

**IN THE HIGH COURT AT CALCUTTA**  
**APPELLATE SIDE**

PRESENT:

**THE HON'BLE JUSTICE DEBANGSU BASAK**

**THE HON'BLE JUSTICE ARINDAM MUKHERJEE**

**WPA 9313 OF 2019**

**With**

**IA No. CAN 5 of 2019 (Old No. : CAN 9951 of 2019),  
CAN 6 of 2019 (Old NO. : CAN 9952 of 2019), CAN 7 of 2019 (Old  
No.: CAN 12425 of 2019), CAN 8 of 2020 (Old No.: CAN 511 of  
2020), CAN 9 of 2022**

**THE COURT ON ITS OWN MOTION**

**VERSUS**

**REGISTRAR GENERAL, CALCUTTA HIGH COURT & ORS.**

**Appearance :**

**For the for the Howrah Bar  
Association :**

*Mr. Jayanta Kumar Mitra, Ld. Sr. Advocate  
Mr. SaptangsuBasu, Ld. Sr. Advocate  
Mr. Subhasis Chakraborty, Advocate  
Mr. ArindamGanguli, Advocate  
Ms. SushmitaKumari Singh, Advocate*

**For the for the State :**

*Mr. Kishore Dutta, Ld. Advocate General  
Mr. T.M. Siddiqui, Ld. AGP  
Mr. Suddhadev Adak, Advocate*

**For the High Court  
Administration :**

*Mr. JaydipKar, Ld. Sr. Advocate  
Mr. Siddhartha Bannerjee, Advocate*

**For the respondent  
nos.9,12,16 to 20 :**

*Mr. Siddharth Agarwal, Ld. Sr. Advocate  
Mr. Rana Mukherjee, Advocate  
Mr. L. Vishal Kumar, Advocate  
Mr. Tanoy Chakraborty, Advocate  
Mr. Musharof Hossain, Advocate*

**For Tanushree Das :**

*Ms. Karabi Ray, Advocate*

**For the Howrah Municipal  
Corporation :**

*Mr. Sandipan Banerjee, Advocate*

**For the Union of India :** *Mr. S. Roy Chowdhury, Advocate*  
**Last Heard on** : **21st FEBRUARY, 2025.**  
**Judgment on** : **2nd MAY, 2025.**

**Arindam Mukherjee, J.**

Before considering the prayer of the applicants in CAN 9 of 2022, the facts of the case in brief are narrated hereinbelow for convenience.

**FACTS OF THE CASE:**

In terms of the direction given by the Hon'ble the Chief Justice, after perusing the report of the Commissioner of Police, Howrah forwarded by the Chief Secretary of the Government of West Bengal with its comments therein and the separate reports filed by the District Judge, Howrah and the Chief Judicial Magistrate, Howrah directed the file relating to the matters in connection with certain untoward incidents which have taken place in and around the Howrah Sardar Court in the Judicial side.

1. The applications being CAN 5 of 2019 (old no. CAN 9951 of 2019), CAN 6 of 2019 (old no. CAN 9952 of 2019), CAN 7 of 2019 (old no. CAN 12425 of 2019), CAN 8 of 2020 (old no. CAN 511 of 2020) and CAN 9 of 2022 along with the main writ petition being WPA 9313 of 2019 are taken up for consideration.
2. CAN 5 of 2019 (old no. CAN 9951 of 2019) is an application filed by 17 applicants who wanted themselves to be added as party respondents in

the writ petition being WPA 9313 of 2019. This application was filed on 26<sup>th</sup> September, 2019. The applicants are the permanent and temporary staff of Howrah Municipal Corporation (in short 'HMC').

- 3.** CAN 6 of 2019 (old no. CAN 9952 of 2019 ) is an application filed by 17 applicants who are permanent and temporary staff of 'HMC', inter alia, for stay of all proceedings arising out of the First Information Report and complainant cases relating to the incident dated 24<sup>th</sup> April, 2019.
- 4.** CAN 7 of 2019 (old no. CAN 12425 of 2019 ) is an application filed by Dr. V.S.R. Anjaneyulu one of the accused police officer in connection with the incident occurred on 24<sup>th</sup> April, 2019 in an round the premises of Howrah District Sadar Court complex. By the said application the applicant who was the Deputy Commissioner South Zone-II, Howrah Police Commissionarate at the time of the incident dated 24<sup>th</sup> April, 2019 prayed for stay of all further proceedings in complaint case filed against the applicant and other police officials before the learned Chief Judicial Magistrate, Howrah in connection with the incident dated 24<sup>th</sup> April, 2019. This application was filed on 18<sup>th</sup> December, 2019.
- 5.** CAN 8 of 2020 (old no. 511 of 2020) is an application filed by the accused police officials who were respectively added as respondent nos. 9, 16, 17, 18, 12, 19 and 20 in the writ petition. By this application, the applicants prayed for soft copies inpendrives containing video, audio and pictorial content and hard copies of printed photocopies as referred to in the report of the One-Man Enquiry Commissioner and the written

arguments and submissions made by all parties before the Commissioner.

- 6.** CAN 9 of 2022 is an application by the representatives of Howrah Bar Association inter alia for substitution and for implementation of the directions given by the Commission in its report dated 23<sup>rd</sup> December, 2019.
- 7.** This application has been filed on 8<sup>th</sup> December, 2020. The applicants in CAN 8 of 2020 have been given inspection of all the records and copies thereof. This application therefore has spent its force.
- 8.** The application being CAN no. 5, 6, and 7 does not fall for further consideration at this stage.
- 9.** The germane application, therefore, is CAN 9 of 2022 wherein the representatives of the Howrah Bar Association has sought for implementation of the directions which includes certain findings on the basis whereof the directions were given.
- 10.** The matter was considered in the Special Jurisdiction under Articles 226 and 227 of the Constitution of India and was suo moto registered as a writ petition being number 9313(w) 2019. In the said writ petition, by an order dated 22<sup>nd</sup> May, 2019 the Hon'ble Justice KalyanJyotiSengupta, former Chief Justice of Andhra High Court was appointed as One-Member Judicial Commissioner to enquire upon and file a report before the appropriate Bench on seven issues framed by the

court in the said order. The One-Member Judicial Enquiry Commissioner filed its report on 23<sup>rd</sup> December, 2019.

**Submission of the applicants in CAN 9 of 2022:**

1. Relying upon the report of the Enquiry Commissioner, the applicants in CAN 9 of 2022 has prayed for this Court to take cognizance of criminal contempt and initiate proceeding on its own motion against the respondents no. 9, 16, 17, 18, 12, 19 and 20.
2. The applicants in support of their contention has relied upon the judgments reported in **(1991) 4 SCC 406, (1952) SCC ONLINE SC 9, AIR 64 CAL 572, (2012) 7 SCC 389, (2014) 12 SCC 344, (1986) SCC ONLINE KERALA 212.**
3. Referring to the report and in particular to a portion of paragraph 17 of the said report dealing with issue no. (iii), the applicants say that there is a clear finding that the act of the accused police officials on 24<sup>th</sup> April, 2019 had hampered the judicial work of the Court on that day which amounts to interference with the administration of justice and thereby attracts the provision of Section 2 (c) (iii) of The Contempt of Courts Act, 1971 (hereinafter referred to as the '1971 Act') for which this Court should take cognizance of Criminal contempt of a sub-ordinate Court in its own motion. The accused police officials have also been held of gross negligence and flack supervision as also misconduct. The applicants,

therefor, prayed for issuance of appropriate rule against respondents nos. 9, 16, 17, 18, 12, 19 and 20.

**Submission of respondent nos. 9, 16, 17, 18, 12, 19 and 20.**

1. It is submitted by the aforesaid respondents that in view of the provisions of section 15 (2) of the 1971 Act, this Court cannot take cognizance of a criminal contempt against the said respondents. Elucidating the point, it is further submitted that criminal contempt of Subordinate Court can be taken cognizance of by the High Court on a reference made to it by the Sub-ordinate Court or by the motion made by the Advocate General. In the instant case, neither there is any reference made by the Howrah Court nor there is a motion made by the Advocate General. This Court is precluded from taking cognizance of Criminal Contempt on its own motion.
2. Referring to section 15 (1) of the 1971 Act, it is submitted that this Court cannot also take action on its own motion in view of the specific provision regarding the case of any criminal contempt of any Sub-ordinate Court as contained in Section 15(2) of 1971 Act.
3. The aforesaid respondents have also taken a plea that no cognizance of criminal contempt can be taken by this Court in view of the provisions of Section 20 of the 1971 Act. The said section according to the aforesaid respondents places an embargo on this Court from initiating any

proceedings of contempt even on its own motion after expiry of a period of one year from the date on which the contempt is alleged to have been committed. In support of their contention, the aforesaid respondents have relied upon the following judgments.

4. The respondents have relied upon a compilation containing thirty eight judgments but in the written notes or at the time of hearing they have relied upon the following judgments the following judgments in support of their contention.

i) ***S. Tirupathi Rao vs. M. Lingamaiah (2024) SCC Online SC 1764***

ii) ***Pallav Sheth vs. Custodian & Ors. (2001) 7 SCC 549***

iii) ***Dr. L.P. Mishra vs. State of UP (1998) 7 SCC 379***

iv) ***R. P. Malik vs. Anil Sharma & Ors. 2008 SCC OnLine Del 1221***

v) ***State of W.B vs. Kartick Chandra Das (1996) 5 SCC 342***

vi) ***Delhi Judicial Service Association, Tis Hazari Court, Delhi vs. State of Gujarat & Ors. (1991) 4 SCC 406; Hastings Mills Ltd. vs. Hira Singh & Ors., 1977 SCC OnLine Cal 234***

vii) ***Maheshwar Peri & Ors. vs. High Court of Judicature at Allahabad, (2016) 14 SCC 251.***

viii) ***Rajesh Kumar Singh vs. High Court of Judicature of Madhya Pradesh, (2007) 14 SCC 126; R.P. Malik vs. Anil Sharma & Ors., 2008 SCC OnLine Del 1221.***

ix) **Anitha Thakur vs. State of J&K, (2016) 15 SCC 525, Para17; Commissioner of Police &Ors.vs. Majon Sharma &Anr., 2007 SCC OnLine Del 1718.**

x) **BL Wadhera vs. State NCT of Delhi &Ors., 2000 (53) DRJ (DB); Pratap Kumar NP vs. Ramadas&Ors., 2009 SCC OnLine Ker 4261.**

The respondents have relied upon **M.Lingamiah** (supra) to contend that limitation being a mixed question of law should be decided at the threshold once the same is raised. Relying on **PallavSheth** (supra) the respondent say that the one year period under Section 20 of the 1971 Act runs from the incident till the date of an application or the date on which the Court issues final notice for initiating criminal contempt. The respondents referred to **L.P. Mishra**(supra) to contend that while exercising powers to initiate contempt under Article 215 of the Constitution it should be kept in mind that the same is regulated by the provisions of 1971 Act.

5. The respondent also say that as police personnel they were discharging official duty on 24<sup>th</sup> April, 2019 when they entered the Court premises at Howrah Sadar which is cast upon them under the Code of Criminal Procedure, 1973 and as such they should not be proceeded againstby initiating contempt proceedings. The respondents rely on **AnikthThakar**(supra) in this context.

**Reply on behalf of the Applicants in CAN 9 of 2022:**

1. The applicants say that the inherent power of the High Court to take cognizance and punish for contempt of a Sub-ordinate Court has been clearly laid down by the Hon'ble Supreme Court in Delhi Judicial Service Association, ***Tis Hazari Court*** (supra). Moreover, Section 15 (1) of the 1971 Act permits the High Court for taking cognizance of a criminal contempt on its own motion in the cases which do not fall under the provisions of Section 14 of the 1971 Act Criminal Contempt of a Sub-ordinate Court does not fall within the ambit of Section 14. On a conjoint reading of section 15 (1) with section 10 and the definition of criminal contempt contained in Section 2 (c) of the 1971 Act, according to the applicants, therefor, leaves no doubt that this Court has the power and authority to take cognizance and initiate proceedings for criminal contempt of a Sub-ordinate Court being the Howrah Sadar Court in the instant case. Referring to the limitation aspect, it is submitted that the bar under Section 20 is not applicable in the instant case as the Court on its own motion after perusing the report of the District Judge and Chief Judicial Magistrate, Howrah took the matter in its judicial side and initiated suo moto writ petition, the consequence whereof was the appointment of the One-Man Enquiry Commission. The report of such commission was filed on 23<sup>rd</sup> December, 2019 and within three years from the date of filing of such report, the applicants have applied for implementation of the order of the said commission. The incident that occurred in 24<sup>th</sup> April,

2019 was taken note of by this Court immediately and as such suo moto writ petition was initiated by the order dated 29<sup>th</sup> April, 2019. At that stage, the Court was convinced that certain untoward incidents had occurred on 24<sup>th</sup> April, 2019 which require further enquiry for which the suo moto writ petition was initiated. The said writ petition on being heard at length resulted in appointment of One-Man Enquiry Commission. Therefore, the action of the police officials till the passing of the report could not be held to be contumacious act. Immediately after filing of the report, the pandemic intervened and as such the limitation of one year from 24<sup>th</sup> April, 2019 as contended by the respondents no. 9, 16, 17, 18, 12, 19 and 20 cannot be considered to be valid.

**Analysis and Conclusion:**

1. After hearing the parties and considering the judgment cited at the Bar and the materials on record, we find that contempt proceedings have two distinct parts.
2. The first part is the Court taking cognizance of an act on the prima facie findings that there is a possibility of contempt on the same being brought to the notice of the Court either by an application by a party or by a motion made by the learned Advocate General or by a reference from a Sub-Ordinate Court. The Court on its own motion has also the authority to initiate contempt proceedings. The Court at

- this stage has two options i.e. either to issue show cause directing the parties against who the prima facie case has been made out or to drop the proceedings holding no prima facie case has been made out. In a case, where the act of alleged contempt is brought to the notice of the Court by an application from a party or on the motion made by the Advocate General or by a reference of a Sub-Ordinate Court. The Court can on its own motion upon finding prima facie act of contempt is authorized to take cognizance and issue notice. The second stage is the explanation given by the persons directed to show cause. On considering the explanation so given the Court can either hold a person guilty of contempt or exonerate him from the charges.
3. In the instant case, admittedly, some untoward incidents took place in the premises of Howrah Sadar Court on 24<sup>th</sup> April, 2024. There were allegations that the police authorities have entered into the Court premises without any authority and have applied disproportionate force which caused not only loss and damages to the Advocates practicing in the said Court but also amounted to interference or tends to interfere with or obstruct or tend to obstruct, the administration of justice. The interference or any act to interfere with or obstruct or tend to obstruct the administration of justice in any manner comes within the purview of Section 2 (c) (ii) which defines criminal contempt. After receiving such information and considering the reports of the District Judge, Howrah and Chief

Judicial Magistrate, Howrah as also the report of the Commissioner of Police with the comments of the Chief Secretary, Government of West Bengal, the Hon'ble the Chief Justice was prima facie satisfied that such incident and/or incidents required further inquiry and/or investigation. As a consequence whereof, the matter was registered suo moto as a writ petition. At that juncture the Hon'ble the Chief Justice was well within its jurisdiction to hold that the acts complained of were not required to be further probed into and could have set the matter at rest. However, the Hon'ble the Chief Justice did not think to drop the matter at that stage owing to the nature of allegations and as such brought the same into judicial side and initiated suo moto writ petition. The writ petition may not be the contempt proceedings but the acts and conduct of the respondent nos. 9, 16, 17, 18, 12, 19 and 20 on having been taken note of, the suo moto writ petition was initiated so, Court on its own motion had taken note of the facts and initiated the writ petition. This resulted in passing of further orders and the report of the One-man Enquiry Commission.

4. On a perusal of the report of the One-man Enquiry Commission it is prima facie apparent that there has been interference with or obstruction to the administration of justice due to the police personnel under the instruction of the respondents no. 9, 16, 17, 18, 12, 19 and 20 entered the Howrah Sadar Court premises without

being invited by either the District Judge or the Chief Judicial Magistrate. This finding in the report of the One-man Enquiry Commission has remained uncontroverted as none of the said respondents have challenged the report or any part of the findings contained therein. The respondent nos. 9, 16, 17, 18, 12, 19 and 20 were afforded opportunity to appear before the Commission and had duly being represented. So it cannot be said that without affording them an opportunity to represent themselves, the One-man Enquiry Commission proceeded to prepare and publish its report. At the subsequent stage, the respondents no. 9, 16, 17, 18, 12, 19 and 20 were also given inspection and provided with all documents and records they intended to obtain. The applicants in CAN 9 of 2022 has filed the application for implementing the directions given in the report. The parties were heard wherein the applicants of CAN 9 of 2022 and the writ petitioners by relying upon the report has invited this Court to take cognizance and initiate contempt proceedings on its own motion. The applicants and the petitioners as aforesaid had demonstrated before this Court citing several judgments that this Court being a High Court has an inherent power to take cognizance, initiate criminal contempt proceedings and punish the accused on being found guilty on its own motion.

5. The argument advanced by the respondents that Section 15(2) while making a specific reference to criminal contempt has created an

embargo in taking cognizance of criminal contempt in respect of Sub-ordinate Court only if the same is initiated on a reference made to it by the sub-ordinate Court or on a motion made by the learned Advocate General is unacceptable for the following reasons:

- i) In view of the provisions of Section 15(1) where the Court can take cognizance of criminal contempt which falls outside the cases enumerated under Section 14 on its own motion and that the High Court does not lose its inherent power to take cognizance and punish for an act of contempt to a sub-ordinate Court.
- ii) Section 10 of the 1971 Act on being read conjointly with Section 15(1) thereof and considered in the light of the pronouncements of the Hon'ble Supreme Court leaves no manner of doubt that a High Court on its own motion has an inherent power to take cognizance of an act of criminal contempt even if it is not initiated by a reference to it by the sub-ordinate Court or by a motion moved by the learned Advocate General.
- iii) The judgments cited by the respondents are mostly in connection with the final hearing of the contempt proceedings. The judgment reported in 2023 SCC Online Delhi 4433 which is a Five-Judge Bench decision of the Delhi High Court and relied upon by the respondents in paragraph 2.1 thereof has recorded and approved the fact that suo moto cognizance was taken by the Court of the alleged incident and determined that qua 25 individuals there

existed the elements of a prima facie case of being liable for initiation of Criminal Contempt proceeding. It is also apparent from the said judgment that the persons so held to be prima facie liable were permitted to file their response to the show-cause notice. The said judgment also says that even after filing of the response, the High Court has discretion to hold that there has been no proven act of contempt or the contempt is such that the same is not punishable.

6. The argument advanced by the respondents that as police personnel they had the obligation under the Code of Criminal Procedure, 1973 to take steps against any untoward incident reported to them falls within the course of their official duty, the acts and measures taken on 24<sup>th</sup>April, 2019 were in consonance and was in course in performing their official duty for which this Court should not take cognizance for initiating criminal contempt is also unsustainable at this stage in view of the findings of the One-man Enquiry Commission.
7. We are therefore, minded to take cognizance of the act and conduct of the respondent police personnel at this stage.
8. We also find that the judgment cited by the respondent in **Anita Thakur** (Supra) does not apply to the facts of the case. In that case, the incident of *lathi* charge on the migrants of Kashmir by the Jammu

and Kashmir Police Administration was on the facts of the said case not held to be contumacious act to hold the police personnel guilty.

9. Going on to the aspect of limitation, we are of the view that the bar of Section 20 is not applicable to the facts of the instant case wherein the Hon'ble the Chief Justice after considering the materials placed before him decided to take up the matter in the judicial side and initiated suo moto writ petition, the result of which is the report of the One-man Enquiry Commission wherein prima facie elements of holding as to interference with the administration of justice has been observed. The High Court being a Court of Record under Article 215 of the Constitution of India cannot therefore be under any impediment to take cognizance of criminal contempt of a sub-ordinate Court on its own motion after expiry of one year from the date of occurrence. The bar of limitation as in section 20 of 1971 Act according to us is in respect of proceedings initiated by individual bringing to the notice of the Court about an act of contempt. The whole object of such limitation is to keep a person who alleges contempt to be diligent and approach the Court without undue delay. Even though the limitation as prescribed in section 20 is contained in a special statute but the powers under Article 215 where the Court had initiated suo moto writ petition taking note of an untoward incident cannot be abrogated or stultified particularly in view of the inherent power available to the Court under Article 215.

10. The judgment in **PallavSheth** (supra) which has been cited by the respondents have also carved out certain exceptions to the application of Section 20 of the 1971 Act. The said judgment has also differentiated between initiation of contempt by the High Court on its own motion. Our view so as to non-application of the limitation as in Section 20 of the 1971 Act in the instant case is also supported by such findings.
11. We therefore hold that the plea of limitation taken by the respondents no. 9, 16, 17, 18, 12, 19 and 20 also does not hold good.
12. In the aforesaid facts and circumstances, we issue rule against the respondent no. 9, 16, 17, 18, 12, 19 and 20 and initiate criminal contempt proceedings against the said respondents.
13. Contempt Rule is made returnable on June 25, 2025.

**Arindam Mukherjee, J.**

I agree.

**DebangsuBasak, J.**