

**IN THE SUPREME COURT OF INDIA
INHERENT JURISDICTION**

**SUO MOTU CONTEMPT PETITION(CIVIL) NO(S). 3 OF
2023**

**IN RE: CONTEMPT AGAINST
UPENDRA NATH DALAI**

**WITH
REVIEW PETITION(C) NO(S). OF 2025
(DIARY NO(S). 48021 OF 2023)
IN
SUO MOTU CONTEMPT PETITION(CIVIL) NO(S). 3 OF
2023 IN ORDER DATED 09.10.2023 IN MA NO(S).
1640 OF 2023 IN WP(C) NO(S). 875 OF 2022**

O R D E R

**SUO MOTU CONTEMPT PETITION (CIVIL) NO(S). 3 OF
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1. The instant *suo motu* contempt petition was directed to be registered against Upendra Nath Dalai (alleged contemnor) *vide* order dated 7th August, 2023, for non-compliance of an order dated 5th December, 2022 passed by this Court, in Miscellaneous Application No(s). 1640 of 2023 arising

out of Writ Petition (Civil) No. 875 of 2022, wherein this Court had dismissed the said writ petition and directed the alleged contemnor to deposit Rs. 1 Lakh (Rupees one Lakh only) with the Registry of this Court within four weeks from the date of the said order.

2. Initially, *vide* Order dated 7th August, 2023, only proceedings for civil contempt were drawn against the alleged contemnor for his failure to deposit the cost of Rs.1 Lakh in terms of the order dated 5th December, 2022. However, owing to subsequent developments, including the abscondence of the alleged contemnor, despite the service of summons and bailable warrants issued by this Court and the use of contemptuous language by the alleged contemnor in his reply, this Court *vide* order dated 18th March, 2024, charged him for civil contempt as well as criminal contempt in the following terms:-

“9. In the said circumstances, we charge him for:

- i) the civil contempt of this Court for non-payment of the cost imposed by this Court and explain why contempt proceedings should not be initiated against him for recovery of the amount of cost imposed by this Court as arrears of land revenue.
- ii) The petitioner is also charged for criminal contempt of this court for making contemptuous statements in filing his email reply on 5.9.2023 and subsequent reply dated 13.3.2024 whereunder he scandalized and lowered the authority of this Court.”

3. The alleged contemnor, who had been arrested pursuant to the non-bailable warrant, was directed to be released on bail by the very same order i.e., 18th March, 2024. The alleged contemnor, thereafter, moved an application [IA No. 239379 of 2023], seeking liberty to argue the matter in person, which was allowed by this Court.

4. The alleged contemnor has filed a reply to the contempt notice, wherein he has prayed for registration of a curative petition in connection with the disposed of Writ petition (Civil) No. 875 of 2022. Even in his reply, the alleged contemnor stuck to his adamant and recalcitrant conduct. The alleged

contemnor has deliberately used derogatory language for the judicial department and the Registry of the Supreme Court, alleging that the curative petition filed by him has been disposed of in violation of his fundamental rights.

5. To give context, the relevant extracts from the reply of the alleged contemnor are reproduced hereinbelow: -

“1. Conspiracy by the Judicial Department

(a) My Lord, according to the order dt. on 05/12/2022 I filed a WP(C) PIL No. 875/2022 before the supreme court of India which is dismissed with fine Rs. 1 Lac. Then I filed a RP(C) No. 2 of 2023 in WP(C) No. 875 of 2022 against said order which was dismissed on 01/02/2023. My Lord, after the dismissal of the review petition (C) No. 2 of 2023, I have once again filed a curative petition for challenging the said order on 08/02/2023 whose Dairy no. is 5829 of 2023.

(b) But sad thing is that my lord, your registry department of your court is ignoring to the registration of my curative petition and illegally done disposed off. That is the violated of the fundamental rights to justice of the petitioner. And it is directed violated of the supreme court

rules read order XLV III of the supreme court of India.

(c) My lord after that the court is filed M.A. No. 1640 of the 2023 by the SUO MOTO CONTEMPT PETITION CIVIL for seeking in order to initiate the contempt proceedings as non- payment of Rs. 1 Lac penalty against the petitioner. **It is fully conspiracy of the judicial department, my lord.**

(d) Then the order issued by the court in M.A. NO. 1640 of 2023 to initiate the contempt of court proceedings against the petitioner dated on 7.08.2023. After that, the court filed suo-moto contempt petition civil case No. 3 of 2023 in order dated 7.08.2023 in M.A. No. 1640 of 2023 in WP(C) No. 875 of 2022 to decide the petitioner as contemnor which is illegal process of the court, my Lord.

(e)..

(f) My Lord, surprisingly the court sent me a notice to attend the DOH of contempt of court proceedings in Suo-Moto contempt petition civil case No. 3 of 2023 dated on 09.10.2023. So then I replied through E-mail as details:- **“I decline to appear in court in this matter as per this case No. because this is a useless Notice from you to me. This is a disrespectful art of yours towards me. Because of the contempt Notice, you issued to me is baseless.** I have filed an M.A. Case seeking stay against the contempt proceedings passed by the Hon'ble court whose diary No. is 35394 of 2023. It has filed on 28.08.2023. You have knowingly disregarded the Constitution of India and unfairly this Notice to me on 23.01.2023, when I had no defect in my M.A. file. Is it worth it? So first you registered my

M.A. File, and then Notice will be posted as per time. I will then be present at the Hon'ble court.

Therefore, the Hearing of this Case is requested to be quashed." As the Notice was illegal so this statement of mine is justified.

The Copy of Notice dated on 01.09.2023 issued by the additional Registrar of Supreme Court Of India and reply of the Notice issued by the petitioner is enclosed herewith as an Annexure P1. (Pages 13 to 15).

(emphasis supplied)

6. In addition to the above pleadings, which are derogatory and demeaning on the face of it, the alleged contemnor has harped upon the review petition which he had filed against the order dated 9th October, 2023 of this Court, whereby the Court issued a bailable warrant against him. The alleged contemnor has alleged in his reply that the order dated 7th August 2023, passed by this Court, has been made with the intent to illegally and forcibly brand him (Upendra Nath Dalai) as a contemnor in an unconstitutional manner. The alleged contemnor has also raised some irrelevant contentions regarding

the place he was housed after being arrested by the police in pursuance of the non-bailable warrant. He has finally prayed for initiation of proceedings against the Registrar of the Court for not registering his curative petition against the order dated 1st February, 2023, whereby the Review Petition (Civil) No. 2 of 2023 in Writ Petition (Civil) No. 875 of 2022, was dismissed.

7. The blatant stance of the alleged contemnor, in refusing to appear in the Court despite service of notice and branding the order of this Court to be disrespectful and useless, establishes the contemptuous conduct of the contemnor.

8. It is also pertinent to note that this Court, on multiple occasions, inquired from the alleged contemnor whether he required any legal assistance/representation. However, he repeatedly

and unequivocally declined the same, asserting that he did not need any legal assistance/representation and would defend the proceedings on his own.

9. When the contempt petition was taken up for final hearing on 20th May, 2025, the alleged contemnor was apprised of the charges framed against him by this Court and the fact that he had failed to deposit the cost of Rs. 1 Lakh imposed upon him by this Court *vide* order dated 5th December 2022. This Court also apprised the alleged contemnor regarding the derogatory and scandalous language used by him in his response to the contempt notice. He was also apprised about his obstinate attitude, his refusal to appear before the Court and his disparaging remarks branding the notice issued by this Court to be useless and disrespectful.

10. We are of the opinion that the alleged contemnor has crossed all limits of acceptable behaviour and has intentionally and deliberately flouted this Court's order dated 5th December, 2022. Not only this, upon issuance of the contempt notices, the alleged contemnor blatantly refused to appear in the Court and also used derogatory and disrespectful language in his reply against the order dated 7th August, 2023, passed by this Court whereby notice of contempt was issued to him. Even while appearing in Court, he has neither shown any remorse nor has he made any attempt to repent or apologise for his blatant contumacious conduct. Rather, he has continuously tried to justify the same.

11. The plea raised by the alleged contemnor, in his reply, that the contempt proceedings cannot be heard till the curative petition is taken up by this Court, is absolutely misconceived.

12. The alleged contemnor cannot claim any right to have his curative petition taken up in priority over the contempt proceedings. The proceedings of contempt are unquestionably independent of the curative petition, if any. The alleged contemnor has further aggravated the precarious position flowing from his conduct by filing the reply containing crass and disrespectful language in response to the contempt notice issued by this Court.

13. It is a well settled position of law that under Article 129 of the Constitution of India, this Court being a Court of Record, shall have the power to punish for contempt of itself. The power of the Supreme Court to punish for contempt is not limited and confined to the procedure under the Contempt of Courts Act, 1971. It is within the constitutional power of this Court to consider the contumacious acts of a contemnor and to punish him/her/them for

the same. This very constitutional power cannot be taken away in any manner abridged by statute. In this regard, a reference may be made to ***Pallav Sheth v. Custodian and Others***¹, wherein this Court held as below: -

“30. There can be no doubt that both this Court and High Courts are courts of record and the Constitution has given them the powers to punish for contempt. The decisions of this Court clearly show that this power cannot be abrogated or stultified. But if the power under Article 129 and Article 215 is absolute, can there by any legislation indicating the manner and to the extent that the power can be exercised? If there is any provision of the law which stultifies or abrogates the power under Article 129 and/or Article 215, there can be little doubt that such law would not be regarded as having been validly enacted. It, however, appears to us that providing for the quantum of punishment or what may or may not be regarded as acts of contempt or even providing for a period of limitation for initiating proceedings for contempt cannot be taken to be a provision which abrogates or stultifies the contempt jurisdiction under Article 129 or Article 215 of the Constitution.”

¹ (2001) 7 SCC 549.

14. The above principles were reiterated in **Re: Vijay Kurle and Others**², wherein this Court noted that:-

“39. The aforesaid finding clearly indicates that the Court held that any law which stultifies or abrogates the power of the Supreme Court under Article 129 of the Constitution or of the High Courts under Article 215 of the Constitution, could not be said to be validly enacted. It however, went on to hold that providing the quantum of punishment or a period of limitation would not mean that the powers of the Court under Article 129 have been stultified or abrogated. We are not going into the correctness or otherwise of this judgment but it is clear that this judgment only dealt with the issue whether the Parliament could fix a period of limitation to initiate the proceedings under the Act. Without commenting one way or the other on Pallav Seth's case (supra) it is clear that the same has not dealt with the powers of this Court to issue suo motu notice of contempt.

40. In view of the above discussion we are clearly of the view that the powers of the Supreme Court to initiate contempt are not in any manner limited by the provisions of the Act. **This Court is vested with the constitutional powers to deal with the contempt. Section 15 is not the source of the power to issue notice for contempt. It only provides the procedure in which such contempt is to be initiated and this procedure provides that there are three ways of initiating a contempt - (i) suo motu (ii) on the motion by the Advocate**

² (2021) 13 SCC 616.

General/Attorney General/Solicitor General and (iii) on the basis of a petition filed by any other person with the consent in writing of the Advocate General/Attorney General/Solicitor General. As far as suo motu petitions are concerned, there is no requirement for taking consent of anybody because the Court is exercising its inherent powers to issue notice for contempt. This is not only clear from the provisions of the Act but also clear from the Rules laid down by this Court.”

(emphasis supplied)

15. Considering the above position of law and background of the case, we hereby hold that both the charges, i.e., for civil contempt and criminal contempt, have been established against the alleged contemnor, who is hereby convicted for the contempt punishable under Article 129 of the Constitution of India read with Section 12 of the Contempt of Courts Act, 1971.

16. Let the matter be listed on 22nd July, 2025 for hearing the contemnor on the aspect of sentence.

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17. Delay condoned.

18. This review petition has been filed by the petitioner-Upendra Nath Dalai seeking recalling of the order dated 9th October 2023, whereby bailable warrant was issued in the sum of Rs.20,000/- for the production of petitioner before this Court on 21st November, 2023. However, by way of subsequent developments, owing to the non-appearance of the petitioner despite due service of the bailable warrant, this Court *vide* order dated 23rd January, 2024, issued a non-bailable warrant against him, which had been executed and thereafter the petitioner-Upendra Nath Dalai has been enlarged on bail *vide* order dated 18th March, 2024.

19. We feel that the review petition is *de hors* because admittedly the petitioner-Upendra Nath Dalai failed to appear before this Court inspite of service of notice and the service of theailable warrant and hence the direction to secure his presence by coercive means was absolutely essential.

20. Even otherwise, theailable warrant having been aggravated to non-ailable warrant was subsequently executed. Thus, nothing survives for consideration of this Court in this review petition.

21. Hence, the review petition is dismissed as being devoid of merit.

22. Pending application(s), if any, shall stand disposed of.

.....J.
(SANJAY KAROL)

.....J.
(SANDEEP MEHTA)

**NEW DELHI;
JULY 15, 2025**