to be employed. A lawyer in discharging his professional assignment has a duty to his client, a duty to his opponent, a duty to the court, a duty to the society at large and a duty to himself. It needs a high degree of probity and poise to strike a balance and arrive at the place of righteous stand, more so, when there are*

*conflicting claims. While discharging duty to the court, a lawyer should never knowingly be a party to any deception, design or fraud. While placing the law before the court a lawyer is at liberty to put forth a proposition and canvass the same to the best of his wits and ability so as to persuade an exposition which would serve the interest of his client so long as the issue is capable of that resolution by adopting a process of reasoning. However, a point of law well settled or admitting of no controversy must not be dragged into doubt solely with a view to confuse or mislead the Judge and thereby gaining an undue advantage to the client to which he may not be entitled. Such conduct of an advocate becomes worse when a view of the law canvassed by him is not only unsupportable in law but if accepted would damage the interest of the client and confer an illegitimate advantage on the opponent. In such a situation the wrong of the intention and impropriety of the conduct is more than apparent. Professional misconduct is grave when it consists of betraying the confidence of a client and is gravest when it is a deliberate attempt at misleading the court or an attempt at practicing deception or fraud on the court. The client places his faith and fortune in the hands of the counsel for the purpose of that case; the court places its confidence in the counsel in case after case and day after day. A client dissatisfied with his counsel may change him but the same is not with the court. And so the bondage*

*of trust between the court and the counsel admits of no breaking.*

*24. It has been a saying as old as the profession itself that the court and counsel are two wheels of the chariot of justice. In the adversarial system, it will be more appropriate to say that while the Judge holds the reigns, the two opponent counsel are the wheels of the chariot. While the direction of the movement is controlled by the Judge holding the reigns, the movement itself is facilitated by the wheels without which the chariot of justice may not move and may even collapse. Mutual confidence in the discharge of duties and cordial relations between Bench and Bar smoothen the movement of the chariot. As responsible officers of the court, as they are called – and rightly, the counsel have an overall obligation of assisting the courts in a just and proper manner in the just and proper administration of justice. Zeal and enthusiasm are the traits of success in profession but overzealousness and misguided enthusiasm have no place in the personality of a professional.*

*26. A lawyer must not hesitate in telling the court the correct position of law when it is undisputed and admits of no exception. A view of the law settled by the ruling of a superior court or a binding precedent even if it does not serve the cause of his client, must be brought to the notice of court unhesitatingly. This obligation of a counsel flows from the confidence*

*reposed by the court in the counsel appearing for any of the two sides. A counsel, being an officer of court, shall apprise the Judge with the correct position of law whether for or against either party.”*

*14. That a higher responsibility goes upon a lawyer representing an institution was noticed in State of Rajasthan and another vs. Surendra Mohnot and others, j(2014) 14 SCC 77: “33. As far as the counsel for the State is concerned, it can be decidedly stated that he has a high responsibility. A counsel who represents the State is required to state the facts in a correct and honest manner. He has to discharge his duty with immense responsibility and each of his action has to be sensible. He is expected to have higher standard of conduct. He has a special duty towards the court in rendering assistance. It is because he has access to the public records and is also obliged to protect the public interest. That apart, he has a moral responsibility to the court. When these values corrode, one can say “things fall apart”. He should always remind himself that an advocate, while not being insensible to ambition and achievement, should feel the sense of ethicality and nobility of the legal profession in his bones.*

*We hope, that there would be response towards duty; the hallowed and honoured duty.”*

7.5. In State Of Orissa Vs. Nalinikanta Muduli (2004) 7 SCC 19 it is ruled as under;

**“THE ADVOCATE RELYING ON OVERRULED JUDGMENT IS A GUILTY OF PROFESSIONAL MISCONDUCT.**

*“The conduct of an Advocate by citing a overruled judgment is falling standard of professional.*

*Citing case which was overruled by Supreme Court - is Falling standard of professional conduct - Deprecated .*

*It was certainly the duty of the counsel for the respondent before the High Court to bring to the notice of the Court that the decision relied upon before the High Court has been overruled by this Court and it was duty of the learned counsel not to cite an overruled judgment.*

*It is a very unfortunate situation that learned counsel for the accused who is supposed to know the decision did not bring this aspect to the notice of the learned single Judge. Members of the Bar are officers of the Court. They have a bounden duty to assist the Court and not mislead it. Citing judgment of a Court which has been overruled by a larger Bench of the same High Court or this Court without disclosing the fact that it has been overruled is a matter of serious concern. It is one thing that the Court notices the judgment overruling the earlier decision and decides on the applicability of the later judgment to the facts under consideration on it - It*

*was certainly the duty of the counsel for the respondent before the High Court to bring to the notice of the Court that the decision relied upon by the petitioner before the High Court has been overruled by this Court. Moreover, it was duty of the learned counsel appearing for the petitioner before the High Court not to cite an overruled judgment - We can only express our anguish at the falling standards of professional conducts.”*

7.6. In Juwala J. Patil Vs. Slum Rehabilitation Authority 2016 SCC Online Bom 5259 it is ruled as under;

**“ADVOCATE - STANDARD OF MORAL, ETHICAL AND PROFESSIONAL CONDUCT -**

*has a duty to the Court which is paramount. It is a mistake to suppose that he is the mouthpiece of his client to say what he wants or his tool to do what he directs. He is none of these things. He owes allegiance to a higher cause. It is the cause of truth and justice. He must not consciously misstate the facts. He must not knowingly conceal the truth. He must not unjustly make a charge of fraud, that is, without evidence to support it. He must produce all the relevant authorities, even those that are against him.*

*Although, we do not propose to say anything with regard to the actions of the learned counsel appearing for the petitioner, we must reject the submissions of the learned counsel that it was not*

*their duty to disclose the history and the fate of previous litigations upon the substantially same issue and that they are bound only by the instructions of the petitioner, who has engaged their services. In our opinion, the observation made by Lord Denning in **Rondel vs. Worsley** (1966) 3 All E.R. 657 (CA) affords a complete answer to such contention. The Supreme Court in the case of **Himachal Pradesh Scheduled Tribes Employees Federation & Anr. vs. Himachal Pradesh Samanaya Varg Karamchari Kalayan Mahasangh & Ors**, has expressly approved the exposition of very high standard of moral, ethical and professional conduct expected to be maintained by members of the legal profession by quoting the observation in **Rondel vs. Worsley**. In paragraphs 31 and 32, the Hon'ble Supreme Court has observed thus:*

*"31. When a statement is made before this Court it is, as a matter of course, assumed that it is made sincerely and is not an effort to overreach the Court. Numerous matters even involving momentous questions of law are very often disposed of by this Court on the basis of the statement made by the learned counsel for the parties. The statement is accepted as it is assumed without doubt, to be honest, sincere, truthful, solemn and in the interest of justice. The statement by the counsel is not expected to be flippant, mischievous, misleading and certainly not false. This confidence in the statements made by the*

*learned counsel is founded on the assumption that the counsel is aware that he is an officer of the Court.*

*32. Here, we would like to allude to the words of Lord Denning, in **Rondel v. Worsley** about the conduct expected of an advocate:*

*"... As an advocate he is a minister of justice equally with the Judge.*

*... I say 'all he honourably can' because his duty is not only to his client. He has a duty to the court which is paramount. It is a mistake to suppose that he is the mouthpiece of his client to say what he wants: or his tool to do what he directs. He is none of these things. He owes allegiance to a higher cause. It is the cause of truth and justice. He must not consciously misstate the facts. He must not knowingly conceal the truth. He must not unjustly make a charge of fraud, that is, without evidence to support it. He must produce all the relevant authorities, even those that are against him.*

*He must see that his client discloses, if ordered, the relevant documents, even those that are fatal to his case. He must disregard the most specific instructions of his client, if they conflict with his duty to the court. The code which requires a barrister to do all this is not a code of law. It is the code of honour." (QB p. 502) In our opinion, the aforesaid dicta of Lord Denning is an apt exposition of the very high standard of moral, ethical and professional conduct expected to*



*be maintained by the members of legal profession. We expect no less of an advocate/counsel in this country."*

*[Emphasis supplied]"*

## **8. Offences under Indian Penal Code which are attracted against Contemnor Judges:-**

**8.1.** That, the Contemnor No.1 & 2 passed an order against the law and by that order they put the life of the common man under threat and also caused wrongful loss of the public money and wrongful profit of the vaccine companies and therefore they are liable for prosecution under Section **52, 166, 218, 219, 409, 109, 323, 336, 120(B), 511** etc., of IPC.

**8.2.** That as per the 140 research studies and also as per suggestions given by domain experts, more particularly by:

- i) Dr. Sanjay Rai, Epidemiologist AIIMS, New Delhi and President, of Indian Public Health Association (IPHA).
- ii) Dr. Arvind Kushwala, Epidemiologist AIIMS, Nagpur.

It is clear that, the person with natural immunity which is developed due to Covid-19 infection is the safest person, as he cannot get infected and there is no chance of him spreading the infection. On the other hand the person with vaccine immunity can get infected & die due to Covid-19. He can be a super-spreader of infection. The natural immunity is 13 times more robust than the vaccine immunity.

The natural immunity is life long lasting on the other hand vaccine immunity wanes within 6 to 9 months.

The study also proved that giving vaccine to the persons with natural immunity causes serious harm to his body.

**8.3. Dr. K.K. Aggarwal & 60 vaccinated Doctors died due to Covid-19.**

**Link:**

<https://www.ndtv.com/india-news/dr-kk-aggarwal-ex-chief-of-india-medical-association-ima-dies-of-covid-19-coronavirus-2443827>

**Link:-**

<https://theprint.in/health/at-least-60-delhi-doctors-have-died-in-2nd-covid-wave-families-are-left-to-pick-up-pieces/661353/>

**8.4. Dr. Sanjay Rai, AIMS New Delhi Interview with Girijesh Vashistha.**

**Link:**

<https://www.youtube.com/watch?v=-btDk0eSi5U>

**8.5. Natural immunity 13 times better than vaccine immunity.**

**(i) Link:**

<https://youtu.be/6v5VrpgXPm4>

**Dr. Arvind Kushwaha interview.**

**(ii) Link:**

<https://www.youtube.com/watch?v=edXGe-Rsp68>

**8.6. 140 Research Studies Affirm Naturally Acquired Immunity to Covid19.**

**Link:**

<https://brownstone.org/articles/79-research-studies-affirm-naturally-acquired-immunity-to-covid-19-documented-linked-and-quoted/>

**8.7. Study shows that, giving vaccines to the person with previous Covid-19 infection is causing more harm than the disease itself.**

An international survey 21 published in mid-March 2021 surveyed 2,002 people who had received a first dose of COVID-19 vaccine, finding that those who had

previously had COVID-19 experienced “significantly increased incidence and severity” of side effects, compared to those who did not have natural immunity.

The mRNA COVID-19 injections were linked to a higher incidence of side effects compared to the viral vector-based COVID-19 vaccines, but tended to be milder, local reactions. Systemic reactions, such as anaphylaxis, flu-like illness and breathlessness, were more likely to occur with the viral vector COVID-19 vaccines.

“People with prior COVID-19 exposure were largely excluded from the vaccine trials and, as a result, the safety and reactogenicity of the vaccines in this population have not been previously fully evaluated. For the first time, this study demonstrates a significant association between prior COVID19 infection and a significantly higher incidence and severity of self-reported side effects after vaccination for COVID-19.

Consistently, compared to the first dose of the vaccine, we found an increased incidence and severity of self-reported side effects after the second dose, when recipients had been previously exposed to viral antigen.

**Link:** <https://www.mdpi.com/2075-1729/11/3/249/html>

**8.8. Most recently, researchers in Israel report that fully vaccinated persons are up to 13 times more likely to get infected than those who have had a natural COVID infection.**

**8.8.1.** As explained by Science Mag: The study ‘found in two analyses that people who were vaccinated in January and February were, in June, July and the first half of August, six to 13 times more likely to get infected than unvaccinated people who were previously infected with the coronavirus

**8.8.2.** In one analysis, comparing more than 32,000 people in the health system, the risk of developing symptomatic COVID-19 was 27 times higher among the vaccinated, and the risk of hospitalization eight times higher.’

**8.8.3.** The study also said that, while vaccinated persons who also had natural infection did appear to have additional protection against the Delta variant, the vaccinated were still at a greater risk for COVID-19-related-hospitalizations compared to those without the vaccine, but who were previously infected.

**8.8.4.** Vaccines who hadn’t had a natural infection also had a 5.96-fold increased risk for breakthrough infection and a 7.13-fold increased risk for symptomatic disease.

This study demonstrated that natural immunity confers longer lasting and stronger protection against infection, symptomatic disease and hospitalization caused by the Delta variant of SARS-CoV-2, compared to the BNT162b2 two-dose vaccine-induced immunity,’ study authors said.

**Link:** <https://www.medrxiv.org/content/10.1101/2021.08.24.21262415v1>

**8.9.** A majority of gravely ill patients in Israel are double vaccinated. A majority of deaths over 50 in England are also double vaccinated. **[Exhibit]**

**Link:** <https://www.science.org/content/article/grim-warning-israel-vaccination-blunts-does-not-defeat-delta>

### **8.10. Majority of Hospitalizations Are Actually in the Vaccinated**

The oft-repeated refrain is that we're in a "pandemic of the unvaccinated," meaning those who have not received the COVID jab make up the bulk of those hospitalized and dying from the Delta variant. However, we're already seeing a

shift in hospitalization rates from the unvaccinated to those who have gotten one or two injections.

For example, in Israel, the fully "vaccinated" made up the bulk of serious cases and COVID-related deaths in July 2021, as illustrated in the graphs below. The red is unvaccinated, yellow refers to partially "vaccinated" and green fully "vaccinated" with two doses. By mid-August, 59% of serious cases were among those who had received two COVID injections.

Data from the U.K. show a similar trend among those over the age of 50. In this age group, partially and fully "vaccinated" people account for 68% of hospitalizations and 70% of COVID deaths.

**Link:-**

1. <https://cdn.altnews.org/wp-content/uploads/2021/08/new-hospitalizations-thumb.jpg>
2. <https://cdn.nexusnewsfeed.com/images/2021/8/new-severe-covid-19-patients-thumb-1631973102161.png>
3. <https://cdn.nexusnewsfeed.com/images/2021/8/deaths-trend-thumb-1631973112475.png>
4. <https://cdn.nexusnewsfeed.com/images/2021/8/covid-19-delta-variant-hospital-admission-and-death-in-england-1631973123881.png>
5. <https://www.science.org/content/article/grim-warning-israel-vaccination-blunts-does-not-defeat-delta>
6. <https://www.standard.co.uk/news/uk/england-delta-donald-trump-government-public-health-england-b951620.html>

**8.11. Assam: 80% Covid-19 infections among vaccinated in Guwahati**

<https://timesofindia.indiatimes.com/city/guwahati/assam-80-covid-19-infections-among-vaccinated-in-guwahati/articleshow/86791235.cms>

**8.12. In Bangalore more than 56% of hospitalization of covid positive patients are vaccinated.**

Link: [https://www.deccanherald.com/amp/state/top-karnataka-stories/more-than-half-of-hospitalised-covid-19-cases-among-vaccinated-in-bengaluru-1015918.html?\\_twitter\\_impression=true&s=04%5C](https://www.deccanherald.com/amp/state/top-karnataka-stories/more-than-half-of-hospitalised-covid-19-cases-among-vaccinated-in-bengaluru-1015918.html?_twitter_impression=true&s=04%5C)

*“Source Name: Deccan Herald*

*Date:03.08.2021*

*More than half of hospitalised Covid-19 cases among vaccinated in Bengaluru*

*These hospitalisations are indicative of the extent of vaccine penetration in the public, explained BBMP Chief Commissioner, Gaurav Gupta”*

**8.13. Over 50% new COVID-19 cases, deaths in Kerala from vaccinated section.**

<https://www.onmanorama.com/news/kerala/2021/10/12/kerala-covid-cases-deaths-among-vaccinated.html>

**8.14. In K.E.M Hospital 27 out of 29 Covid-19 positive patients were vaccinated. [Around 93%]**

**Link:** <https://www.freepressjournal.in/mumbai/mumbai-29-mbbs-students-at-kem-hospital-test-positive-for-covid-19-27-were-fully-vaccinated>

*“29 MBBS students at KEM hospital test positive for COVID-19, 27 were fully vaccinated*

**SOURCE:- FREE PRESS JOURNAL”**

**8.15. In Nagpur 13 people tested positive for the virus out of which 12 were already vaccinated.”**

**Link:-** <https://www.freepressjournal.in/mumbai/covid-19-third-wave-has-entered-nagpur-guardian-minister-nitin-raut-urges-people-to-avoid-crowding>

*“Source:- Free Press Journal.*

*Date:- Monday, September 06, 2021, 11:02 PM IST*

***Relevant Important Para to be taken;***

*The district guardian minister, Dr Nitin Raut, told the Free Press Journal after a review meeting, ‘The third wave has started in Nagpur, which is reporting a rise in positive cases for the last few days. Notably, on Monday, 13 people tested positive for the virus out of which 12 were already vaccinated.’”*

**8.16. Nearly 80% (91 out of 114) Covid-19 cases reported from Sept 1 till Oct 23 in Lucknow were of breakthrough infections, according to data accessed by TOI from the office of Chief Medical Officers.**

**Link:-**

[http://timesofindia.indiatimes.com/articleshow/87277252.cms?utm\\_source=contentofinterest&utm\\_medium=text&utm\\_campaign=cppst](http://timesofindia.indiatimes.com/articleshow/87277252.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst)

### **8.17. Vaccines don't stop transmission, admitted by WHO.**

At a virtual press conference held by the World Health Organization on Dec. 28, 2020, officials warned there is no guarantee COVID-19 vaccines will prevent people from being infected with the SARS-CoV-2 virus and transmitting it to other people.

**Link:-**

<https://www.who.int/emergencies/diseases/novel-coronavirus-2019/media-resources/press-briefings>

### **8.18. VACCINE FAILED**

**82.5% Omicron patients in Maharashtra are fully vaccinated.**

**One is having booster dose.**

**See:-**

TNN | Dec 18, 2021,04.37 AM IST

Publisher:- TIMES OF INDIA

MUMBAI: Eight new cases of the Omicron variant were detected in the state on Friday, taking the tally in Maharashtra to 40. Six were from Pune, and one each from Mumbai and Kalyan-Dombivli. All of them had been fully vaccinated, and one had even got a booster, said health authorities. Of the total 40 infected, 33 were vaccinated.

**Link:-**



<https://timesofindia.indiatimes.com/city/mumbai/mumbai-8-more-omicron-cases-found-in-state-6-in-rural-pune-2-in-mmr/articleshow/88348393.cms>

- 8.19. As per sero-survey in India there are more than 67% people, who have developed antibodies and having natural immunity.
- 8.20. Under these circumstances forcing such people to get vaccinated is a double offence. One is an offence of misappropriation of thousand of crores of public money by giving vaccine to a person who doesn't need it and no purpose will be served by giving vaccine to him. And also it is punishable under Section 409, 109 etc. of I.P.C.
- 8.21. Accused Judges also committed an offence of abating authority to stop people unauthorizedly offence under Section 109, 341, 342, 220 etc. of I.P.C.
- 8.22. The relevant provisions of the I.P.C. reads thus;

**Section 52 in The Indian Penal Code**

*52. "Good faith".—Nothing is said to be done or believed in "good faith" which is done or believed without due care and attention.*

**Section 166 in The Indian Penal Code**

*166. Public servant disobeying law, with intent to cause injury to any person.—Whoever, being a public servant, knowingly disobeys any direction of the law as to the way in which he is to conduct himself as such public servant, intending to cause, or knowing it to be likely that he will, by such disobedience, cause injury to any person, shall be punished with simple*

*imprisonment for a term which may extend to one year, or with fine, or with both*

**Section 218 in The Indian Penal Code**

*218. Public servant framing incorrect record or writing with intent to save person from punishment or property from forfeiture.—Whoever, being a public servant, and being as such public servant, charged with the preparation of any record or other writing, frames that record or writing in a manner which he knows to be incorrect, with intent to cause, or knowing it to be likely that he will thereby cause, loss or injury to the public or to any person, or with intent thereby to save, or knowing it to be likely that he will thereby save, any person from legal punishment, or with intent to save, or knowing that he is likely thereby to save, any property from forfeiture or other charge to which it is liable by law, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.*

**Section 219 in The Indian Penal Code**

*219. Public servant in judicial proceeding corruptly making report, etc., contrary to law.—Whoever, being a public servant, corruptly or maliciously makes or pronounces in any stage of a judicial proceeding, any report, order, verdict, or decision which he knows to be contrary to law, shall be punished with*

*imprisonment of either description for a term which may extend to seven years, or with fine, or with both.*

**Section 409 in The Indian Penal Code**

*409. Criminal breach of trust by public servant, or by banker, merchant or agent.—Whoever, being in any manner entrusted with property, or with any dominion over property in his capacity of a public servant or in the way of his business as a banker, merchant, factor, broker, attorney or agent, commits criminal breach of trust in respect of that property, shall be punished with 1[imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.*

**Section 115 in The Indian Penal Code**

*115. Abetment of offence punishable with death or imprisonment for life—if offence not committed.—Whoever abets the commission of an offence punishable with death or 1[imprisonment for life], shall, if that offence be not committed in consequence of the abetment, and no express provision is made by this Code for the punishment of such abetment, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine; If act causing harm be done in consequence.—and if any act for which the abettor is liable in consequence of the abetment, and which*

*causes hurt to any person, is done, the abettor shall be liable to imprisonment of either description for a term which may extend to fourteen years, and shall also be liable to fine*

### **Section 323 in The Indian Penal Code**

*323. Punishment for voluntarily causing hurt.—Whoever, except in the case provided for by section 334, voluntarily causes hurt, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.*

### **Section 336 in The Indian Penal Code**

*336. Act endangering life or personal safety of others.—Whoever does any act so rashly or negligently as to endanger human life or the personal safety of others, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to two hundred and fifty rupees, or with both.*

### **Section 120B in The Indian Penal Code**

*120B. Punishment of criminal conspiracy.—*

*(1) Whoever is a party to a criminal conspiracy to commit an offence punishable with death, 2[imprisonment for life] or rigorous imprisonment for*

*a term of two years or upwards, shall, where no express provision is made in this Code for the punishment of such a conspiracy, be punished in the same manner as if he had abetted such offence.*

*(2) Whoever is a party to a criminal conspiracy other than a criminal conspiracy to commit an offence punishable as aforesaid shall be punished with imprisonment of either description for a term not exceeding six months, or with fine or with both.*

### **Section 511 in The Indian Penal Code**

*511. Punishment for attempting to commit offences punishable with imprisonment for life or other imprisonment.—Whoever attempts to commit an offence punishable by this Code with 1[imprisonment for life] or imprisonment, or to cause such an offence to be committed, and in such attempt does any act towards the commission of the offence, shall, where no express provision is made by this Code for the punishment of such attempt, be punished with 2[imprisonment of any description provided for the offence, for a term which may extend to one-half of the imprisonment for life or, as the case may be, one-half of the longest term of imprisonment provided for that offence], or with such fine as is provided for the offence, or with both.*

### **Section 109 in The Indian Penal Code**

*109. Punishment of abetment if the act abetted is committed in consequence and where no express provision is made for its punishment.—Whoever abets any offence shall, if the act abetted is committed in consequence of the abetment, and no express provision is made by this Code for the punishment of such abetment, be punished with the punishment provided for the offence. Explanation.—An act or offence is said to be committed in consequence of abetment, when it is committed in consequence of the instigation, or in pursuance of the conspiracy, or with the aid which constitutes the abetment.*

#### **Section 341 in The Indian Penal Code**

*341. Punishment for wrongful restraint.—Whoever wrongfully restrains any person shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both.*

#### **Section 342 in The Indian Penal Code**

*342. Punishment for wrongful confinement.—Whoever wrongfully confines any person shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.*

**Section 220 in The Indian Penal Code**

*220. Commitment for trial or confinement by person having authority who knows that he is acting contrary to law.—Whoever, being in any office which gives him legal authority to commit persons for trial or to confinement, or to keep persons in confinement, corruptly or maliciously commits any person for trial or to confinement, or keeps any person in confinement, in the exercise of that authority knowing that in so doing he is acting contrary to law, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.*

**Section 304A in The Indian Penal Code**

*304A. Causing death by negligence.—Whoever causes the death of any person by doing any rash or negligent act not amounting to culpable homicide, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.*

**Section 304 in The Indian Penal Code**

*304. Punishment for culpable homicide not amounting to murder.—Whoever commits culpable homicide not amounting to murder shall be punished with 1[imprisonment for life], or imprisonment of either description for a term which may extend to ten years,*

*and shall also be liable to fine, if the act by which the death is caused is done with the intention of causing death, or of causing such bodily injury as is likely to cause death, or with imprisonment of either description for a term which may extend to ten years, or with fine, or with both, if the act is done with the knowledge that it is likely to cause death, but without any intention to cause death, or to cause such bodily injury as is likely to cause death.*

### **Section 307 in The Indian Penal Code**

*307. Attempt to murder.—Whoever does any act with such intention or knowledge, and under such circumstances that, if he by that act caused death, he would be guilty of murder, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and if hurt is caused to any person by such act, the offender shall be liable either to 1[imprisonment for life], or to such punishment as is hereinbefore mentioned. Attempts by life convicts.—2[When any person offending under this section is under sentence of 1[imprisonment for life], he may, if hurt is caused, be punished with death.*

### **Section 34 in The Indian Penal Code**

*34. Acts done by several persons in furtherance of common intention.—When a criminal act is done by*



*several persons in furtherance of the common intention of all, each of such persons is liable for that act in the same manner as if it were done by him alone.”*

**8.23.** Section 2(b) & 12 of the Contempt of Courts Act, 1971 reads thus;

**Section 2(b) in the Contempt of Courts Act, 1971**

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

**Section 12 in the Contempt of Courts Act, 1971**

**12. Punishment for contempt of court.—**

*(1) Save as otherwise expressly provided in this Act or in any other law, a contempt of court may be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to two thousand rupees, or with both: —(1) Save as otherwise expressly provided in this Act or in any other law, a contempt of court may be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to two thousand rupees, or with both\:" Provided that the accused may be discharged or the punishment awarded may be remitted on apology being made to the satisfaction of the court. Explanation.—An apology shall not be rejected merely on the ground*

*that it is qualified or conditional if the accused makes it bona fide.*

*(2) Notwithstanding anything contained in any other law for the time being in force, no court shall impose a sentence in excess of that specified in sub-section (1) for any contempt either in respect of itself or of a court subordinate to it.*

*(3) Notwithstanding anything contained in this section, where a person is found guilty of a civil contempt, the court, if it considers that a fine will not meet the ends of justice and that a sentence of imprisonment is necessary shall, instead of sentencing him to simple imprisonment, direct that he be detained in a civil prison for such period not exceeding six months as it may think fit.*

*(4) Where the person found guilty of contempt of court in respect of any undertaking given to a court is a company, every person who, at the time the contempt was committed, was in charge of, and was responsible to, the company for the conduct of business of the company, as well as the company, shall be deemed to be guilty of the contempt and the punishment may be enforced, with the leave of the court, by the detention in civil prison of each such person: Provided that nothing contained in this sub-section shall render any such person liable to such punishment if he proves that the contempt was committed without his*

*knowledge or that he exercised all due diligence to prevent its commission.*

*(5) Notwithstanding anything contained in sub-section (4), where the contempt of court referred to therein has been committed by a company and it is proved that the contempt has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the contempt and the punishment may be enforced, with the leave of the court, by the detention in civil prison of such director, manager, secretary or other officer. Explanation.—For the purposes of sub-sections (4) and (5),—*

*(a) “company” means any body corporate and includes a firm or other association of individuals; and*

*(b) “director”, in relation to a firm, means a partner in the firm.*

**9. Role played by Contemnor No. 3 & 4 i.e. A.S.G. Shri. Devas Vyas & A.G.P. Shri. K.M. Antoni:-**

**9.1.** That, as being officers of the Court, the Contemnor No. 3 & 4 were duty bound to point out to the Bench of Contemnor No.1 & 2 that they cannot pass any order contrary to the view earlier taken by the co-ordinate Bench.

- 9.2. But they have not only joined the conspiracy but also they were part of the sinister plan to violate the fundamental rights of the citizen and to give wrongful profit to the vaccine companies by misappropriation of thousands of crores of public money and property.
- 9.3. In **E. S. Reddi Vs. Chief Secretary, Government of A.P (1987) 3 SCC 258, (Vol. 5 Page 794)**, the duties of Designated Senior Counsel are explained. It is ruled as under;

**“10. By virtue of the pre-eminence which senior counsel enjoy in the profession, they not only carry greater responsibilities but they also act as a model to the junior members of the profession.** A senior counsel more or less occupies a position akin to a Queen's counsel in England next after the Attorney General and the Solicitor General. It is an honour and privilege conferred on advocates of standing and experience by the Chief Justice and the Judges of this Court. They thus become leading counsel and take precedence on all counsel not having that rank. A senior counsel though he cannot draw up pleadings of the party, can nevertheless be engaged “to settle” i.e. to put the pleadings into “proper and satisfactory form” and hence a senior counsel settling pleadings has a more onerous responsibility as otherwise the blame for improper pleadings will be laid at his doors.

**11.** Lord Reid in *Rondel v. Worsley* has succinctly set out the conflicting nature of the duties a counsel has to perform in his own inimitable manner as follows :

*Every counsel has a duty to his client fearlessly to raise every issue, advance every argument, and ask every question, however distasteful, which he thinks will help his client's case. As an officer of the court concerned in the administration of justice, he has an overriding duty to the court, to the standards of his profession, and to the public, which may and often does lead to a conflict with his client's wishes or with what the client thinks are his personal interests. **Counsel must not mislead the court, he must not lend himself to casting aspersions on the other party or witnesses for which there is no sufficient basis in the information in his possession, he must not withhold authorities or documents which may tell against his clients but which the law or the standards of his profession require him to produce.** By so acting he may well incur the displeasure or worse of his client so that if the case is lost, his client would or might seek legal redress if that were open to him.*

*12. Again as Lord Denning, M. R. in *Rondel v. W* would say:*

*He (the counsel) has time and again to choose between his duty to his client and his duty to the court. This is a conflict often difficult to resolve; and he should not be under pressure to decide it wrongly. . . . When a barrister (or an advocate) puts his first duty to the court, he has nothing to fear. (words in brackets added).*

*In the words of Lord Dinning:*

*It is a mistake to suppose that he is the mouthpiece of his client to say what he wants: . . . He must disregard the most specific instructions of his client, if they conflict with his duty to the court. The code which requires a barrister to do all this is not a code of law. It is a code of honor. If he breaks it, he is offending against the rules of the profession and is subject to its discipline.*”

9.4. In Shiv Kumar Vs. Hukam Chand (1999) 7 SCC 467(F.B) (Vol. 5 Page 786), it is ruled as under

*“13. The legislature reminds the State that the policy must strictly conform to fairness in the trial of an accused. A Public Prosecutor is not expected to show a thirst to reach the case in the conviction of the accused somehow or the other irrespective of the true facts-involved in the case. The expected attitude of the Public Prosecutor while conducting prosecution must be couched in fairness not only to the court and to the investigating agencies but to the accused as well. If an accused is entitled to any legitimate benefit during trial the Public Prosecutor should not scuttle or conceal it On the contrary, it is the duty of the Public Prosecutor to winch it to the fore and make it available to the accused. Even if the defence counsel*

*overlooked it, the Public Prosecutor has the added responsibility to bring it to the notice of the court if it comes this knowledge.”*

9.5. In Heena Nikhil Dharia Vs. Kokilaben Kirtikumar Nayak and Ors. 2016 SCC OnLine Bom 9859(Vol. 5 Page 809), it is ruled as under;

*“35. Wholly unrelated to any preliminary issue or the question of limitation, or to any estate, partition or administration action, is **the decision of AM Khanwilkar J (as he then was) in Chandrakant Govind Sutar v. MK Associates 2003 (1) Mh. LJ 1011 Counsel for the petitioner raised certain contentions on the maintainability of a civil revision application. Khanwilkar J pronounced his judgement in open Court, finding for the petitioner. Immediately thereafter, counsel for the petitioner brought to the court's notice that certain relevant decisions on maintainability had not been placed. He requested that the judgement be not signed and instead kept for re-hearing on the question of maintainability. At that fresh hearing, petitioner's counsel placed decisions that clinched the issue against the petitioner. The civil revision application was dismissed. The counsel in question was A.S. Oka, now Mr. Justice Oka, and this is what Khanwilkar J was moved to observe in the concluding paragraph of his judgement:***

*‘9.While parting I would like to make a special mention regarding the fairness of Mr. Oka, Advocate.*

*He conducted the matter with a sense of detachment. In his own inimitable style he did the wonderful act of balancing of his duty to his client and as an officer of the Court concerned in the administration of justice. He has fully discharged his overriding duty to the Court to the standards of his profession, and to the public, by not withholding authorities which go against his client. As Lord Denning MR in Randel v. W. (1996) 3 All E. R. 657 observed:*

*“Counsel has time and again to choose between his duty to his client and his duty to the Court. This is a conflict often difficult to resolve; and he should not be under pressure to decide it wrongly. Whereas when the Advocate puts his first duty to the Court, he has nothing to fear. But it is a mistake to suppose that he (the Advocate) is the mouthpiece of his client to say what he wants. **The Code which obligates the Advocate to disregard the instructions of his client, if they conflict with his duty to the Court, is not a code of law — it is a code of honour.** If he breaks it, he is offending against the rules of the profession and is subject to its discipline.”*

*This view is quoted with approval by the Apex Court in Re. T.V. Choudhary, [1987] 3 SCR 146 (E.S. Reddi v. Chief Secretary, Government of AP).*

**36. The cause before Khanwilkar J may have been lost, but the law gained, and justice was served.**



37. Thirteen years ago, Khanwilkar J wrote of a code of honour. That was a time when we did not have the range, width and speed of resources we do today. With the proliferation of online databases and access to past orders on the High Court website, there is no excuse at all for not cross-checking the status of a judgement. I have had no other or greater access in conducting this research; all of it was easily available to counsel at my Bar. Merely because a judgement is found in an online database does not make it a binding precedent without checking whether it has been confirmed or set aside in appeal. Frequently, appellate orders reversing reported decisions of the lower court are not themselves reported. The task of an advocate is perhaps more onerous as a result; but his duty to the court, that duty of fidelity to the law, is not in any lessened. If anything, it is higher now.

38. Judges need the Bar and look to it for a dispassionate guidance through the law's thickets. When we are encouraged instead to lose our way, that need is fatally imperiled.”

9.6. In Lal Bahadur Gautam Vs. State (2019) 6 SCC 441(Vol. 5 Page 818), it is ruled as under;

“10. Before parting with the order, we are constrained to observe regarding the manner of assistance rendered to us on behalf of the respondent management of the private college. Notwithstanding

*the easy access to information technology for research today, as compared to the plethora of legal Digests which had to be studied earlier, reliance was placed upon a judgment based on an expressly repealed Act by the present Act, akin to relying on an overruled judgment. This has only resulted in a waste of judicial time of the Court, coupled with an onerous duty on the judges to do the necessary research. We would not be completely wrong in opining that though it may be negligence also, but the consequences could have been fatal by misleading the Court leading to an erroneous judgment.*

*11. Simply, failure in that duty is a wrong against the justice delivery system in the country. Considering that over the years, responsibility and care on this score has shown a decline, and so despite the fact that justice is so important for the Society, it is time that we took note of the problem, and considered such steps to remedy the problem. We reiterate the duty of the parties and their Counsel, at all levels, to double check and verify before making any presentation to the Court. The message must be sent out that everyone has to be responsible and careful in what they present to the Court. Time has come for these issues to be considered so that the citizen's faith in the justice system is not lost. It is also for the Courts at all levels to consider whether a particular*

presentation by a party or conduct by a party has occasioned unnecessary waste of court time, and if that be so, pass appropriate orders in that regard. After all court time is to be utilized for justice delivery and in the adversarial system, is not a licence for waste.

12. As a responsible officer of the Court and an important adjunct of the administration of justice, the lawyer undoubtedly owes a duty to the Court as well as to the opposite side. He has to be fair to ensure that justice is done. He demeans himself if he acts merely as a mouthpiece of his client as observed in [State of Punjab & Ors. vs. Brijeshwar Singh Chahal & Ors., \(2016\) 6 SCC 1](#): “34....relationship between the lawyer and his client is one of trust and confidence. As a responsible officer of the court and an important adjunct of the administration of justice, the lawyer also owes a duty to the court as well as to the opposite side. He has to be fair to ensure that justice is done. He demeans himself if he acts merely as mouthpiece of his client.....”

13. The observations with regard to the duty of a counsel and the high degree of fairness and probity required was noticed [in D.P. Chadha vs. Triyugi Narain Mishra and others, \(2001\) 2 SCC 221](#): “22. A mere error of judgment or expression of a reasonable opinion or taking a stand on a doubtful or debatable issue of law is not a misconduct; the term

takes its colour from the underlying intention. But at the same time misconduct is not necessarily something involving moral turpitude. It is a relative term to be construed by reference to the subject matter and the context wherein the term is called upon to be employed. A lawyer in discharging his professional assignment has a duty to his client, a duty to his opponent, a duty to the court, a duty to the society at large and a duty to himself. It needs a high degree of probity and poise to strike a balance and arrive at the place of righteous stand, more so, when there are conflicting claims. While discharging duty to the court, a lawyer should never knowingly be a party to any deception, design or fraud. While placing the law before the court a lawyer is at liberty to put forth a proposition and canvass the same to the best of his wits and ability so as to persuade an exposition which would serve the interest of his client so long as the issue is capable of that resolution by adopting a process of reasoning. However, a point of law well settled or admitting of no controversy must not be dragged into doubt solely with a view to confuse or mislead the Judge and thereby gaining an undue advantage to the client to which he may not be entitled. Such conduct of an advocate becomes worse when a view of the law canvassed by him is not only unsupportable in law but if accepted would damage the interest of the client and confer an illegitimate advantage on the opponent. In such a situation the

wrong of the intention and impropriety of the conduct is more than apparent. Professional misconduct is grave when it consists of betraying the confidence of a client and is gravest when it is a deliberate attempt at misleading the court or an attempt at practicing deception or fraud on the court.

The client places his faith and fortune in the hands of the counsel for the purpose of that case; the court places its confidence in the counsel in case after case and day after day. A client dissatisfied with his counsel may change him but the same is not with the court. And so the bondage of trust between the court and the counsel admits of no breaking.

24. It has been a saying as old as the profession itself that the court and counsel are two wheels of the chariot of justice. In the adversarial system, it will be more appropriate to say that while the Judge holds the reigns, the two opponent counsel are the wheels of the chariot. While the direction of the movement is controlled by the Judge holding the reigns, the movement itself is facilitated by the wheels without which the chariot of justice may not move and may even collapse. Mutual confidence in the discharge of duties and cordial relations between Bench and Bar smoothen the movement of the chariot. As responsible officers of the court, as they are called – and rightly, the counsel have an overall obligation of assisting the courts in a just and proper manner in the

*just and proper administration of justice. Zeal and enthusiasm are the traits of success in profession but overzealousness and misguided enthusiasm have no place in the personality of a professional.*

26. *A lawyer must not hesitate in telling the court the correct position of law when it is undisputed and admits of no exception. **A view of the law settled by the ruling of a superior court or a binding precedent even if it does not serve the cause of his client, must be brought to the notice of court unhesitatingly. This obligation of a counsel flows from the confidence reposed by the court in the counsel appearing for any of the two sides. A counsel, being an officer of court, shall apprise the Judge with the correct position of law whether for or against either party.***

14. *That a higher responsibility goes upon a lawyer representing an institution was noticed in [State of Rajasthan and another vs. Surendra Mohnot and others](#), j(2014) 14 SCC 77: “33. **As far as the counsel for the State is concerned, it can be decidedly stated that he has a high responsibility. A counsel who represents the State is required to state the facts in a correct and honest manner. He has to discharge his duty with immense responsibility and each of his action has to be sensible.** He is expected to have higher standard of conduct. He has a special duty towards the court in rendering assistance. It is because he has access to the public records and is*

*also obliged to protect the public interest. That apart, he has a moral responsibility to the court. When these values corrode, one can say “things fall apart”. He should always remind himself that an advocate, while not being insensible to ambition and achievement, should feel the sense of ethicality and nobility of the legal profession in his bones.*

*We hope, that there would be response towards duty; the hallowed and honoured duty.”*

9.6. Hon'ble Apex Court in R.Muthukrishnan's 2019 SCC OnLine SC 105, had ruled as under;

*“25. It is said by Alexander Cockburn that “the weapon of the advocate is the sword of a soldier, not the dagger of the assassin”. It is the ethical duty of lawyers not to expect any favour from a Judge. He must rely on the precedents, read them carefully and avoid corruption and collusion of any kind, not to make false pleadings and avoid twisting of facts. In a profession, everything cannot be said to be fair even in the struggle for survival. The ethical standard is uncompromisable. Honesty, dedication and hard work is the only source towards perfection. An Advocate conduct is supposed to be exemplary. In case an Advocate causes disrepute of the Judges or his colleagues or involves himself in misconduct, that is the most sinister and damaging act which can*

*be done to the entire legal system. Such a person is definitely deadwood and deserves to be chopped off.”*

9.7. In **P. V. R. S. Manikumar v. Krishna Reddy 1999 CRI. L. J. 2010** it is ruled as under;

*‘28. The counsel is endowed with noble duties. He has not only got duty towards his client, but also to his colleague. He has not only got duty towards the Court, but also towards society. Therefore, he should see the case of his client conducted fairly and honestly. The Advocates are responsible to the Court for the fair and honest conduct of the case. In matters of this kind, they are bound to exercise an independent judgment and to conduct themselves with a sense of personal responsibility.*

*29. According to the Supreme Court in Hari Shankar Rastogi v. Girdhari Sharma, AIR 1978 SC 1019 : (1978 Cri LJ 778), the Bar is not different from the Bench. They are the two sides of the same coin. Bar is an extension of the system of justice; lawyer is an officer of the Court. He is a master of an expertise, but more than that, kindful to the Court and governed by high ethics. The success of judicial process often depends on the service of the legal profession.*

*30. Normally, in dealing with the application for quashing, etc., while interim orders, the Court naturally takes the facts and grounds contained in the petition at their face value and the oral submission*



*made by the counsel before this Court. Therefore, it may not be fair and proper on the part of the counsel to betray the confidence of the Court by making statements which are misleading.*

*31. Mr. N. R. Elango, the learned Government Advocate, who was asked to assist in this matter as Amicus Curiae, has cited the judgment of the Supreme Court in P. D. Khandekar v. Bar Council of Maharashtra, AIR 1984 SC 110, wherein it has been held that the members of the legal profession should stand free from suspicion and that nothing should be done by any member of the legal fraternity which might tend to lessen any decree of confidence of the public in the fidelity, honesty and integrity of the profession.*

*32. As the Apex Court would point out, giving a wrong legal advice cannot be said to be unethical, but giving an improper legal advice cannot be said to be ethical. When a client consults with a lawyer for his advice, the client relies upon his requisite experience, skill and knowledge as a counsel. In such a situation, the counsel is expected to give proper and dispassionate legal advice to the client for the protection of his interests.”*

**10. Prayer:-** It is therefore humbly prayed for;

- i) To hold that the Contemnor No. 1 & 2 **Shri. Justice J.B. Pardiwala and Shri. Justice Niran R. Mehta** have acted in

utter disregard, deliberate defiance and willful contempt of the Supreme Court judgments which is explained in the memo of this petition and thereby they undermined the majesty and dignity of the Supreme Court and bring it in to dispute and therefore they are liable to be punished under **Section 2(b), & 12 of the Contempt of Court Act, 1971 r/w Article 129 of the Constitution of India.**

- ii) To hold that the Contemnor No. 3 & 4 also joined the conspiracy and they are also equally responsible for the abovesaid contempt and other offences against the administration of justice.
- iii) To record a finding that, the accused persons have hatched a conspiracy to give wrongful profit to vaccine companies and in furtherance of said conspiracy and to serve the said purpose they passed the unlawful order dated 17<sup>th</sup> December, 2021, which is having effect of causing wrongful loss and misappropriation of crores of rupees of public money. The accused also violated the fundamental rights of the many citizens. There order is instigating the concerned state authorities to put the life of citizen in to danger and even there will be death of a common man whose body is allergic to the vaccines.

Therefore, the accused are liable to be prosecuted under **Section 52, 109, 115, 218, 219, 220, 341, 342, 304, 304A, 307, 323, 336, 120(B), 34 etc. of I.P.C.**

And for that purpose the C.B.I. will be directed to complete the formality of getting permissions from Hon'ble President

of India and Hon'ble CJI and then to proceed further against the accused Judges as has been done in the case of **Govind Mehta Vs. State of Bihar AIR 1971 SC 1708.**

- iv) To hold that in view of law laid down in Somabhai Patel's case (supra) the continuance of accused Judges in the High Court will have serious impact on the other litigants and therefore in order to withdraw their judicial work, the procedure laid down in the 'In-House-Procedure' as explained in **Additional District and Sessions Judge 'X' (2015) 4 SCC 91** needs to be followed and therefore the Secretary General of the Supreme Court be directed to place the matter before the Hon'ble C.J.I.

**Advocate For Petitioner**

**IN THE SUPREME COURT OF INDIA**  
**CRIMINAL ORIGINAL JURISDICTION**  
**CONTEMPT PETITION (CRIMINAL) / 2021**

**Rashid Khan Pathan** )  
**Age: 62 Years Occ. Business** )  
Residing At Vasant Nagar, Pusad )  
Dist. Yawatmal – 445203 )...**Petitioner**

**Versus**

**1. SHRI. JUSTICE J.B. PARDIWALA** )  
Judge, Gujarat High Court, )  
High Court of Gujarat Sola, )  
Ahmedabad, Gujarat - 380 060. )

**2. SHRI. JUSTICE NIRAN R. MEHTA** )  
Judge, Gujarat High Court, )  
High Court of Gujarat Sola, )  
Ahmedabad, Gujarat - 380 060. )

**3. SHRI. DEVAN VYAS** )  
A.S.G. Gujarat High Court, )  
A-101, Ganesh Meridian, )  
Opp. Kargil Petrol Pump, S. G. )  
Highway, Ahmedabad- 380 060. )

**4. SHRI. K.M. ANTONI** )  
A.G.P. Gujarat High Court. )  
High Court of Gujarat Sola, )  
Ahmedabad Gujarat - 380 060. )...**CONTEMNORS**

## AFFIDAVIT

I, **Rashid Khan Pathan**, Aged around **59 years** R/o - at **Vasant Nagar, Pusad Dist. Yawatmal – 445303**, do hereby solemnly affirm and state on oath as under:

1. That, I am the Petitioner in the instant Contempt Petition and being familiar with the facts and circumstances of the case, I am fully competent and authorized to swear this Affidavit.
2. That, I have read the contents of the accompanying **Synopsis & List of dates[B-\_\_\_], the Contempt Petition [1-92]**, and the application for interim orders, and state that, the same are true to the best of my knowledge, information, and belief.
3. That, I have done whatever inquiry/investigation that, was in my power to do and collected all data/material which was available and which was relevant for this court to entertain the instant petition. I further confirm that, I have not concealed in the present petition any data/material/information so as to enable this Hon'ble court to form an opinion whether to entertain the instant petition or not and/or whether to grant any relief or not.



**DEPONENT**

## VERIFICATION

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

Verified at Pusad on this     <sup>st</sup> day of December, 2021.



**DEPONENT**

**IN THE SUPREME COURT OF INDIA**  
**CRIMINAL ORIGINAL JURISDICTION**  
**CONTEMPT PETITION (CRIMINAL) / 2021**

**Rashid Khan Pathan** )  
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 A.S.G. Gujarat High Court, )  
 A-101, Ganesh Meridian, )  
 Opp. Kargil Petrol Pump, S. G. )  
 Highway, Ahmedabad- 380 060. )

**4. SHRI. K.M. ANTONI** )  
 A.G.P. Gujarat High Court. )  
 High Court of Gujarat Sola, )  
 Ahmedabad Gujarat - 380 060. )...**CONTEMNORS**

**AN APPLICATION FOR EXEMPTION FROM  
FILING NOTARY/OATH COMMISSIONER  
ATTESTED VERIFICATION & AFFIXING  
WELFARE STAMP ON THE VAKALATMANA.**

To,

**The Hon'ble Chief Justice of India  
and His Companion Justices  
of the Hon'ble Supreme Court of India.**

**The Humble Application of  
the Applicant.**

**MOST RESPECTFULLY SHOWETH:**

That, the present Contempt Petition is being filed by the Applicant/Respondent Shri **Rashid Khan Pathan**

1. The facts stated in the Contempt Petition may be read as a part of this Application.
2. That, the Petitioner is a filed an unattested Verification of the application, Due to urgency of the matter Petitioner was not able to notarise the Contempt Petition, and therefore, the present application. The Applicant undertakes to file the notarized/oath commissioner attested affidavit as soon as Possible.
3. Therefore, in the interest of justice kindly exempt the Applicant from filing notarized/oath commissioner attested Verification and affixing welfare stamp on Vakalatnama in terms of the prayer made hereunder;

**PRAYER**

On the aforesaid submissions the Petitioner humbly pray that the Hon'ble Court be pleased to: -

- a) Kindly exempt the Applicant from filing notarized/oath commissioner attested Verification and affixing welfare stamp on vakalatnama; and/or
- b) Pass such further and other orders as are necessary in the interest of justice.

AND FOR THIS ACT OF KINDNESS YOUR HUMBLE APPLICANT AS ARE DUTY BOUND SHALL EVER PRAY.

**FILED ON: 20.12.2021**

A handwritten signature in blue ink, reading "Rkhan" with a horizontal line underneath, positioned above a small black dot.

**RASHID KHAN PATHAN  
PETITIONER IN PERSON**