IN THE SUPREME COURT OF INDIA **A3**

CRIMINAL ORIGINAL JURISDICTION

CRIMINAL WRIT PETITION No. _____ of 2021

IN THE MATTER OF:

Rashid Khan Pathan **…Petitioner**

Versus

Shri. Justice Sanjib Banerjee & Ors. **…Respondent**

PAPER BOOK

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ADVOCATE FOR THE PETITIONER – PETITIONER IN PERSON

A4

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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

A-1

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 Sanjib Banerjee & 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 disosed 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

CIVIL ORIGINAL JURISDICTION

CONTEMPT PETITION (CRL.) NO. _____ OF 2021

RASHID KHAN PATHAN)
Age: 62 Years Occ. Business)
Residing At Vasant Nagar, Pusad)
Dist. Yawatmal – 445 203.) **…Petitioner**

VERSUS

1. SHRI. JUSTICE SANJIB BANERJEE)
Chief Justice of Meghalaya High Court.)
MG Road, Police Bazar, Shillong,)
Meghalaya 793 001.)

2. SHRI. JUSTICE W. DIENGDOH)
Judge Meghalaya, High Court.)
MG Road, Police Bazar, Shillong,)
Meghalaya 793 001.)

3. SHRI. A. KUMAR)
Advocate General of State of Meghalaya.)
Judge Meghalaya, High Court.)
MG Road, Police Bazar, Shillong,)
Meghalaya 793 001.)

4. SHRI. S. SENGUPTA)
Addl. Sr. G. A. of Meghalaya High Court.)

Judge Meghalaya, High Court.)
MG Road, Police Bazar, Shillong,)
Meghalaya 793 001.) **…Respondents**

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 Petitioner by way of this petition would like to bring to the notice of this Hon'ble Court the deliberate and wilful disregard, defiance and contempt of the binding precedents of this Hon'ble Court by the Contemnors No. 1 to 4.

2. That, the present petition is divided into the following parts: -

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1.	Law regarding Contempt Petition against the sitting Judges of the High Court.	**3**	**3 to 5**
2.	Brief Facts of the case	**6**	**5 to 78**
3.	Offences under Indian Penal Code which are attracted against the Contemnor Judges	**10**	**78 to 97**
4.	As per law settled by the Full Bench in **Nandini Satpathy Vs. P.L. Dani (1978) 2 SCC 424,** the Court's order having impact on fundamental rights of the citizen should not be followed by the authorities and police officers.	**11**	**97 to 100**
5.	Role played by Contemnor No. 3 & 4 i.e. Adv. General Shri. A. Kumar & Addl. Sr. G.A. Shri. S. Sengupta.	**12**	**100 to 114**
6.	Prayers	**13**	**115 to 116**

3. LAW REGARDING CONTMEPT PETITION AGAINST SITTING JUDGES OF THE HIGH COURT: -

3.1. That, Seven Judge Bench of this Hon'ble Court in the case of **Re: C.S. Karnan (2017) 7 SCC 1,** had specifically ruled in para 1 & 60 that, the identity of the contemnor is inconsequential and Contempt Petition against a

sitting Judge is maintainable. And even if the petition is filed by any citizen then this Hon'ble Court is bound to examine the allegation in the said petition.

> ***"1***. *The task at our hands is unpleasant. It concerns actions of a Judge of a High Court. The instant proceedings pertain to* ***alleged actions of criminal contempt, committed by Shri Justice C.S. Karnan****. The initiation of the present proceedings suo motu, is unfortunate. In case this Court has to take the next step, leading to his conviction and sentencing, the Court would have undoubtedly travelled into virgin territory. This has never happened. This should never happen.* ***But then, in the process of administration of justice, the individual's identity, is clearly inconsequential. This Court is tasked to evaluate the merits of controversies placed before it, based on the facts of the case. It is expected to record its conclusions, without fear or favour, affection or ill will.***
>
> ***60.*** *Faced with an unprecedented situation resulting from the incessant questionable conduct of the contemnor perhaps made the Chief Justice of India come to the conclusion that all the above mentioned questions could better be examined by this Court on the judicial side.* ***We see no reason to doubt the authority/jurisdiction of this Court to initiate the contempt proceedings. Hypothetically speaking, if somebody were to move this Court alleging that the activity of Justice Karnan tantamounts to contempt of court and therefore appropriate action be taken against him, this Court is***

> ***bound to examine the questions. It may have accepted or rejected the motion. But the authority or jurisdiction of this Court to examine such a petition, if made, cannot be in any doubt.*** *Therefore, in our opinion, the fact that the present contempt proceedings are initiated suo motu by this Court makes no difference to its maintainability.***"**

4. That, the present case is regarding gross contempt of law laid down by the Hon'ble Supreme Court and also regarding the gross violation of fundamental rights of the citizen which is having death causing consequences.

5. The present petition also raises a serious concern about the citizens who has to face the dire consequences due to understanding level of the Contemnor No. 1 who is the Chief Justice of the High Court. This issue has been observed by this Hon'ble court in **Somabhai Patel AIR 2001 SC 1975.**

6. BRIEF FACTS OF THE CASE:-

6.1. That the Division Bench of Hon'ble Meghalaya High Court on 23rd June 2021 passed an order **Registrar General Vs. State of Meghalaya 2021 SCC OnLine Megh 130 (Coram: Biswanath Somadder, C.J. And H.S. Thangkhiew, JJ.)** .

6.2. In said order it is specifically pointed out that mandatory and forceful vaccination is not lawful and such acts are liable to be declared ultra vires.

It is observed as under;

*"**4.** Article 21 encompasses within its fold, right to health, as a fundamental right. By that same analogy, right to health care, which includes vaccination, is a fundamental right. However, vaccination by force or being made mandatory by adopting coercive methods, vitiates the very fundamental purpose of the welfare attached to it. It impinges on the fundamental right(s) as such, especially when it affects the right to means of livelihood which makes it possible for a person to live. As held in Olga Tellis v. Bombay Municipal Corporation reported at (1985) 3 SCC 545 : AIR 1986 SC 180 = (1985) 3 SCC 545, right to life includes right to the means of livelihood. Any action of the State which is in absolute derogation of this basic principle is squarely affected by Article 19(1)(g). Although, Article 19(6) prescribes "reasonable restrictions" in the "interest of general public", the present instance is exemplary and clearly distinguishable. It affects an individual's right, choice and liberty significantly more than affecting the general public as such or for that matter, the latter's interests being at stake because of the autonomous decision of an individual human being of choosing not to be vaccinated. It is more about striking the right balance between an individual's right vis-à-vis the right of the public at large. However, in substantiation of Mill's theory of the liberty to exercise one's right until it impinges on the right of another; here too, the*

"welfare State" is attempting to secure the rights of others, which - though legitimate - is palpably excessive owing to the procedure adopted by it. Another pivotal question emerges as to whether any notification/order published by the State Government and/or its authority can be understood as a prescription by "law" for the purposes of prohibiting a greater degree of rights; i.e., fundamental rights. In other words, can a State Government and/or its authority issue any notification/order which is likely to have a direct effect on the fundamental rights of its citizens especially on a subject matter that concerns both public health and the fundamental rights of the individual person.

5. *The issue here essentially centres around a question on the lawmaking power of the State Government, which, even though permitted by Entry 6, List II of the Seventh Schedule, has to be in consonance with the fundamental right to life and livelihood of an individual. In this case, there is a clear lack of legitimacy in prohibiting freedom of carrying on any occupation, trade or business amongst a certain category or class of citizens who are otherwise entitled to do so, making the notification/order ill-conceived, arbitrary and/or a colourable exercise of power. A notification/order of the State certainly cannot put an embargo and/or fetter on the fundamental right to life of an individual by*

stripping off his/her right to livelihood, except according to the procedure established by law. Even that procedure is required to be reasonable, just and fair (see Olga Tellis, supra). Till now, there has been no legal mandate whatsoever with regard to coercive or mandatory vaccination in general and the Covid19 vaccination drive in particular that can prohibit or take away the livelihood of a citizen on that ground.

6. *In the "frequently asked questions" (FAQs) on COVID-19 vaccine prepared and uploaded by the Ministry of Health and Family Welfare, Government of India, in its official website, the question which appears under serial number 3 reads, "Is it mandatory to take the vaccine?" The "potential response", which is provided in the official website reads, "Vaccination for COVID-19 is voluntary. However, it is advisable to receive the complete schedule of COVID-19 vaccine for protecting oneself against this disease and also to limit the spread of this disease to the close contacts including family members, friends, relatives and co-workers."*

7. *In this context, around one hundred and seven (107) years ago, in Schloendroff v. Society of New York Hospitals reported at (1914) 211 NY 125 = 105 NE 92; 1914 NY Justice Cardozo ruled that 'every human being of adult years and sound mind has a right to determine what shall be done with their body'. Thus, by use of force or through deception if an*

unwilling capable adult is made to have the 'flu vaccine would be considered both a crime and tort or civil' wrong, as was ruled in Airedale NHS Trust v. Bland reported at [1993] A.C. 789 = [1993] 2 WLR 316 = (1993) 1 All ER 821, around thirty years (30) ago. Thus, coercive element of vaccination has, since the early phases of the initiation of vaccination as a preventive measure against several diseases, have been time and again not only discouraged but also consistently ruled against by the Courts for over more than a century.

8. *There are several ambiguities on the procedural and substantive aspects of the concerned notification/order. Doubts are cast on whether coercive assertion of one's fundamental right can tend to abrogate another's equally placed fundamental right. Question also arises whether fundamental right can be forcefully imposed even if the beneficiary is not inclined to its exercise, because, if the latter is undertaken, then there is a risk of running into infringing on the fundamental right to privacy and exercise of personal liberty. Furthermore, whether to subject oneself to an intrusion of his/her body, even if of minor intensity, e.g., through a needle, concerns issues of personal and bodily autonomy and bodily integrity, similar to abortion rights or non-sterilization rights or even sex reassignment surgeries, irrespective of what consequences the individual*

might be inviting. This finds mention in decisions of the European Commission and Court of Human Rights [X v. Netherlands of 1978 (decision rendered on 4th December, 1978); X v. Austria of 1979 (decision rendered on 13th December, 1979)] which has become truer in the present times across the world than ever before. Compulsorily administration of a vaccine without hampering one's right to life and liberty based on informed choice and informed consent is one thing. However, if any compulsory vaccination drive is coercive by its very nature and spirit, it assumes a different proportion and character.

9. *In our view, the burden lies on the State to disseminate and sensitize the citizens of the entire exercise of vaccination with its pros and cons and facilitate informed decision making particularly in a situation where the beneficiaries are skeptical, susceptible and belonging to vulnerable/marginalised section of the society, some of whom are also gullible members of the indigenous communities who are constantly being fed with deliberate misinformation regarding the efficacy of vaccination by some persons/organisations with oblique motives. The welfare nature of the State isn't for coercive negative reinforcement by seizing their right to livelihood, proscribing them to earn from their occupation and/or profession without any justification in the garb of*

public interest, but lies in walking together with concerted efforts attempting to effectuate a social order as mandated under Article 38 by approaching the people directly by engaging them in one-to-one dialogues and dwelling on the efficiency and the positive aspects of administering of the vaccine without compromising its duty under Article 47 nor abrogating its duty to secure adequate means of livelihood under Article 39(a). Therefore, right to and the welfare policy for vaccination can never affect a major fundamental right; i.e., right to life, personal liberty and livelihood, especially when there exists no reasonable nexus between vaccination and prohibition of continuance of occupation and/or profession. A harmonious and purposive construction of the provisions of law and principles of equity, good conscience and justice reveals that mandatory or forceful vaccination does not find any force in law leading to such acts being liable to be declared ultra vires ab initio."

6.3. Relying on the said judgment, the following judgments are passed:

i) Re: Dinthar **2021 SCC OnLine Gau 1313.**

ii) Madan Milli **2021 SCC OnLine Gau 1503.**

iii) Osbert Khaling Vs. State of Manipur and Ors. **2021 SCC OnLine Mani 234.**

6.4. **In Re: Dinthar Incident Aizawl Vs. State of Mizoram 2021 SCC OnLine Gau 1313,** the Division Bench of Hon'ble Gauhati High Court vide its order dated **02.07.2021**, has categorically held as follows:

> ***"14.*** *It has been brought to our notice that even persons who have been vaccinated can still be infected with the covid virus, which would in turn imply that vaccinated persons who are covid positive, can also spread the said virus to others. It is not the case of the State respondents that vaccinated persons cannot be infected with the covid virus or are incapable of spreading the virus. Thus, even a vaccinated infected covid person can be a* ***super spreader****. If vaccinated and un-vaccinated persons can be infected by the covid virus and if they can both be spreaders of the virus, the restriction placed only upon the un-vaccinated persons, debarring them from earning their livelihood or leaving their houses to obtain essential items is unjustified, grossly unreasonable and arbitrary."*

6.5. In **Madan Milli Vs. UOI 2021 SCC OnLine Gau 1503,** ruled as under;

> **"*3.*** *The petitioner contends that* ***as per the RTI Information furnished by the Ministry of Health & Family Welfare,*** *which is available in the website of the Ministry of Health and Family Welfare, Government of India, Covid-19 vaccination is not a mandatory but a voluntary. A copy of the RTI*

Information available in the website of the Ministry of Health & Family Welfare, Government of India, has been annexed by the petitioner as Annexure 3 to the petition. The petitioner also refers to ***an answer given on 19.03.2021 in the Lok Sabha to an Unstarred Question No. 3976 by the Minister of State in the Ministry of Health & Family Welfare, Government of India (Annexure 4 to the petition) stating that there is no provision of compensation for recipients of Covid-19 Vaccination against any kind of side effects or medical complication that may arise due to inoculation. The Covid-19 Vaccination is entirely voluntary for the beneficiaries.***

4. *By referring to the fact that the Covid-19 Vaccination is entirely a voluntary exercise at the choice of an individual as indicated in the RTI answer and the answer given in the Lok Sabha by the Minister of State in the Ministry of Health and Family Welfare, Government of India, as referred to hereinabove, the learned counsel for the petitioner has contended that provision under Clause 11 of the Order dated 30.06.2021, issued by the Chief Secretary cum Chairperson-State Executive Committee, Government of Arunachal Pradesh, vide Memo No. SEOC/DRR&DM/01/2011-12, allowing temporary permits to be issued for developmental works in both public and private sector to only those persons who are vaccinated for Covid-19, have interfered with the*

rights of the citizens provided under Article 19 (1) (d) of the Constitution of India to move freely throughout the territory of India. The learned counsel for the petitioner, therefore, has argued that since the Clause 11 of the Order dated 30.06.2021, issued by the Chief Secretary cum Chairperson-State Executive Committee, Government of Arunachal Pradesh, vide Memo No. SEOC/DRR&DM/01/2011-12, by allowing to issue temporary permits for developmental works in both public and private sector only to persons who have vaccinated for Covid-19 Virus, have interfered with the fundamental rights granted under Article 19 (1) (d) of the Constitution of India and the same may be struck down by this Court in exercise of power under Article 226 of the Constitution of India.

13. *In the instant case, the classification sought to be made between the vaccinated and unvaccinated persons for Covid-19 by Clause 11 of the Order dated 30.06.2021 for the purpose of issuing a temporary permit for developmental works in both public and private sector in the State of Arunachal Pradesh is undoubtedly to contain Covid-19 pandemic and its further spread in the State of Arunachal Pradesh. There is no evidence available either in the record or in the public domain that Covid-19 vaccinated persons cannot be infected with Covid-19 virus, or he/she cannot be a carrier of a Covid-19 virus and consequently, a spreader of Covid-19 virus. In so far*

as the spread of Covid-19 Virus to others is concerned, the Covid-19 vaccinated and unvaccinated person or persons are the same. Both can equally be a potential spreader if they are infected with Covid-19 Virus in them. This aspect of the matter came up for consideration by this Court in WP(C)/37/2020 (In Re Dinthar Incident Aizawl v. State of Mizoram Aizawl; in which case, this Court vide Order dated 02.07.2021, in paragraph 14 thereof, had observed as follows -

*"**14**. It has been brought to our notice that even persons who have been vaccinated can still be infected with the covid virus, which would in turn imply that vaccinated persons who are covid positive, can also spread the said virus to others. It is not the case of the State respondents that vaccinated persons cannot be infected with the covid virus or are incapable of spreading the virus. **Thus, even a vaccinated infected covid person can be a super-spreader**. If vaccinated and un-vaccinated persons can be infected by the covid virus and if they can both be spreaders of the virus, the restriction placed only upon the un-vaccinated persons, debarring them from earning their livelihood or leaving their houses to obtain essential items is unjustified, grossly unreasonable and arbitrary. As such, the submission made by the learned Additional Advocate General that the restrictions made against the un-vaccinated persons*

vis-à-vis the vaccinated persons is reasonable does not hold any water. As the vaccinated and un-vaccinated persons would have to follow the covid proper behavior protocols as per the SOP, there is no justification for discrimination."

14. *Thus, if the sole object of issuing the Order dated 30.06.2021, by the Chief Secretary cum Chairperson-State Executive Committee, Government of Arunachal Pradesh, vide Memo No. SEOC/DRR&DM/01/2011-12, is for containment of the Covid-19 pandemic and its further spread in the State of Arunachal Pradesh, the classification sought to be made between vaccinated and unvaccinated persons for Covid-19 virus for the purpose of issuing temporary permits for developmental works in both public and private sector, vide Clause 11 thereof, prima facie, appears to be a classification not founded on intelligible differentia nor it is found to have a rational relation/nexus to the object sought to be achieved by such classification, namely, containment and further spread of Covid-19 pandemic."*

6.6. In **Osbert Khaling Vs. State of Manipur and Ors. 2021 SCC OnLine Mani 234,** it is ruled as under;

"8…. *Restraining people who are yet to get vaccinated from opening institutions, organizations, factories, shops, etc., or* ***denying them their livelihood by linking their employment****, be it NREGA job card*

holders or workers in Government or private projects, ***to their getting vaccinated would be illegal on the part of the State, if not unconstitutional. Such a measure would also trample upon the freedom of the individual to get vaccinated or choose not to do so.****"*

6.7. That Hon'ble Supreme Court in the case of **Common Cause Vs. Union of India (2018) 5 SCC 1,** has ruled as under;

169. *In the context of health and medical care decisions, a person's exercise of self-determination and autonomy involves the exercise of his right to decide whether and to what extent he/she is willing to submit himself/herself to medical procedures and treatments, choosing amongst the available alternative treatments or, for that matter, opting for no treatment at all which, as per his or her own understanding, is in consonance with his or her own individual aspirations and values.*

Q. Conclusions in seriatim

202. *In view of the aforesaid analysis, we record our conclusions in seriatim:*

202.1. *A careful and precise perusal of the judgment in Gian Kaur case [Gian Kaur v. State of Punjab, (1996) 2 SCC 648 : 1996 SCC (Cri) 374] reflects the right of a dying man to die with dignity when life is*

ebbing out, and in the case of a terminally-ill patient or a person in PVS, where there is no hope of recovery, accelerating the process of death for reducing the period of suffering constitutes a right to live with dignity.

202.2. *The Constitution Bench in Gian Kaur [Gian Kaur v. State of Punjab, (1996) 2 SCC 648 : 1996 SCC (Cri) 374] has not approved the decision in Airedale [Airedale N.H.S. Trust v. Bland, 1993 AC 789 : (1993) 2 WLR 316 : (1993) 1 All ER 821 (CA & HL)] inasmuch as the Court has only made a brief reference to the Airedale case [Airedale N.H.S. Trust v. Bland, 1993 AC 789 : (1993) 2 WLR 316 : (1993) 1 All ER 821 (CA & HL)] .*

202.3. *It is not the ratio of Gian Kaur [Gian Kaur v. State of Punjab, (1996) 2 SCC 648 : 1996 SCC (Cri) 374] that passive euthanasia can be introduced only by legislation.*

202.4. *The two-Judge Bench in Aruna Shanbaug [Aruna Ramachandra Shanbaug v. Union of India, (2011) 4 SCC 454 : (2011) 2 SCC (Civ) 280 : (2011) 2 SCC (Cri) 294] has erred in holding that this Court in Gian Kaur [Gian Kaur v. State of Punjab, (1996) 2 SCC 648 : 1996 SCC (Cri) 374] has approved the decision in Airedale case [Airedale N.H.S. Trust v. Bland, 1993 AC 789 : (1993) 2 WLR 316 : (1993) 1 All ER 821 (CA & HL)] and that euthanasia could be made lawful only by legislation.*

202.5. *There is an inherent difference between active euthanasia and passive euthanasia as the former entails a positive affirmative act, while the latter relates to withdrawal of life-support measures or withholding of medical treatment meant for artificially prolonging life.*

202.6. *In active euthanasia, a specific overt act is done to end the patient's life whereas in passive euthanasia, something is not done which is necessary for preserving a patient's life. It is due to this difference that most of the countries across the world have legalised passive euthanasia either by legislation or by judicial interpretation with certain conditions and safeguards.*

202.7. *Post Aruna Shanbaug [Aruna Ramachandra Shanbaug v. Union of India, (2011) 4 SCC 454 : (2011) 2 SCC (Civ) 280 : (2011) 2 SCC (Cri) 294] , the 241st Report of the Law Commission of India on Passive Euthanasia has also recognised passive euthanasia, but no law has been enacted.*

202.8. *An inquiry into Common Law jurisdictions reveals that* ***all adults with capacity to consent have the right of self-determination and autonomy. The said rights pave the way for the right to refuse medical treatment which has acclaimed universal recognition. A competent person who has come of age has the right to refuse specific treatment or all treatment or opt for an alternative treatment, even if***

such decision entails a risk of death. *The "Emergency Principle" or the "Principle of Necessity" has to be given effect to only when it is not practicable to obtain the patient's consent for treatment and his/her life is in danger. But where a patient has already made a valid Advance Directive which is free from reasonable doubt and specifying that he/she does not wish to be treated, then such directive has to be given effect to.*

202.9. *Right to life and liberty as envisaged under Article 21 of the Constitution is meaningless unless it encompasses within its sphere individual dignity. With the passage of time,* ***this Court has expanded the spectrum of Article 21 to include within it the right to live with dignity as component of right to life and liberty.***

202.12. *Though the sanctity of life has to be kept on the high pedestal yet in cases of terminally ill persons or PVS patients where there is no hope for revival, priority shall be given to the Advance Directive and the right of self-determination.*

202.13. *In the absence of Advance Directive, the procedure provided for the said category hereinbefore shall be applicable.*

202.14. *When passive euthanasia as a situational palliative measure becomes applicable,* ***the best interest of the patient shall override the State interest.***

> ***306.*** *In addition to personal autonomy, other facets of human dignity, namely, "self-expression" and "right to determine" also support the argument that* ***it is the choice of the patient to receive or not to receive treatment.***
>
> ***517.*** *The entitlement of each individual to a dignified existence necessitates constitutional recognition of the principle that an individual possessed of a free and competent mental state is entitled to decide whether or not to accept medical treatment. The right of such an individual to refuse medical treatment is unconditional.* ***Neither the law nor the Constitution compel an individual who is competent and able to take decisions, to disclose the reasons for refusing medical treatment nor is such a refusal subject to the supervisory control of an outside entity;***

6.8. Despite the abovesaid factual & legal position, the Contemnor No. 1 & 2, on 6th & 16th December, 2021 passed an order taking contrary view against its own court and also against the view taken by the Supreme Court. Since the defiance of binding precedents by the Respondent No. 1 & 2 is willful and deliberate therefore contempt is being field against them.

7. That the Contemnor No. 1 Shri. Justice Sanjib Banerjee was earlier posted as Chief Justice of Madras High Court.

7.1. The Contemnor No. 1, while working at Madras High Court has made some constitutional and unlawful remarks of vaccinating the citizen as under;

7.2. Therefore a complaint is field before Hon'ble President of India on 06.07.2021.

The prayers of the said complaint reads thus;

> ***"1.*** *Application as per law laid down by the Constitution Bench of the Supreme Court in* ***K. Veeraswamy's case 1991 (3) SCC 655*** *for granting the sanction to prosecute Shri Sanjib Banerjee Chief Justice of Madras High Court and Shri Justice Senthilkumar Ramamoorthy for offences u/s* ***52, 218, 219, 192, 193, r/w 120(B) & 34 of IPC*** *for passing an unlawful order against the material on record and based on wrong premise and also against the binding precedents with ulterior motive to help the vaccine Mafia and to violate the fundamental rights and to put the life of citizens in to danger.*
>
> ***2.*** *Appropriate communication with the Hon'ble CJI to forthwith withdraw all the Judicial assignments of both the Judges as per* ***'In-House-Procedure'*** *laid down in the case of* ***Addl. District Sessions Judge 'X' Vs. Registrar General, High Court of Madhya Pradesh (2015) 4 SCC 91.***
>
> ***3.*** *Request to Chief Justice of India to pass directions to all the Judges to not to pass any order or express*

any opinion by ignoring the abovesaid scientific data and constitutional mandates as ruled by the Supreme Court of India and various Hon'ble High Courts in India;

AND

Not to become party to the conspiracy by vaccine syndicate as has been mentioned in the complaint dated 30th June 2021 filed by Secretary General of Human Rights Security Council."

7.3. Thereafter on 15.11.2021 the Contemnor No. 1 was transferred from the post of a Chief of Chartered Madras High Court having strength of 60 Judges to Meghalaya High Court, having a strength of 4 Judges which is in normal paralance treated as punishment for misconduct or incapacity of the Judge.

7.4. That, when Contemnor No. 1 took the charge of Chief Justice of the Meghalaya High Court then he took the assignment of abovesaid PIL No. 6 of 2021 to his bench.

7.5. In the above said **PIL No. 6 of 2021** (**Registrar General Vs. State of Meghalaya)** the Contemnor No. 1 & 2 on 6th & 16th December, 2021 passed the unlawful order against the order passed by the earlier Division Bench headed by the then Chief Justice.

7.6. That the order dated 6th December, 2021 reads thus;

"The matter pertains to the action taken by the State to deal with the pandemic.

It appears that there are reservations in certain quarters regarding vaccination. The State should adopt an aggressive policy in undertaking awareness drives and trying to convince people to vaccinate themselves, not only for their own benefit, but also for the protection of others.

The State says that vaccines are available in sufficient quantity. A detailed report as to the extent of vaccination conducted till the end of November, 2021 should be filed when the matter appears ten days hence. It may serve the State well if the District Councils and other authorities, including the Meghalaya State Legal Services Authority, also undertake a campaign to educate people and convince them to take the vaccination.

It will also be open to the State to formulate rules or guidelines so that persons unwilling to take vaccination do not expose themselves to others. List the matter on December 16, 2021."

7.7. That the order dated 16.12.2021 reads thus;

"*The State's detailed report in terms of the order dated December 6, 2021 is ready and may be filed. Since the number of covid cases in the State has been on the decline, let the matter appear in the first week of February, 2022.*

> ***However, <u>the State should not relent on the vaccination drive or trying to persuade people to take the vaccination or even provide for disincentives upon refusal. List on February 1, 2022</u>"***

7.8. That, both the above orders are against the order dated 23rd June, 2021 passed by the earlier Bench in the same matter. Hence it is not only the contempt of its own court, but also gross contempt of law laid down by the Hon'ble Supreme Court.

7.9. Furthermore, the orders are also having impact on life & liberty of the citizen and also lead to death causing consequences amongst the people who are having allergy to the contents of the vaccines and also the people who may be subjected to their life's risk due to other side effects of vaccines as happened in the case of Dr. Snehal Lunawat.

Link:-

https://www.lokmattimes.com/aurangabad/city-dentist-had-died-due-to-side-effects-of-covid-vaccine-union-health-dept-panel-terms-passing/

7.10. Needless to mention here that around 15 European Countries banned the Covishield vaccines due to death causing side effects. But accused Judges are abating the state authorities to adopt methods to force the people to get vaccines.

Link:-

https://www.aljazeera.com/news/2021/3/15/which-countries-have-halted-use-of-astrazenecas-covid-vaccine

8. That, the offences committed by the contemnors in passing the said orders and legal position cleared by the Hon'ble Supreme Court is capsulized in following paragraphs.

8.1. Contempt of Hon'ble Supreme Court direction in the case of **Dr. Vijay Sadho Vs. Jagadish (2001) 2 SCC 247, Sant Lal Gupta Vs. Modern Cooperative Group (2010) 13 SCC 336.**

8.1.1. In **Sant Lal Gupta (supra),** it is ruled by this Hon'ble court as under;

> ***"18.*** *In Rajasthan Public Service Commission v. Harish Kumar Purohit [(2003) 5 SCC 480 : 2003 SCC (L&S) 703] this Court held that* ***a Bench must follow the decision of a coordinate Bench and take the same view as has been taken earlier. The earlier decision of the coordinate Bench is binding upon any latter coordinate Bench deciding the same or similar issues. If the latter Bench wants to take a different view than that taken by the earlier Bench, the proper course is for it to refer the matter to a larger Bench.***
>
> ***19. In the instant case, the position before us is worse as the latter Bench has taken a divergent view from an earlier coordinate Bench, particularly taking note of the earlier decision holding otherwise, without explaining why it could not follow the said precedent even while extensively quoting the same. Judicial propriety and discipline are not served by such conduct on the part of the Division Bench.***

Thus, in view of the above, it was not permissible for the High Court to take the course which it has adopted and such a course cannot be approved.

17.... *The rule of precedent is binding for the reason that there is a desire to secure uniformity and certainty in law. Thus, in judicial administration precedents which enunciate the rules of law form the foundation of the administration of justice under our system.* ***Therefore, it has always been insisted that the decision of a coordinate Bench must be followed.*** *(Vide Tribhovandas Purshottamdas Thakkar v. Ratilal Motilal Patel [AIR 1968 SC 372] , Sub-Committee of Judicial Accountability v. Union of India [(1992) 4 SCC 97] and State of Tripura v. Tripura Bar Assn. [(1998) 5 SCC 637 : 1998 SCC (L&S) 1426])* ***"***

8.1.2. That Hon'ble Supreme Court in **Vijay Sadho's case (supra)** has ruled that the Co-ordinate Bench cannot take the contrary view than that of the earlier Bench.

"33. *As the learned Single Judge was not in agreement with the view expressed in Devilal case [Election Petition No. 9 of 1980] it would have been proper, to maintain judicial discipline, to refer the matter to a larger Bench rather than to take a different view. We note it with regret and distress that the said course was not followed. It is well-settled that if a Bench of coordinate jurisdiction disagrees with another Bench of coordinate jurisdiction whether on*

the basis of "different arguments" or otherwise, on a question of law, it is appropriate that the matter be referred to a larger Bench for resolution of the issue rather than to leave two conflicting judgments to operate, creating confusion. It is not proper to sacrifice certainty of law. Judicial decorum, no less than legal propriety forms the basis of judicial procedure and it must be respected at all costs.

34. *Before parting with this aspect of the case, we wish to recall what was opined in Mahadeolal Kanodia v. Administrator General of W.B. [AIR 1960 SC 936 : (1960) 3 SCR 578] :*

"If one thing is more necessary in law than any other thing, it is the quality of certainty. That quality would totally disappear if Judges of coordinate jurisdiction in a High Court start overruling one another's decisions. If one Division Bench of a High Court is unable to distinguish a previous decision of another Division Bench, and holding the view that the earlier decision is wrong, itself gives effect to that view the result would be utter confusion. The position would be equally bad where a Judge sitting singly in the High Court is of opinion that the previous decision of another Single Judge on a question of law is wrong and gives effect to that view instead of referring the matter to a larger Bench. In such a case lawyers would not know how to advise their clients and all courts subordinate to the High Court would find

themselves in an embarrassing position of having to choose between dissentient judgments of their own High Court."

35. *These salutary principles appear to have been overlooked by the learned Judge deciding Jai Bhansingh case.**"***

8.1.3. In **Hari Singh Vs. State of Haryana (1993) 3 SCC 114**it is ruled as under;

"10. *It is true that in the system of justice which is being administered by the courts, one of the basic principles which has to 5be kept in view, is that* ***courts of coordinate jurisdiction, should have consistent opinions in respect of an identical set of facts or on a question of law. If courts express different opinions on the identical sets of facts or question of law while exercising the same jurisdiction, then instead of achieving harmony in the judicial system, it will lead to judicial anarchy.***

12. *It is a basic principle of the administration of justice that like cases should be decided alike.* ***It is a very sound rule and practice otherwise on same question of law or same set of facts different persons approaching a court can get different orders.**"***

8.1.4. In **Thirani Chemicals Ltd. Vs. Dy. Commissioner Of Income Tax MANU/DE/9380/2006** it is ruled;

> ***"10…****A concession made by the parties cannot give authority to a Coordinate Bench to differ with the views taken by an earlier Coordinate Bench as that would play havoc with the principles of judicial discipline and certainty. Parties by consent cannot confer authority or jurisdiction on a Coordinate Bench to differ with a view taken by an earlier Coordinate Bench. If this were to be permitted, then different views of Benches of equal strength would be permitted to be taken giving a complete go-by to the principles of judicial discipline and judicial certainty."*

8.1.5. Also relied on **State of Bihar Vs. Kalika (2003) 5 SCC 448** it is ruled as under;

> ***"10….*** *In connection with this observation, we would like to say that an earlier decision may seem to be incorrect to a Bench of a coordinate jurisdiction considering the question later, on the ground that a possible aspect of the matter was not considered or not raised before the court or more aspects should have been gone into by the court deciding the matter earlier but it would not be a reason to say that the decision was rendered per incuriam and liable to be ignored. The earlier judgment may seem to be not correct yet it will have the binding effect on the later Bench of coordinate jurisdiction. Easy course of saying that earlier decision was rendered per*

*incuriam is not permissible and the matter will have to be resolved only in two ways — either to follow the earlier decision or refer the matter to a larger Bench to examine the issue, in case it is felt that earlier decision is not correct on merits. Though hardly necessary, we may however, refer to a few decisions on the above proposition.**"***

8.1.6. In **Delhi Transport Vs. Surendra Pal ILR (2008) 1 Delhi 181**, it is ruled as under;

"10…*The same Industrial Tribunal in an industrial Disputes raised by the workman in respect of the same dispute, cannot reverse the earlier finding. In subsequent Industrial Disputes under Section 11A of the Act, the Tribunal cannot sit in appeal over its earlier findings given under Section 32(2)(b) of the Act and reverse the findings. That would amount to judicial impropriety. The Industrial Tribunal is bound by earlier findings given between the parties in respect of the same dispute and same issue. Even a Tribunal of coordinate jurisdiction is bound by the earlier decision. It is settled canon of principles of law that multiplicity of proceedings should be avoided and no man should be vexed twice over the same cause. The doctrine of* ***res-judicata*** *is based on sound principles of equity good conscience and justice.**"***

8.1.7. However the Contemnor No. 1 & 2 acted in utter disregard and defiance of the abovesaid binding precedents and therefore they are liable for punishment under section 12 of Contempt of Courts Act, 1971 along with Article 129 of the Constitution of India.

8.1.8. In **Re; M.P. Dwivedi AIR 1996 SC 2299,** this Hon'ble Court while passing strictures against the Judge acting against directions of Supreme Court has observed as under;

> ***"A) VIOLATION OF GUIDELINES LAID DOWN BY SUPREME COURT BY JUDGE OF SUBORDINATE COURTS – THEY ARE GUILTY OF CONTEMPT.***
>
> ***B) JUDGE CANNOT SAY THAT HE WAS NOT AWARE OF THE LAW LAID DOWN BY THE SUPREME COURT.***
>
> *Contemner No.7, B. K. Nigam, was posted as Judicial Magistrate First Class - contemner was completely insensitive about the serious violations of the human rights of accused and defiance of guidelines by Police - 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.

Held, Thecontemner Judicial Magistrate has tendered his unconditional and unqualified apology for the lapse on his part - The contemner has submitted that he is a young Judicial Officer and that the lapse was not intentional. But the contemner, being a judicial officer is expected to be aware of law laid down by this Court - 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 in as much 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 the 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."

8.1.9. In **Baradkanata Mishra (1973) 1 SCC 446,** it is ruled as under;

"15. The conduct of the appellant in not following the previous, decision 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 malafide 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.''***

8.1.10. 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.”

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…*

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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.*

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.*

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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.

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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)

8.1.11. This Hon'ble Court in **State Bank of Travancore 2018 (3) SCC 85,** has ruled that the Judges/Courts has to apply the correct law even if it not raised by any party.

8.1.12. In **Medical Council Vs. G.C.R.G. Memorial Trust (2018) 12 SCC 564,** it is ruled as under;

"8…A Judge cannot think in terms of "what pleases the Prince has the force of law". Frankly speaking, the law does not allow so, for law has to be observed by requisite respect for law.

11. *In Shiv Mohan Singh v. State (UT of Delhi) [Shiv Mohan Singh v. State (UT of Delhi), (1977) 2 SCC 238 : 1977 SCC (Cri) 324] , the Court has observed: (SCC p. 239, para 2)*

"2. … 'a Judge even when he is free, is still not wholly free; he is not to innovate at pleasure; he is not a knight-errant roaming at will in pursuit of his own ideal of beauty or of goodness; he is to draw inspiration from consecrated principles'."

12. *In this context, we may refer with profit the authority in Om Prakash Chautala v. Kanwar Bhan [Om Prakash Chautala v. Kanwar Bhan, (2014) 5 SCC 417] wherein it has been stated: (SCC p. 426, para 19)*

"19. It needs no special emphasis to state that a Judge is not to be guided by any kind of notion. The decision-making process expects a Judge or an adjudicator to apply restraint, ostracise perceptual subjectivity, make one's emotions subservient to one's reasoning and think dispassionately. He is expected to be guided by the established norms of judicial process and decorum."

And again: (SCC p. 426, para 20)

"20. A Judge should abandon his passion. He must constantly remind himself that he has a singular master "duty to truth" and such truth is to be arrived at within the legal parameters. No heroism, no rhetorics."

13. *In Dwarikesh Sugar Industries Ltd. v. Prem Heavy Engg. Works (P) Ltd. [Dwarikesh Sugar Industries Ltd. v. Prem Heavy Engg. Works (P) Ltd., (1997) 6 SCC 450] , the three-Judge Bench observed: (SCC p. 463, para 32)*

"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."

14. *The aforestated thoughts are not only meaningfully pregnant but also expressively penetrating. They clearly expound the role of a Judge, especially the effort of understanding and attitude of judging. A Judge is expected to abandon his personal*

*notion or impression gathered from subjective experience. The process of adjudication lays emphasis on the wise scrutiny of materials sans emotions. A studied analysis of facts and evidence is a categorical imperative. Deviation from them is likely to increase the individual gravitational pull which has the potentiality to take justice to her coffin.**"***

9. *In this context, we may note the eloquent statement of Benjamin Cardozo who said:*

"The Judge is not a knight-errant roaming at will in pursuit of his own ideal of beauty and goodness."

10. *In this regard, the profound statement of Felix Frankfurter [Clark, Tom C., "Mr Justice Frankfurter : A Heritage for all Who Love the Law", 51 ABAJ 330 at p. 332 (1965)] is apposite to reproduce:*

*"For the highest exercise of judicial duty is to subordinate one's personal pulls and one's private views to the law of which we are all guardians—**those impersonal convictions that make a society a civilized community, and not the victims of personal rule.**"*

The learned Judge has further stated ["Foreword, to Memorial Issue for Robert H. Jackson", 55 Columbia Law Review (April 1955) p. 436] :

"What becomes decisive to a Justice's functioning on the Court in the large area within which his individuality moves is his general attitude toward law,

the habits of the mind that he has formed or is capable of unforming, his capacity for detachment, his temperament or training for putting his passion behind his judgment instead of in front of it. The attitudes and qualities which I am groping to characterize are ingredients of what compendiously might be called dominating humility."

9. Action of Departmental enquiry as per 'In-House-Procedure' required against Contemnor Judges as per law laid down in **Somabhai Patel (2001) 5 SCC 65 and in Additional District and Sessions Judge 'X' (2015) 4 SCC 91, K. K. Dhawan (1993) 2 SCC 56.**

9.1. In **Smt. Prabha Sharma Vs. Sunil Goyal (2017) 11 SCC 77,** it is ruled as under;

"*Article 141 of the Constitution of India - disciplinary proceedings against Judge for not following the Judgments of the High Court and Supreme Court - judicial officers are bound to follow the Judgments of the High Court and also the binding nature of the Judgments of this Court in terms of Article 141 of the Constitution of India. We make it clear that the High Court is at liberty to proceed with the disciplinary proceedings and arrive at an independent decision.****"***

9.2. That, Hon'ble Supreme Court in the case of Somabhai Patel (supra) has observed that the level of understanding of a Judge has effect on many litigants and a departmental enquiry is required to be conducted against such Judge. It is ruled a s 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.''***

9.3. That in the case of **Additional District and Sessions Judge 'X' (2015) 4 SCC 91,** it is ruled that the enquiry of the High Court and Supreme Court Judges be conducted as per the 'In-House-Procedure'. It is observed as under;

> ***"53.*** *It is essential for us to record a finding even on the last contention advanced at the hands of the learned counsel. We say so, because according to the learned counsel for the petitioner, it would not be proper, in the facts and circumstances of this case, to reinitiate the process expressed in the "in-house procedure", through the Chief Justice of the High Court. It seems to us, that there is merit in the instant contention. Undoubtedly, the Chief Justice of the High Court has adopted a position, in respect of some aspects of the matter, contrary to the position asserted by the petitioner. Truthfully, even though these facts do not have any direct bearing on the allegations levelled against respondent no. 3, yet when examined*

dispassionately, ***the fact of the matter is that the Chief Justice of the High Court, personally perceived certain facts differently. These facts are personal to the Chief Justice of the High Court, namely, whether attempts were made by the petitioner to meet the Chief Justice of the High Court,*** *and whether he declined such attempts.* ***In the above view of the matter, we are of the considered view, that it may not be appropriate, in the facts and circumstances of the present case, to associate the Chief Justice of the High Court with the investigative process****. It is not as if, there is any lack of faith, in the Chief Justice of the High Court. It is also not as if, there is any doubt in our mind, about the righteousness of the Chief Justice of the High Court. The issue is that of propriety. To the credit of the Chief Justice of the High Court, we may also observe, that he may have adopted the present procedure, just for the reasons indicated above, namely, to keep himself out of the fact finding process, so as to arrive at a fair and just decision. But that is inconsequential. We are accordingly further satisfied in concluding, that following the "in-house procedure" strictly by associating the Chief Justice of the concerned High Court, would not serve the contemplated purpose, insofar as the present controversy is concerned.*

55. *In view of the consideration and the findings recorded hereinabove, we may record our general conclusions as under:*

(i) The "in-house procedure" framed by this Court, consequent upon the decision rendered in C. Ravichandran Iyer's case (supra) can be adopted, to examine allegations levelled against Judges of High Courts, Chief Justices of High Courts and Judges of the Supreme Court of India.

(ii) The investigative process under the "in-house procedure" takes into consideration the rights of the complainant, and that of the concerned judge, by adopting a fair procedure, to determine the veracity of allegations levelled against a sitting Judge. At the same time, it safeguards the integrity of the judicial institution.

(iii) Even though the said procedure, should ordinarily be followed in letter and spirit, the Chief Justice of India, would have the authority to mould the same, in the facts and circumstances of a given case, to ensure that the investigative process affords safeguards, against favouritism, prejudice or bias.

(iv) In view of the importance of the "in-house procedure", it is essential to bring it into public domain. The Registry of the Supreme Court of India, is accordingly directed, to place the same on the official website of the Supreme Court of India.

9.4. In **K. K. Dhawan (1993) 2 SCC 56,** it is ruled as under;

> "*If any Judge acts negligently or recklessly or in order to confer undue favour on a person is not acting as a Judge. And he can be proceeded for passing unlawful order apart from the fact that the order is appealable. Action for violation of Conduct Rules is must for proper administration.*
>
> *"**28.** Certainly, therefore, the officer who exercises judicial or quasi - judicial powers acts negligently or recklessly or in order to confer undue favour on a person is not acting as a Judge. Accordingly, the contention of the respondent has to be rejected. It is important to bear in mind that in the present case, we are not concerned with the correctness or legality of the decision of the respondent but the conduct of the respondent in discharge of his duties as an officer.* ***The legality of the orders with reference to the nine assessments may be questioned in appeal or revision under the Act. But we have no doubt in our mind that the Government is not precluded from taking the disciplinary action for violation of the Conduct Rules. Thus, we conclude that the disciplinary action can be taken in the following cases:***

(i) Where the officer had acted in a manner as would reflect on his reputation for integrity or good faith or devotion to duty;

(ii)if there is prima facie material to show recklessness or misconduct in the discharge of his duty;

(iii)if he has acted in a manner which is unbecoming of a government servant;

(iv)if he had acted negligently or that he omitted the prescribed conditions which are essential for the exercise of the statutory powers;

(v) if he had acted in order to unduly favour a party-,

(vi) if he had been actuated by corrupt motive however, small the bribe may be because Lord Coke said long ago "though the bribe may be small, yet the fault is great."

"17. In this context reference may be made to the following observations of Lopes, L.J. in Pearce v. Foster.

"If a servant conducts himself in a way inconsistent with the faithful discharge of his duty in the service, it is misconduct which justifies immediate dismissal. That misconduct, according to my view, need not be misconduct in the carrying on of the service of the business. It is sufficient if it is conduct which is

prejudicial or is likely to be prejudicial to the interests or to the reputation of the master, and the master will be justified, not only if he discovers it at the time, but also if he discovers it afterwards, in dismissing that servant."

9.5. In **Umesh Chandra Vs. State of Uttar Pradesh 2006 (5) AWC 4519,** it is ruled as under;

> ***"****If Judge is passing illegal order either due to negligence or extraneous consideration giving undue advantage to the party then that Judge is liable for action in spite of the fact that an order can be corrected in appellate/revisional jurisdiction - The acceptability of the judgment depends upon the creditability of the conduct, honesty, integrity and character of the officer and since the confidence of the litigant public gets affected or shaken by the lack of integrity and character of the Judicial Officer, in such cases imposition of penalty of dismissal from service is well justified*
>
> ***The order was passed giving undue advantage to the main accused - grave negligence is also a misconduct and warrant initiation of disciplinary proceedings -*** *in spite of the fact that an order can be corrected in appellate/revisional jurisdiction but if the order smacks of any corrupt motive or reflects on the integrity of the judicial officer, enquiry can be held .*

JUDICIAL OFFICERS *- has to be examined in the light of a different standard that of other administrative officers. There is much requirement of credibility of the conduct and integrity of judicial officers - the acceptability of the judgment depends upon the creditability of the conduct, honesty, integrity and character of the officer and since the confidence of the litigant public gets affected or shaken by the lack of integrity and character of the judicial officer, in such cases imposition of penalty of dismissal from service is well justified - Judges perform a "function that is utterly divine" and officers of the subordinate judiciary have the responsibility of building up of the case appropriately to answer the cause of justice. "The personality, knowledge, judicial restrain, capacity to maintain dignity" are the additional aspects which go into making the Courts functioning successfully - the judiciary is the repository of public faith. It is the trustee of the people. It is the last hope of the people. After every knock of all the doors fail, people approach the judiciary as a last resort. It is the only temple worshipped by every citizen of this nation, regardless of religion, caste, sex or place of birth because of the power he wields. A Judge is being judged with more strictness than others. Integrity is the hallmark of judicial discipline, apart from others. It is high time the judiciary must take utmost care to see that the*

temple of justice does not crack from inside which will lead to a catastrophe in the justice delivery system resulting in the failure of public confidence in the system. We must remember woodpeckers inside pose larger threat than the storm outside

The Inquiry Judge has held that even if the petitioner was competent to grant bail, he passed the order giving undue advantage of discharge to the main accused and did not keep in mind the gravity of the charge. This finding requires to be considered in view of the settled proposition of law that grave negligence is also a misconduct and warrant initiation of disciplinary proceedings .

The petitioner, an officer of the Judicial Services of this State, has challenged the order of the High Court on the administrative side dated 11.02.2005 (Annex.11) whereby the petitioner has been deprived of three increments by withholding the same with cumulative effect.

The petitioner, while working as Additional Chief Metropolitan Magistrate, Kanpur, granted bail on 29.06.1993 to an accused named Atul Mehrotra in Crime Case No. 3240 of 1992 under Section 420, 467, 468, I.P.C. Not only this, an application was moved by the said accused under Section 239, Cr.P.C. for discharge which was also allowed within 10 days vide order dated 06.08.1993. The said order of discharge

was however reversed in a revision filed by the State According to the prosecution case, the accused was liable to be punished for imprisonment with life on such charges being proved, and as such, the officer concerned committed a gross error of jurisdiction by extending the benefit of bail to the accused on the same day when he surrendered before the Court. Further, this was not a case where the accused ought to have been discharged and the order passed by the officer was, therefore, an act of undue haste.

The then Chief Manager, Punjab National Bank, Birhana Road Branch, Kanpur Nagar made a complaint on the administrative side on 11.11.1995 to the then Hon'ble Chief Justice of this Court. The matter was entrusted to the Vigilance Department to enquire and report. After almost four and half years, the vigilance inquiry report was submitted on 14.03.2002 and on the basis of the same the petitioner was suspended on 30th April, 2002 and it was resolved to initiate disciplinary proceedings against the petitioner. A charge sheet was issued to the petitioner on 6th September, 2002 to which he submitted a reply on 22.10.2002. The enquiry was entrusted to Hon'ble Justice Pradeep Kant, who conducted the enquiry and submitted a detailed report dated 06.02.2002 (Annex-8). A show cause notice was issued to the petitioner along with a copy of the enquiry report to which the petitioner submitted his

reply on 19.05.2004 (Annex.10). The enquiry report was accepted by the Administrative Committee and the Full Court ultimately resolved to reinstate the petitioner but imposed the punishment of withholding of three annual grade increments with cumulative effect which order is under challenge in the present writ petition.

9.6. In **Smt. Justice Nirmal Yadav Vs. C.B.I. 2011 (4) RCR (Criminal) 809)** it is ruled as under;

"*Hon'ble Supreme Court observed:*

Be you ever so high, the law is above you." Merely because the petitioner has enjoyed one of the highest constitutional offices(Judge of a High Court), she cannot claim any special right or privilege as an accused than prescribed under law. Rule of law has to prevail and must prevail equally and uniformly, irrespective of the status of an individual.

The petitioner Justice Mrs. Nirmal Yadav, the then Judge of Punjab and Haryana High Court found to have taken bribe to decide a case pending before her- CBI charge sheeted - It is also part of investigation by CBI that this amount of Rs.15.00 lacs was received by Ms. Yadav as a consideration for deciding RSA No.550 of 2007 pertaining to plot no.601, Sector 16, Panchkula for which Sanjiv Bansal had acquired interest. It is stated that during investigation, it is also revealed that Sanjiv Bansal paid the fare of air tickets

of Mrs. Yadav and Mrs. Yadav used matrix mobile phone card provided to her by Shri Ravinder Singh on her foreign visit. To establish the close proximity between Mrs. Yadav, Ravinder Singh, Sanjiv Bansal and Rajiv Gupta, CBI has given details of phone calls amongst these accused persons during the period when money changed hands and the incidence of delivery of money at the residence of Ms. Nirmaljit Kaur and even during the period of initial investigation - the CBI concluded that the offence punishable under Section 12 of the PC Act is established against Ravinder Singh, Sanjiv Bansal and Rajiv Gupta whereas offence under Section 11 of the PC Act is established against Mrs.Justice Nirmal Yadav whereas offence punishable under Section 120-B of the IPC read with Sections 193, 192, 196, 199 and 200 IPC is also established against Shri Sanjiv Bansal, Rajiv Gupta and Mrs. Justice Nirmal yadav

It has been observed by Hon'ble Supreme Court "Be you ever so high, the law is above you." Merely because the petitioner has enjoyed one of the highest constitutional offices(Judge of a High Court), she cannot claim any special right or privilege as an accused than prescribed under law. Rule of law has to prevail and must prevail equally and uniformly, irrespective of the status of an individual. Taking a panoptic view of all the factual and legal issues, I find

no valid ground for judicial intervention in exercise of inherent jurisdiction vested with this Court. Consequently, this petition is dismissed.

B) In-House procedure 1999 , for enquiry against High Court and Supreme Court Judges - Since the matter pertains to allegations against a sitting High Court Judge, the then Hon'ble Chief Justice of India, constituted a three members committee comprising of Hon'ble Mr.Justice H.L. Gokhale, the then Chief Justice of Allahabad High Court, presently Judge of Hon'ble Supreme Court, Justice K.S. Radhakrishnan, the then Chief Justice of Gujarat High Court, presently, Judge of Hon'ble Supreme Court and Justice Madan B.Lokur, the then Judge of Delhi High Court, presently Chief Justice Gauhati High Court in terms of In-House procedure adopted by Hon'ble Supreme Court on 7.5.1997. The order dated 25.8.2008 constituting the Committee also contains the terms of reference of the Committee. The Committee was asked to enquire into the allegations against Justice Mrs. Nirmal Yadav, Judge of Punjab and Haryana High Court revealed, during the course of investigation in the case registered vide FIR No.250 of 2008 dated 16.8.2008 at Police Station, Sector 11, Chandigarh and later transferred to CBI. The Committee during the course of its enquiry examined the witnesses and recorded the statements

of as many as 19 witnesses, including Mrs.Justice Nirmal Yadav (petitioner),

Ms. Justice Nirmaljit Kaur, Sanjiv Bansal, the other accused named in the FIR and various other witnesses. The Committee also examined various documents, including data of phone calls exchanged between Mrs. Justice Nirmal yadav and Mr.Ravinder Singh and his wife Mohinder Kaur, Mr.Sanjiv Bansal and Mr.Ravinder Singh, Mr.Rajiv Gupta and Mr. Sanjiv Bansal. On the basis of evidence and material before it, the Committee of Hon'ble Judges has drawn an inference that the money delivered at the residence of Hon'ble Ms.Justice Nirmaljit Kasectionur was in fact meant for Ms. Justice Nirmal Yadav."

9.7. In **Justice Shameet Mukharjee Vs. C.B.I. 2003 SCC OnLine Del 821** it is ruled as under;

"Cr. P.C. - Section 439- Accused was a Judge of High Court - Arrested under section 120-B, IPC r/w sec. 7,8,11,12,13 (1) of prevention of corruption Act.- Charges of misuse of power for passing favourable order Petitioner/accused is having relationship with another accused - Petitioner used to enjoy his hospitality in terms of wine and women - 12 days police remand granted but nothing incriminating was found - Petitioner's wife is ill Held petitioner entitled to be released on bail."

9.8. In **Jagat Patel Vs. State of Gujrat 2016 SCC Online Guj 4517** it is ruled as under;

> ***"Two Judges caught in sting opration – demanding bribe to give favourable verdict – F.I.R. registered – Two accused Judges arrested – Police did not file charge-sheet within time – Accused Judges got bail – complainant filed writ for transferring inverstigation.***
>
> *Held, the police did not collected evidence, phone details – CDRS – considering apparent lapses on the part of police, High Court transferred investigation through Anti-Corruption Bureau.*
>
> *A Constitution Bench of this Court in Subramanian Swamy v. Director, Central Bureau of Investigation & Anr. (2014) 8 SCC 682, reiterated that corruption is an enemy of the nation and tracking down corrupt public servants and punishing such persons is a necessary mandate of the Act 1988.*
>
> *Not only this has a demoralising bearing on those who are ethical, honest, upright and enterprising, it is visibly antithetical to the quintessential spirit of the fundamental duty of every citizen to strive towards excellence in all spheres of individual and collective activity to raise the nation to higher levels of endeavour and achievement.*

It encourages defiance of the rule of law and the propensities for easy materialistic harvests, whereby the society's soul stands defiled, devalued and denigrated.

Corruption is a vice of insatiable avarice for self-aggrandizement by the unscrupulous, taking unfair advantage of their power and authority and those in public office also, in breach of the institutional norms, mostly backed by minatory loyalists. Both the corrupt and the corrupter are indictable and answerable to the society and the country as a whole. This is more particularly in re the peoples' representatives in public life committed by the oath of the office to dedicate oneself to the unqualified welfare of the laity, by faithfully and conscientiously discharging their duties attached thereto in accordance with the Constitution, free from fear or favour or affection or ill-will. A self-serving conduct in defiance of such solemn undertaking in infringement of the community's confidence reposed in them is therefore a betrayal of the promise of allegiance to the Constitution and a condemnable sacrilege. Not only such a character is an anathema to the preambular promise of justice, liberty, equality, fraternal dignity, unity and integrity of the country, which expectantly ought to animate the life and spirit of every citizen of this country, but also is an unpardonable onslaught on

the constitutional religion that forms the bedrock of our democratic polity.

Both the Presiding Officers and two staff members were suspended by the Gujarat High Court and a first information report being I-C.R. No. 1 of 2015 came to be registered

The accused-judicial officers preferred Special Criminal Application, seeking a writ of mandamus, which ultimately came to be rejected by this Court on the ground that it was a large scale scam. The Court further observed in its prima facie conclusion that the officers have tarnished the image of the judiciary and the facts of the case are gross and disturbing.

Both the said accused were arrested and produced before the learned District and Sessions Judge. The regular bail application preferred by them came to be rejected and they were sent to the judicial custody. It is alleged that except the evidence furnished by the petitioner, no fresh evidence came to be collected by the respondent No. 2-Investigating Officer. The slipshod manner of investigation of the complaint led the petitioner to approach the High Court.

It is the grievance of the petitioner that due to improper investigation by an incompetent Police Officer, there are many more accused who are roaming freely in the society and no attempts have

been made to arrest the seven advocates who were a part of this corruption racket. It is also their say that in a zeal to protect the erring officer, the remand of both the accused persons has not been sought for. The reason of unaccounted wealth received towards the illegal gratification has not been pressed into service for seeking remand. The deliberate lapse on the part of the respondent No. 2 has jeopardised the audio and video proof which have been tendered. The hard disk which is a preliminary evidence and the CD-a secondary evidence, have been ignored. The charge sheet ought to have been filed within a period of sixty days from the date of the arrest of the accused, which since was not done, it resulted into their release as they both have been given default bail. According to the petitioner, it was the duty of the respondent as well as the Registrar (Vigilance) to check the entire hard disk to find out other and further corrupt practices by the accused persons. Therefore, it is urged that the investigation be carried out by a person having impeccable integrity.

Dealing firstly with the first issue of remand, it is not in dispute that the remand of the accused who both are the judicial officers and allegedly involved in corrupt practice has not been sought for.

From the beginning it is the case of the complainant that the conduct, which has been alleged in the

complaint has brought disrepute to the investigation. It is also his say that huge amount of illegal gratification had been demanded by both the judicial officers in the pending matters and, therefore, to presume that there was no material to seek remand, is found unpalatable. It is an uncontroverted fact that the Vigilance Officer (VO-II), who has filed his affidavit-in-reply, has retired during the pendency of the investigation. While he continued to act as Investigating Officer also, he could have conducted the investigation more effectively and with scientific precision. To be complacent and/or to presume anything while handling serious investigation cannot be the answer to the requirements of law. It though may not be said to be an attempt to save the accused, it surely is an act, which would raise the eye-brows, particularly when the investigation was at a very nascent stage against the judicial officers. Recourse of the society against all kinds of injustice and violation of law when is in the judiciary, all the more care would be essential when judicial officers themselves are alleged of demand of bribe for discharging their duties under the law. Not that remand in every matter is a must to be sought. But, the stand taken by the Investigating Officer to justify his stand leaves much to be desired.

At the time of hearing of this petition, when a specific query was raised as to why the charge sheet was not

filed within the time frame, non-receipt of report from the Forensic Science Laboratory was shown to be one of the strongest grounds

Undoubtedly, in every criminal matter where the investigation is to be completed and the charge sheet is to be laid either within 60 days or 90 days, the report of the Forensic Science Laboratory does not necessarily form the part of the papers of the charge sheet. The Criminal Manual also provides for submission of the Forensic Science Laboratory report if not submitted with the charge sheet, at a belated stage.

It is not a sound reason put forth on the part of the Investigating Officer that the pendency of the Forensic Science Laboratory report had caused delay in filing the charge sheet

Such time limit to place the charge sheet could not have gone unnoticed and that ought not to have furnished a ground for default bail when otherwise these officers were refused bail by the competent Court.

Even when the CD did not reveal giving of illegal gratification, but only demand, how could all other angles of this serious issues be left to the guesswork. To say that after the Special Officer (Vigilance) recorded the statement of the complainant and

collected some material, nothing remained to be collected, is the version of the Investigating Officer wholly unpalatable. After a thorough investigation, he would have a right to say so and the Court if is not satisfied or the complainant finds it unacceptable, he can request for further investigation under section 173(8) of the Code of Criminal Procedure. But, how could an Investigating Officer presume from the tenor of the complaint or the CD sent by the complainant about non-availability of the evidence.

To give only one example, it is unfathomable as to why the Investigating Officer failed to call CDRs in this matter.

In every ordinary criminal matter also, collecting of CDRs is found to be a very useful tool to prove whereabouts of parties and also to link and resolve many unexplained links. CDRs are held to be the effective tool by a Division Bench of this Court in one of the appeals, by holding thus:

"It would be apt to refer to certain vital details CDR, which known as Call detail record as also Call Data record, available on the internet [courtesy Wikipedia]. The CDR contains data fields that describe a specific instance of telecommunication transaction minus the content of that transaction. CDR contains attributes, such as [a] calling party; [b] called party; [c] date and time; [e] call duration; [f] billing phone number

that is charged for the call; [g] identification of the telephone exchange; [h] a unique sequence number identifying the record; [i] additional digits on the called number, used to route the call; [j] result of the call ie., whether the same was connected or not; [k] the route by which call left the exchange; [l] call type [ie., voice, SMS, etc.].

Call data records also serve a variety of functions. For telephone service providers, they are critical to the production of revenue. For law enforcement, CDRs provide a wealth of information that can help to identify suspects, in that they can reveal details as to an individual's relationships with associates, communication and behavior patterns and even location data that can establish the whereabouts of an individual during the entirety of the call. For companies with PBX telephone systems, CDRs provide a means of tracking long distance access, can monitor telephone usage by department; including listing of incoming and outgoing calls.

In a simpler language, it can be said that the technology can be best put to use in the form of CDRs which contains data fields describing various details, which also includes not only the phone number of the subscriber originating the call and the phone number receiving such call etc., but, the details with regard to the individual's relationships with associates, the

behavior patterns and the whereabouts of an individual during the entirety of the call.

The whole purpose of CDR is not only to establish the number of phone calls which may be a very strong circumstance to establish their intimacy or behavioral conduct. Beyond that, such potential evidence also can throw light on the location of the mobile phone and in turn many a times, the position and whereabouts of the person using them with the aid of mobile phone tracking and phone positioning, location of mobile phone and its user is feasible. As the mobile phone ordinarily communicates wirelessly with the closest base station. In other words, ordinarily, signal is made available to a mobile phone from the nearest Mobile tower. In the event of any congestion or excessive rush on such mobile tower, there is an inbuilt mechanism of automatic shifting over to the next tower and if access is also not feasible there, to the third available tower. This being largely a scientific evidence it may have a material bearing on the issue, and therefore, if such evidence is established scientifically before the Court concerned, missing link can be provided which more often than not get missed for want of availability of credible eye-witnesses. We have noticed that in most of the matters these days, scientific and technical evidence in the form of Call Data Record is evident. However, its better and further use for the purpose of revealing and

establishing the truth is restricted by not examining any witness nor bringing on record the situation of the mobile towers. Such kind of evidence, more particularly in case of circumstantial evidence will be extremely useful and may not allow the truth to escape, as the entire thrust of every criminal trial is to reach to the truth."

25. With the nature of direct allegations of demand of illegal gratification by the judicial officers for disposition of justice, they would facilitate further investigation and also may help establishing vital links. No single reason is given for not collecting the CDRs during the course of investigation of crime in question.

This Court has exercised the power to transfer investigation from the State Police to the CBI in cases where such transfer is considered necessary to discover the truth and to meet the ends of justice or because of the complexity of the issues arising for examination or where the case involves national or international ramifications or where people holding high positions of power and influence or political clout are involved.

The Apex Court in the said decision further observed that the purpose of investigation is to reach to the truth in every investigation. For reaching to the truth and to meet with the ends of justice, the Court can

exercise its powers to transfer the investigation from the State Police to the Central Bureau of Investigation. Such powers are to be exercised sparingly and with utmost circumspection.

In Sanjiv Kumar v. State of Haryana and Others (2005) 5 SCC 517, where this Court has lauded the CBI as an independent agency that is not only capable of but actually shows results:

CBI as a Central investigating agency enjoys independence and confidence of the people. It can fix its priorities and programme the progress of investigation suitably so as to see that any inevitable delay does not prejudice the investigation of the present case. They can think of acting fast for the purpose of collecting such vital evidence, oral and documentary, which runs the risk of being obliterated by lapse of time. The rest can afford to wait for a while. We hope that the investigation would be entrusted by the Director, CBI to an officer of unquestioned independence and then monitored so as to reach a successful conclusion; the truth is discovered and the guilty dragged into the net of law. Little people of this country, have high hopes from CBI, the prime investigating agency which works and gives results. We hope and trust the sentinels in CBI would justify the confidence of the people and this Court reposed in them.

Mere glance at these two documents also prima facie reveal hollowness of the investigation in criminal matter and this Court is further vindicated by these materials that the matter requires consideration.

It is certainly a case where the investigation requires to be conducted by a specialised agency which is well equipped with manpower and other expertise.

Some of the aspects where the said officer Ms. Rupal Solanki, Assistant Director, Anti-Corruption Bureau, needs to closely look at and investigate are:

"(i) The collection of CDRs of the accused and all other persons concerned with the crime in question.

(ii) Non-recordance of any statements of advocates and litigants by the then Investigating Officer except those which had been recorded by the Special Officer (Vigilance) at the time of preliminary investigation.

(iii) Investigation concerning various allegations of demand of illegal gratification by both the judicial officers and the details which have been specified in the CD, as also reflected in the imputation of charges for the departmental proceedings.

(iv) The issue of voice spectography in connection with the collection of the voice sample in accordance with law.

(v) The examination of hard disk/CPU by the Forensic Science Laboratory, which is in possession of the petitioner.

(vi) Investigation against all other persons who are allegedly involved in abetting this alleged crime of unpardonable nature.

(vii) All other facets of investigation provided under the law, including disproportionate collection of wealth which she finds necessary to reach to the truth in the matter."

9.9. Therefore, it is just and necessary that, this Hon'ble Court may be pleased to direct the Secretary General of the Supreme Court to place the matter before Hon'ble Chief Justice of India for taking a decision as per 'In-House-Procedure'

10. Offences under Indian Penal Code which are attracted against Contemnor Judges:-

10.1. 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.

10.2. 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 rebust then 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.

10.3. 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/

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

Link:

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

10.5. 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

10.6. 140 Research Studies Affirm Naturally Acquired Immunity to Covid-19.

Link:

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

10.7. 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

10.8. 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.

10.8.1. 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

10.8.2. 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.'

10.8.3. 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.

10.8.4. 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

10.9. A majority of gravely ill patients in Israel are double vaccinated. A majority of deaths over 50 in England are also double vaccinated.

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

10.10. 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

10.11. 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

10.12. 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

"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"

10.13. 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

10.14. 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"

10.15. 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."

10.16. 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

10.17. 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

10.18. 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

10.19. As per sero-survey in India there are more than 67% people, who have developed antibodies and having natural immunity.

10.20. 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.

10.21. 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.

10.22. 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."

10.23. 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 cour"*

"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.*

11. As per law settled by the Full Bench in **Nandini Satpathy Vs. P.L. Dani (1978) 2 SCC 424,** the Court's order having impact on fundamental rights of the citizen should not be followed by the authorities and police officers.

11.1. That, the Full Bench of this Hon'ble Court in the case of **Nandini Satpathy *(Supra)*** made it clear that, even if it is an order of a Court then

also the Police Officer or any other officer should not follow it, if the order is against the statutory provisions and having effect of violating the fundamental rights of the citizen.

It is ruled as under;

> ***"11.*** *This formulation does focus our attention on the plural range of jural concerns when a court is confronted with an issue of testimonial compulsion followed by a prosecution for recusancy. Preliminarily, let us see the requirements of Section 179 IPC since the appeals directly turn on them. The rule of law becomes a rope of sand if the lawful authority of public servants can be defied or disdained by those bound to obey. The might of the law, in the last resort, guarantees the right of the citizen, and no one, be he minister or higher, has the discretion to disobey without running a punitive risk. Chapter X of the Penal Code, 1860 is designed to penalise disobedience of public servants exercising lawful authority. Section 179 is one of the provisions to enforce compliance when a public servant legally demands truthful answers but is met with blank refusal or plain mendacity. The section reads:*
>
> *"179. Whoever, being legally bound to state the truth on any subject to any public servant refuses to answer any question demanded of him touching that subject by such public servant in the exercise of the legal powers of such public servant, shall be punished with*

simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both."

11.2. It is for the very reason that the orders are illegal, per-incuriam and not enforceable as the court has not considered the mandatory statutory provisions, rules or case laws. **[Sandeep Kumar Bafna Vs. State of Maharashtra (2014) 16 SCC 623, Mamleshwar Prasad Vs. Kanhaiya La (1975) 2 SCC 232, State of M.P. Vs. Narmada Bachao Andolan (2011) 7 SCC 639].**

11.3. This law is squarely applicable to any orders of the Courts which are promoting forceful vaccination or promoting discrimination on the basis of their vaccination status which is violative of **Article 14, 19 & 21** of the constitution of India and also violative of mandatory provisions of laws and case laws, which are as under;

i) Common Cause Vs. Union of India **(2018) 5 SCC 1.**

ii) Re: Dinther Vs. State of Mizoram **2021 SCC OnLine Gau 1313.**

iii) Registrar General, High Court of Meghalaya Vs. State of Meghalaya **2021 SCC OnLine Megh 130.**

iv) Universal Declaration on Bioethics & Human Rights, 2005.

"Article 11 – Non-discrimination and non-stigmatization

*No individual or group should be discriminated against or stigmatized on any grounds, in violation of human dignity, human rights and fundamental freedoms.***"**

v) International Covenant on Civil & Political Rights.

"Article 7

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.**"**

vi) Obsert Khaling Vs. State of Manipur **2021 SCC OnLine Mani 234.**

vii) A. Varghese Vs. Union of India **2020 SCC OnLine Kar 2825.**

viii) Montgomery's case **[2015] UKSC 11**

xi) Airedale NHS Trust v Bland **(1993) 2 WLR 316.**

12. Role played by Contemnor No. 3 & 4 i.e. Adv. General Shri. A. Kumar & Addl. Sr. G.A. Shri. S. Sengupta:-

12.1. 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.

12.2. 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.

12.3. 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."***

12.4. 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."

12.5. 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."***

12.6. 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."

12.7. 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.''

12.8. 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.**"

13. **PRAYER:** It is therefore humbly prayed for;

i) To hold that the Contemnor No. 1 & 2 **Shri. Justice Sanjib Banerjee and Shri. W. Diengdoh** have acted in utter disregard, deliberate defiance and wilful 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 6th & 16th 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

Date: 20.12.2021
Place: New Delhi