

Protection and Options of Judicial Officers

Against Untoward Happenings like Insults, Assaults
Interruptions and Contempt of Court etc.

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Part : A

(Section 195/340 CrPC)

- 1. Untoward happenings which generally take place against the Judicial Officers and Courts:** The untoward incidents which generally take place against the Judicial Officers during the course of performance of their judicial functions are as under:
 - (i) Misbehaviour
 - (ii) Insult
 - (iii) Abusive and derogatory words
 - (iv) Interruptions in judicial proceedings
 - (v) Intimidations
 - (vi) Shouting and sloganeering
 - (vii) Assaults
 - (viii) Gherao and building pressure for favourable orders
 - (ix) Complaints and affidavits with false allegations
 - (x) False allegations in applications and affidavits seeking transfer of cases
 - (xi) Tearing of court records
 - (xii) Causing destruction and disappearance of court records
 - (xiii) Contempt of Court
- 2. Good reputation and personal security:** A good reputation is an element of personal security. **See: Union of India Vs. State of Maharashtra, (2020) 4SCC 761 (Three-Judge Bench).**
- 3. Action under Section 195/340 CrPC should be initiated in the larger interest of administration of justice and not to satisfy the personal revenge or vindictiveness or to serve the interest of a private party:** Action under Section 195/340 CrPC should be initiated in the larger interest of administration of justice and not to satisfy the personal revenge or vindictiveness or to serve the interest of a private party. **See: Santosh Singh Vs. Izhar Hussain, AIR 1973 SC 2190.**
- 4. Sections of IPC for which court complaint can be filed u/s 340 CrPC:** According to Section 195 CrPC, a court complaint can be filed u/s Section 340 CrPC for the following offences of the IPC:
 - (i) Offences u/s 172 to 188 IPC together with their abetment or attempt to commit or make criminal conspiracy to commit such offences.

- (ii) Offences u/s 193 to 196, 199, 200, 205 to 211, 228 IPC
 - (iii) Offences of forgery of documents described in Section 463, or punishable u/s 471, 475, 476 IPC if produced in a judicial proceeding.
5. **Pre-conditions for initiating action under Section 195/340 CrPC:** Pre-conditions for initiating action under Section 195/340 CrPC are as under:
- (i) materials produced before the court make out a prima facie case for the complaint u/s 340 CrPC, and
 - (ii) it is expedient in the interest of justice to prosecute the offender for the offences enumerated in Section 195 CrPC. **See: K. Karunakaran Vs.Echara Warriar, AIR 1978 SC 290**
6. **Mentioning exact offences committed by the offender in the complaint mandatory for the court filing the complaint u/s 340 CrPC:** It is incumbent on the court filing the complaint to record a clear finding regarding the exact offence which was committed. In the absence of such a finding, the order filing the complaint cannot be supported in law. **See: Har Gobind Vs. State of Haryana, AIR 1979 SC 1760.**
7. **Scope and object of Section 195/340 CrPC:** Section 195(1)(b)(i) CrPC refers to offences of false evidence and offences against public justice while Section 195(1)(b)(ii) CrPC relates to offences in respect of documents produced or given in evidence in judicial proceeding in any court. Prosecution can be initiated only by sanction of court under whose proceedings the offence referred to in Section 195(1)(b) CrPC was allegedly committed. Object of Section 340 CrPC is to ascertain whether any offence affecting administration of justice was committed in relation to any document produced or given in evidence in court during the time when the document or the evidence was in *custodia legis* and whether it is also expedient in the interest of justice to take such action. Court has not only to ascertain *prima facie* case but also to see whether it is in the public interest to allow criminal proceedings to be instituted. In the present case, the Magistrate had erred in taking cognizance of the offence under Section 193 IPC on the basis of a private complaint and the High Court was justified in setting aside the order of the Magistrate. **See:**
- (i) **Narendra Kumar Srivastava Vs. State of Bihar and Others (2019) 3 SCC 318.**
 - (ii) **K. Karunakaran Vs.Echara Warriar, AIR 1978 SC 290**
8. **Complaint u/s 195 (1) (a) (i) CrPC in the event of fraud, concealment of fact, misrepresentation etc:** Furnishing false information with intent to cause public servant to use his lawful power to the injury of another person is an offence punishable u/s 182 IPC. Cognizance of such offence can be taken by court once a proper complaint as per Section 195 (1) (a) (i) CrPC is filed. Any person who makes attempt to deceive the court interferes with the administration of justice and can be held guilty of contempt of court. Anyone who takes recourse to fraud deflects the course of judicial proceedings or if anything done with oblique motive or any publication with intent to deceive the court or made with intention to defraud, same is contempt as it would interfere with the administration of justice. Concealment of material facts is jugglery, manipulation, manoeuvring or misrepresentation, which has no place in prerogative jurisdiction. If the applicant does not disclose all material facts fairly and truly but states them in distorted manner and misleads the court, then court has inherent power to protect itself and prevent abuse of its process and refuse further

examination of case on merits. If the court does not reject the petition on that ground, it is failing in its duty. Such application requires to be dealt with as contempt of court for abusing process of court. See: **ABCD Vs. Union of India, (2020) 2 SCC 52.**

9. **Section 195/340 CrPC when attracted in respect of forgery of documents and false affidavit?:** In the case noted below, the petitioner had earlier filed certain documents before the trial court in Bombay and the same were exhibited by the trial court. The petitioner filed copies of those exhibited documents before the Supreme Court in SLP with certain handwriting corrections therein. On comparing the original copies as exhibited before the trial court with the copies filed in the SLP before the Supreme Court, it was noticed that the handwriting modifications appeared for the first time in the in the documents filed before the Supreme Court. The Supreme Court held that all that was required at that stage was to assess whether a prima facie case was made out to initiate proceedings on complaint in the court of the competent Magistrate against the petitioner/ accused for the offences under Section 340 read with Section 195(1) (b) CrPC. Relying on its previous decision by a Three-Judge Bench in the case of R. Karuppan Advocate, In re , (2001) 5 SCC 289, the Supreme Court directed its Registrar General/ Secretary General to depute an officer of the rank of the Deputy Registrar or above of the Supreme Court to file a complaint against the petitioner company u/s 340 CrPC for the offences u/s 193 and 199 IPC. See: **New Era Fabrics Limited Vs. Bhanumati Keshrichand Jhaveri, (2020) 4 SCC 41.**
10. **Section 195/340 CrPC when not attracted in respect of forged documents? :** Where forged document (sale deed) was produced in evidence before the court and the same was relied on by the party for claiming title to the property in question, it has been held by the Hon'ble Supreme Court that since the sale deed had not been forged while it was in *custodia legis*, bar of Section 195 CrPC against taking cognizance of offences u/s 468, 471 of the IPC was not attracted. See:
 - (i) **C.P. Subhash Vs. Inspector of Police, Chennai, 2013 CrLJ 3684 (SC).**
 - (ii) **Iqbal Singh Marwah vs. Minakshi Marwah, AIR 2005 SC 2119 (Constitution Bench).**
11. **In which court complaint u/s 340 CrPC should be filed:** A complaint u/s 340 CrPC should be filed in the court of the Magistrate having territorial jurisdiction to try the offences committed at the place where the court filing the complaint is situate.
12. **Who can file complaint u/s 340 CrPC:** A complaint can be filed u/s 340 CrPC either by the Presiding Officer of the court or by an official of the court under his direction. See: **Virender Kumar Satyawadi Vs. State of Punjab, AIR 1956 SC 153.**
13. **Can a third party or stranger not affected by the offence file complaint u/s 340 CrPC:** Yes. A third party or stranger can also file complaint u/s Section 340 CrPC for an offence enumerated u/s 195 CrPC. See:
 - (i) **N. Natarajan Vs. B. K. Subba Rao, AIR 2003 SC 541**
 - (ii) **Iqbal Singh Narang Vs. Veeran Narang, (2012) 2 SCC 60.**
14. **Whether a third party or a stranger can also be heard in a criminal proceeding without the consent of the Public Prosecutor? If yes, under what conditions:** An aggrieved private person is not altogether to be eclipsed from the scenario when the criminal court takes cognizance of the offences based on the report submitted by the

police. The reality cannot be overlooked that the genesis in almost all such cases is the grievance of one or more individual that they were wronged by the accused by committing offences against them. Though there is no obligation on the Magistrate to issue notice to the injured person or to a relative of the deceased in order to provide him an opportunity to be heard at the time of consideration of the final report of the police (except when the final report is to the effect that no offence had been made out in the case) the informant who lodged the FIR is entitled to a notice from the Magistrate. In other instances, the injured or any relative of the accused can appear before the Magistrate at the time of consideration of the police report if such person otherwise comes to know that the Magistrate is going to consider the report. If such person appears before the Magistrate, it is the duty of the Magistrate to hear him. **See : M/s JK International vs. State, JT 2001 (3) SC 130.**

15. **Is filing of complaint u/s 340 CrPC mandatory by the public servant or court:** No. Filing of complaint u/s 340 CrPC by the complaining Presiding Officer is discretionary and not mandatory. Such complaint has to be filed when the Presiding Officer is of the view that it is expedient in the interest of administration of justice. **See: Pritish Vs. State of Maharashtra, AIR 2002 SC 236 (Three-Judge Bench).**
16. **Court suo motu or party can initiate action for filing of complaint by court u/s 340 CrPC:** Court suo motu or party can initiate action for filing of complaint u/s 340 CrPC provided the court thinks that taking such action is necessary in the interest of administration of justice and there is a prima facie case for that. **See: K. Karunakaran Vs. Echara Warriar, AIR 1978 SC 290.**
17. **Holding preliminary enquiry not necessary for filing complaint u/s 340 CrPC:** A complaint under Section 340 to 341CrPC may be filed even without holding preliminary inquiry into the facts on which it appears to the complainant Court prima facie that offence, as contemplated, had been committed and that it is expedient in the interests of justice that inquiry should be made into such offence by the Magistrate. Court complaint u/s 340 CrPC can be out right filed in the court of Magistrate without making an enquiry first in the complaint if the court is satisfied that filing of the complaint is expedient. **See:**
 - (i) **State of Goa Vs. Jose Maria Albert Vales Alias Robert Vales, AIR 2018 SC 140.**
 - (ii) **Pritish Vs. State of Maharashtra, AIR 2002 SC 236 (Three-Judge Bench).**
18. **Inquiry into allegations in complaint under Section 195/ 340 CrPC not to be initiated if no grounds are made out therefor:** The Supreme Court, in the case of Rafale fighter planes, declined to inquire into the allegations made in the complaint u/s 340 CrPC against the Prime Minister of India and others on the ground that no case was made out for that on the basis of the alleged false documents and statements produced and made before the Supreme Court. **See: Yashwant Sinha Vs. CBI, (2020) 2 SCC 338 (Three-Judge Bench).**
19. **Examining complainant and recording his statements before summoning the accused not necessary:** A complaint u/s 340 CrPC is a complaint by a public servant and therefore examining the complainant and recording his statements before passing the summoning order is not necessary in much as the same would be in the teeth of Section 343(1)CrPC. The procedure prescribed u/s 200 or 202 CrPC for cases

instituted otherwise than on police report would not be relevant and applicable in respect of complaints under Sections 340 & 341 of CrPC. Recording statements of the complainant Presiding Officer and witnesses u/s 200 and 202 CrPC is not permissible in a complaint filed u/s 340 CrPC. **See:**

(i) **State of Goa Vs. Jose Maria Albert Vales Alias Robert Vales, AIR 2018 SC 140.**

(ii) **Ranjit Singh Vs. State of Pepsu, AIR 1959 SC 843.**

20. **Giving show cause notice to accused before filing complaint u/s 340 CrPC not necessary:** In the case of the trial court, giving show cause notice to accused before filing the proposed complaint u/s 340 CrPC is not necessary but so far as the appellate court is concerned, giving of an opportunity to the witness to show cause against the contemplated complaint is mandatory. **See: Narayanswami Vs. State of Maharashtra, (1971) 2 SCC 182**

21. **An offence u/s 228 IPC to be treated as contempt of court:** An offence u/s Section 228 IPC may be tried as contempt of court even if the acts complained of cannot be confined or covered by Section 228 IPC. **See: Waryam Singh Vs, Sadh Ram, AIR 1972 SCC 905.**

22. **Procedure for punishing contemnor for offence u/s 228 IPC:** Following procedural steps should be taken to punish the offender/ contemnor for offence under Section 228 IPC:

(i) Record in the order-sheet of the case the act of insult or interruption committed by the contemnor as required by sub-section (2) and (3) of Section 345 CrPC the same day when the case was being heard.

(ii) Presiding officer may take the contemnor into custody of the court if possible

(iii) Cognizance of the offence must be taken the same day and this should be mentioned in the order-sheet

(iv) Show cause notice to the offender be issued the same day, if possible or the next day or as early as possible

(v) If the offender refuses to receive the notice or is not found at his normal address, this fact as mentioned in the process server's report should be mentioned in the final order to be passed by the court

(vi) The statements of the court staff in whose presence the offender had committed the offence should be recorded on oath and the same should be used in the final order

(vii) Pass final order awarding appropriate penalty provided by Section 228 IPC

OR Alternatively

Presiding Officer can proceed in accordance with the procedure in Section 346 CrPC and either himself file a complaint or direct his Reader/office clerk to file it in the court of the Magistrate having local territorial jurisdiction over the place where his court is situated for the offence u/s 228 IPC.

23. **Deciding the case u/s 228 IPC the same day not mandatory:** It is the cognizance alone which has to be taken the same day when the offence of contempt is committed, and like all other criminal trials must be disposed of as expeditiously as possible but

not necessarily on the same day. **See: Jagir Singh Vs. Gram Panchayat, (1983) Crimes 157 (P& H).**

24. **Hearing of accused before filing complaint u/s 340 CrPC not necessary:** The scheme underlying Sections 340, 343, 238, 243 CrPC clearly shows that there is no statutory requirement to afford an opportunity of hearing to the persons against whom the court might file a complaint u/s 340 CrPC before the Magistrate for initiating prosecution proceedings. **See: Pritish Vs. State of Maharashtra, AIR 2002 SC 236 (Three-Judge Bench).**
25. **Principles of natural justice not violated if accused is not provided hearing before filing of court complaint u/s 340 CrPC:** In the present case of land acquisition proceedings, the claimants/land owners after playing chicanery on the court had wangled a bumper gain as compensation and the reference court which granted a quantum leap in awarding compensation to the land owners/claimants later found that they had used forged documents of sale deeds inveigling such a bumper gain as compensation and hence the court ordered some of the claimants/landowners to face prosecution proceedings in a criminal court. The Supreme Court held that the court is not under a legal obligation to afford an opportunity to be heard to claimant/landowner before ordering such prosecution. The scheme underlying Section 340, 343, 238, 243 CrPC clearly shows there is no statutory requirement to afford an opportunity of hearing to the persons against whom the court might file a complaint u/s 340 CrPC before the Magistrate for initiating prosecution proceedings. Once the prosecution proceedings commence, the person against whom the accusation is made has a legal right to be heard. Such a legal protection is incorporated in the scheme of the CrPC itself. Principles of natural justice would not be hampered by not hearing the person concerned at the stage of deciding whether such person should be proceeded against or not. The court at the stage envisaged in Section 340 CrPC is not deciding the guilt or innocence of the party against whom proceedings are to be taken before the Magistrate. At that stage, the court only considers whether it is expedient in the interest of justice that an inquiry should be made into any offence affecting administration of justice. **See: Pritish Vs. State of Maharashtra, AIR 2002 SC 236 (Three-Judge Bench).**
26. **Procedure of trial to be adopted by the Trial Magistrate on complaint u/s 340 CrPC:** According to Section 343 CrPC, the Trial Magistrate will adopt that procedure of trial on the complaint received u/s 340 or 341 CrPC which is adopted on police report (charge-sheet) received u/s 173(2)CrPC.
27. **Accused has right to be heard before the Trial Magistrate:** Once the prosecution proceedings commence before the trial Magistrate, the person against whom the accusation is made has a legal right to be heard. Such a legal protection is incorporated in the scheme of the Code of Criminal Procedure itself. **See: Pritish Vs. State of Maharashtra, AIR 2002 SC 236 (Three-Judge Bench).**
28. **Trial Magistrate shall very sparingly conduct an enquiry on receiving a complaint u/s 340 CrPC to proceed further:** Trial Magistrate has discretion to collect further materials by way of inquiry, even if summary in nature, if genuinely felt necessary in the interest of justice, for generating required satisfaction to proceed on receiving the complaint u/s 340 CrPC. However, in exercising such discretion, the

Trial Magistrate has to be cautiously conscious of the fact that complaint pertains to the offence affecting administration of justice and is preceded by prima facie satisfaction of the complaining Court that same might have been committed and that it was expedient in the interest of justice to inquire into the same. In other words, the discretion available to the Trial Magistrate under Section 343(1) CrPC has to be very sparingly exercised and only if it is genuinely felt that further materials are required to be collected through an inquiry by him only to sub-serve the ends of justice and avoid unwarranted judicial proceedings. Thus, the Trial Magistrate, on receipt of complaint under Section 340 and/or 341CrPC, if there is preliminary inquiry and adequate materials in support of considerations impelling action under above provisions are available, would be required to treat such complaint to constitute the case, as if instituted on police report and proceed in accordance with law. However, in the absence of any preliminary inquiry or adequate materials, it would be open for Trial Magistrate, if he genuinely feels it necessary, in the interest of justice and to avoid unmerited prosecution to embark on summary inquiry to collect further materials and then decide future course of action as per law. **See: State of Goa Vs. Jose Maria Albert Vales Alias Robert Vales, AIR 2018 SC 140.**

29. **Complaint u/s 340 CrPC by clubbing offences other than those enumerated in Section 195 CrPC cannot be filed:** Complaint u/s 340 CrPC by clubbing offences other than those enumerated in Section 195 CrPC cannot be filed. Such a complaint being beyond the scope of Section 195 read with Section 340 CrPC would be liable to be quashed. **See: Jose John Vs. K. C. Kuruvila, 1996 CrLJ 1449 (Kerala High Court).**
30. **Magistrate cannot take cognizance of offences mentioned in Section 195 CrPC on charge-sheet submitted by police after investigation of FIR:** Magistrate cannot take cognizance of offences mentioned in Section 195 CrPC on charge-sheet submitted by police after investigation of FIR. However, the court could then file a complaint u/s 340 CrPC on the basis of the FIR and the material collected by the police during investigation provided the procedure in Section 340 CrPC is followed. **See: M. Narayandas Vs. State of Karnataka, 2004 CrLJ 822 (SC).**
31. **FIR registered for offences mentioned in Section 195 CrPC liable to be quashed:** FIR registered for offences mentioned in Section 195 CrPC is liable to be quashed u/s 482 CrPC. **See: Paras Ram Vs. State of Haryana, 1995 CrLJ 1603 (P&H).**
32. **Apology can be accepted by court under Section 195/340 CrPC :** Where an accused had made false statements before the company court and proceedings against him for the offence of perjury was initiated under Section 195/340 CrPC and the accused had filed affidavit before the Hon'ble Supreme Court tendering unconditional apology and humbly begged to be pardoned by stating that he never had intention to show any disrespect or dishonor to the court and the alleged false statements were unintentional and he would not indulged in any such adventures in future, the Hon'ble Supreme Court accepted the unconditional apology of the accused and exonerated him of the said offence of perjury. It has also been held that other parallel proceedings under the provisions of the Contempt of Courts Act, 1971 and u/s 21 of the Company Secretaries Act, 1980 would not be proper. **See : Dhiren Dave Vs. Surat Dyes & Others, (2016) 6 SCC 253.**

33. **Stricture against Sessions Judge for misunderstanding the provisions of Section 156(3)CrPC r/w Sec. 195/340 CrPC:** Where the Sessions Judge, Rampur had recorded findings in the judgment in a sessions trial that the informant had lodged false FIR against the accused and, contrary to the provisions of Sections 195/340 and 344 CrPC, directed the SSP, Rampur in his judgment for registration of FIR against the informant for the offence u/s 182 of the IPC, the Hon'ble Allahabad High Court quashed the order of the Sessions Judge to register the FIR as being illegal and without jurisdiction and directed the Registrar General of the High Court to send a copy of the judgment of the High Court to the Sessions Judge, Rampur for his guidance in future. See: **Lekhraj vs. State of UP, 2008 (61) ACC 831 (All)**
34. **Appeal by complainant or accused u/s 341 CrPC:** A private complainant on whose application the court had refused to file a complaint u/s 340 CrPC and the accused have right to prefer an appeal u/s 341 CrPC against any order passed by the court u/s 340 CrPC.

Part : B

Reference to High Court by Subordinate Court under Section 15(2) of the Contempt of Courts Act, 1971 for taking Action Against its Criminal Contempt

1. **Object behind Contempt of Courts Act, 1971:** The introduction of the Contempt of Courts Act, 1971 has been for the purposes of securing a feeling of confidence of the people in general for due and proper administration of justice in the country. See: **Prem Surana Vs. Addl. Munsif & Judicial Magistrate, AIR 2002 SC 2956.**
2. **Contempt proceedings should be sparingly exercised:** The contempt of Court is a special jurisdiction to be exercised sparingly and with caution whenever an act adversely affects the administration of justice or which tends to impede its course or tends to shake public confidence in the judicial institutions. See: **Prodip Kumar Biswas Vs. Subrata Das, 2004 SCC (Criminal) 1341.**
3. **Kinds of contempt:** According to Section 2 of the Contempt of Courts Act, 1971 contempt is of two kinds:
 - (i) **Civil Contempt:** means wilful disobedience to any judgment, decree direction, order, writ or other process of a court or wilful breach of an undertaking given to a court;
 - (ii) **Criminal Contempt:** means the publication (whether by words, spoken or written, or by signs, or by visible representations, or otherwise) of any matter or the doing of any other act whatsoever which:
 - (a) scandalizes or tends to scandalize, or lowers or tends to lower the authority of, any court; or
 - (b) prejudices, or interferes or tends to interfere with, the due course of any judicial proceedings; or
 - (c) interferes or tends to interfere with, or obstructs or tends to obstruct, the administration of justice in any other manner.
4. **Power of contempt not to be exercised lightly:** The power of punish for contempt has to be exercised not casually or lightly, but with great care and circumspection; and only where it is necessary to punish the contemner to uphold the majesty of law and the dignity of the Courts: See: **Babu Ram Vs. Sudhir Bhasin, AIR 1979 SC 1528.**
5. **High Court can take *suo motu* cognizance of contempt of subordinate courts:** In case of contempt of subordinate courts, the jurisdiction of the High Court to take cognizance of the contempt *suo motu* is proper. Such action is not barred on the ground that its alleged offence is punishable u/s 228, IPC, since offence u/s 228, IPC is not punishable as contempt of court. So, when the Presiding Officer of the Court is alleged to have been assaulted by the police officers, the same amounts to criminal contempt and the action of the High Court in initiating *suo motu* contempt of court proceeding and promptly taking action on giving reasonable opportunity of hearing of the contemnners cannot be faulted: See: **Daroga Singh Vs. B.K. Pandey, AIR 2004 SC 2579.**

6. **Reference of criminal contempt by subordinate court to High Court:** Any court subordinate to the High Court can make a reference under Section 15(2) of the **Contempt of Courts Act, 1971** to take action against the contemner for criminal contempt of the subordinate court. High Court can also take such action for criminal contempt of subordinate court on a motion made to it by the Advocate General of the State.
7. **One Rupee symbolic fine awarded by the Supreme Court against a lawyer for criminal contempt:** The Supreme Court on 31.08.2020 convicted Advocate Prashant Bhushan and awarded Rupee one as the symbolic fine for having committed the criminal contempt of the Supreme Court of India.
8. **A model reference u/s 15(2) of the Contempt of Court Act, 1971 to be sent to the High Court for drawing proceedings for criminal contempt of the subordinate court.**

09.12.2020

From :

Ramesh Kumar
Addl. Chief Judicial Magistrate
Banda.

To,

The Registrar General
Hon'ble High Court of Judicature
at Allahabad.

Through,

The District Judge
Banda.

Subject: Reference u/s 15(2) of the Contempt of Court Act, 1971 to take action against Shri Mohan Narayan Advocate, Registration No._____/2011 for having committed criminal contempt of the Court of the Addl. Chief Judicial Magistrate, Court No. 22, Banda.

Sir,

I most respectfully beg to state on the subject noted above as under:

1. That on 06.12.2020, I was conducting the judicial functions of my court i.e. the Addl. Chief Judicial Magistrate, Court No. 22, Banda when at about 12.30 PM, an accused named Ritesh Lal of the Criminal Case No. 1214 /2011, State Versus Ritesh Lal, u/s 419, 420, 467, 471 of the IPC, PS: Meethapur, District: Banda was produced by the police of the PS: Meethapur, Banda before the Court after his arrest made in pursuance of the non-bailable warrant issued against him long back. The said accused had jumped the bail and had absconded. Processes u/s 82 and 83 CrPC were also issued against him. Soon after the judicial custody warrant of the said accused was signed by me, Shri Mohan Narayan Advocate who had already filed his vakalatnama in favour of the said accused in the case

mentioned above appeared and moved an application for releasing him on bail.

2. I directed the advocate named above to provide a copy of the bail application of the accused Ritesh Lal to the learned APO of my court who was present in the court and was requesting for copy of the bail application and time to file objections and seek report from the concerned police station. The said advocate refused to give copy of the application to the learned APO and insisted to grant bail to the accused at once. I again asked the said advocate to provide a copy of the bail application to the learned APO for filing his objections and seeking report from the concerned police station. On my this direction, the advocate named above got extremely angered and started shouting at me to immediately release the said accused by granting him bail. When I tried to pacify him and again asked him first to give a copy of the bail application to the learned APO and posted the bail application next day for hearing, the advocate named above lost his tempers and started threatening me not to allow me to function as the Addl. Chief Judicial Magistrate in the District Court Banda by saying that he would procure false complaints against me from his colleagues and send the same to the Hon'ble High Court and would ensure that I am harmed in my career if I did not grant bail to the said accused at once. Despite my repeated attempts to pacify him, he kept on shouting and intimidating me as above and ultimately tore the bail application and threw it at me on the dais and went away from the court menacingly staring and shouting at me. The Reader Shri Kedarnath, Orderly Shri Sukhdev, Peon Shri Chetram besides the learned APO of my court Shri Suresh Chandra who were then present in the court room and saw this contemptuous intimidation and insult of the court by the said advocate got stunned.
3. The aforesaid utterances and intimidations of the advocate named above have fully been recorded by me in the order sheet dated .6.12.2020 of the criminal case mentioned above and a duly certified copy of the same is annexed herewith. Similarly, the separate reports given by the Reader Shri Kedarnath, Orderly Shri Sukhdev and Peon Shri Chetram of my court in their hand writings and signatures are also annexed herewith in original for kind perusal of the Hon'ble Court.
4. The aforesaid objectionable conduct of the advocate named above clearly lowered the dignity of my court in the glare of all those who were present in my court room. The said advocate thereby committed criminal contempt of my court.
5. A Show Cause Notice dated 07.12.2020 was issued by me to the said advocate to furnish his explanation if any by 08.12.2020 but as has been reported by the process server of the District Court Banda, the said advocate after going through the Show Cause Notice at his chamber within the campus of the District Court Banda, refused to receive its copy and asked the process server to go back. A duly attested copy of the report dated 07.12.2020 given by the process server Shri Suresh Kumar is annexed for kind perusal.
6. A reference u/s 15(2) of the Contempt of Court Act, 1971 is hereby being made to the Hon'ble Court to initiate proceedings against Shri Mohan Narayan Advocate, Banda, Registration No. ____/ 2011 for having committed criminal contempt of the court of the Addl. Chief Judicial

Magistrate, Court No. 22, Banda as stated in the preceding paragraphs together with the copies of documents mentioned hereinabove. You are therefore requested to place this reference of criminal contempt before the Hon'ble Court for necessary action against the advocate named above.

With profound regards,

(Ramesh Kumar)
Addl. Chief Judicial Magistrate
Banda

Annexures: As above.

Part : C

Certain Tips to Avoid Untoward Happenings with the Judicial Officers

1. Easier to find service than doing it
2. Try to realize the difference between idealism and realism
3. Try to transform your personality according to the expectations of your job and the Institution you belong to.
4. Adopt twofold strategy to avoid untoward happenings in your court : 1. Preventive and 2. Punitive
5. Maintain and improve your Quality and Credibility
6. Earn respect and good will for you by your conduct , behaviour and reaction
7. You need not worry. After all, 3000 judges are working in UP. So will you do. Gradually adopt the practices and traditions of the Judicial Department and become a successful Judicial Officer.
8. Let you speak through your pen, orders and judgments.
9. Be polite but firm
10. Remain alert when two lawyers are shouting at each other
11. Do not side with any of them, try to pacify them if you can
12. You can ask the lawyers “Please cool down, calm down.” But do not be a third party to the noisy scene.
13. Do not become party or witness to any incident in your court
14. Retire to your chamber before they exchange abusive words against each other or start fighting
15. Before retiring to chamber, ask your Reader to remain in court and tell him to sit after one hour
16. If office bearers of Bar come to you to enquire from you as to who was the lawyer who assaulted first or abused the victim lawyer, do not disclose the name. You do not identify any lawyer personally but from their vakalatnamas. **Ashwatthama Mrito, Naro Vaa Kunjaro.**
17. If you report the incident to District Judge in writing, avoid disclosing names of lawyers involved in the incident unless necessary. In verbal talks with your District Judge, you can tell the names of lawyers.
18. Running arguments and altercations with the lawyers—No.
19. Be a Good Listener.
20. No Hot Talks.
21. No outbursts. Remain unperturbed, cool, calm and poised. Be a **Neelkanth.**
22. By angering you, many a times lawyers entrap you into their strategy to make you outburst and make irresponsible and objectionable utterances and then make them an issue to settle their score against you. Be extremely cautious of such ploys of advocates. **Akrodhen Jayet Krodham (Gita).**

23. Do not pass orders or record order sheets in anger. **Krodhat Bhawati Sammohah, Sammohat Vibhramah, Vibhramat Buddhi Nashah, Buddhi Nashat Vinashyati (Gita).**
24. Do not use intemperate, impolite, terse or unpleasant words for lawyers, employees or litigants.
25. In the event of any untoward incident in your court, if you want to report the incident to the District Judge or want to make a reference to the High Court or want to lodge an FIR with the police, besides recording the detailed facts in the order sheet of the case, also obtain written reports thereof in the hand writing and signature of your staff like the Reader, Clerks and Peons present in the court to be used as evidence in future. But ensure that they write the report correctly.
26. Do not record the happening in the order sheet in the presence of the contemnor or at once when the happening takes place. Record the facts of the happening first on a separate rough paper preferably in chamber and then record its final version fairly on the order sheet of the case.
27. Send your Reader or Clerk to the CAO of the Administrative Office of the District Judge to inform him of the happening. You can directly inform the CAO on his Mobile. But if you want to pass any message through your Mobile to the CAO or to the District Judge about the happening, ensure that only proper version of the incident passes from your electronic device/Mobile as the same could be used in future as the electronic evidence.
28. Seek time through the CAO to meet the District Judge and apprise him of the incident personally same day when he calls.
29. If you have really made up your mind to make a reference to the High Court to initiate proceedings against the contemnor, then let you first prepare your reference and send it to the office of the District Judge in a sealed cover by entering it into the Dak Bahi of your court and preserve its receipt given by the clerk in the office of the District Judge and then seek time from District Judge to apprise him of the incident personally.
30. Take things easy without over-reactions. There is always a solution to any problem.
31. Believe in destiny and divinity unless you are an atheist.
32. Try to assess the counter reaction to your reaction and formulate your response to any thing or utterance accordingly. There is always equal and opposite reaction to every action.
33. Do not disclose your mind by your queries.
34. After heated arguments between lawyers in the case, you can show your wit at the end to thank them by saying that both of them were well prepared and argued quite impressively. Best way to shame and deter them from creating scene in your court next time.
35. Be considerate in fixing short dates if insisted and possible. It enhances your respect and good will for you.
36. Do not arrogate to be the **“Angrejo ke Jamane ka Jailor”**.
37. Do not arrogate to be revolutionary. Whilst in Rome, live as Romans live.

38. One should never quarrel, one should seldom fight but if fights, a funeral must follow. Try to ensure such things never happen with you.
39. Remain well informed about the good or bad happenings in the Department. Try to analyze such happening as to whether the response of the Judicial Officer was proper or lacking in some respects. What would you have done, had you been there in his/her place. It sharpens your ability to respond effectively to such happenings.
40. If you cannot do anything else, then pardon. (Kshama Beerasya Bhushnam).
41. Class on “Protections to Judicial Officers”.
42. Certain major unpleasant incidents with the Judicial Officers in UP:
 - (i) ACMM- Kashyap Kand of Kanpur Nagar in 1980s
 - (ii) CJM-JP Gupta Kand of Faizabad in 1990s
 - (iii) Special Judge (Gangster Act) Kand of Faizabad in 1990s
 - (iv) ACJM- PK Consul Kand of Ghaziabad in 1990s
 - (v) CJM- Lal Chand Kand of Mirzapur in 1990s
 - (vi) ACJM Aligarh Kand in 2010s
 - (vii) ADJ- Manoj Kumar Shukla Kand of Raebareli in 2018
 - (viii) District Judge- Bajpayee Kand of Agra in 1990s
 - (ix) District Judge- Sukh Lal Adarsh Kand of Ballia in 1990s
 - (x) Civil Judge Junior Division Kand of Pratapgarh in November, 2020
43. These tips are only advisory in nature. You can follow or reject it in toto.

Part : D

List of Difficult Situations For Judicial Officers and Wayouts Therein

1. When and how to verbally apprise the District Judge of any incident having occurred in the court?
2. Officials in the office of the District Judge not receiving application or representation to be sent to High Court—option of the Judicial Officer?
3. When a written application or representation should be sent first to the administrative office of the district judge and then to seek time from him to apprise him of the subject matter of such application or representation?
4. Two lawyers clashing and assaulting each other in the court in presence of the Presiding Officer---options of the Presiding Officer?
5. Lawyer shouting in court: What should Presiding Officer do?
6. Drafting show-cause notice to be issued to lawyer u/s 345 CrPC for offense u/s 228 IPC.
7. Proceeding u/s 346 CrPC against lawyer—How to draw?
8. Different steps for punishing lawyer for committing offense u/s 228 IPC
9. Show-cause notice to lawyer as to why reference of contempt be not made to High Court?---How to draft the show cause notice?
10. Reference of contempt against lawyer to High Court—How to draft? Lawyer saying that he will move application to the District Judge for transfer of case--- what should be done by the Presiding Officer?
11. Skill required in fixing short or long date for hearing on injunction applications
12. Time of passing ex-parte order in the case when defendant is not present?
13. Time of dismissal of suit or miscellaneous case or execution application when the plaintiff or the applicant or the decree holder is not present?
14. Entering time of ex-parte order or dismissal order
15. Fixing date for hearing of interim injunction application when plaintiff was not granted ex-parte ad-interim injunction.
16. Officials in the office of the District Judge not receiving application or representation to be sent to the High Court---Options of the Judicial Officer?
17. Cautions in dealing with the cases of the in-charge court.
18. What orders in the cases pending in the in-charge court should be passed?
19. What orders in the cases pending in the in-charge court should not be passed?
20. When a report adverse to the peon should be sent to the district judge?
21. When a report against the Reader or the office clerk should be sent to the district judge?
22. Options of the Presiding Officer when case can not be decided within the time fixed by the High Court or the District Judge.

23. 23. How to write explanation when maximum time had elapsed during the period of the predecessor Presiding Officers when there was direction for time-bound disposal of the case.
24. What should be done when a wrong order by mistake or ignorance is passed?
25. How to issue notice again to the defendants when the case was already ordered by the predecessor to proceed ex-parte against the defendants and the case is today fixed for ex-parte evidence or ex- parte argument of the plaintiff?
26. How to avoid deciding those cases which no one among the predecessors decided?
27. How to survive when the District Judge is displeased with the Judicial officer?
28. How to earn pleasure of *Kaal Bhairava* to be bailed out and spared from the wrath of the district judge?
29. How to get rid of a bad Peon or Orderly?
30. How to discipline and tame a bad and non-performer clerk or Reader?
31. Initials of clerks of court under their compliance reports---Cautions exercisable by the Presiding Officers?
32. Quantum of cost-----Tact of imposing.
33. Timing of pronouncement of judgments and orders already reserved on previous days.
34. How to conduct court and take up cases for hearing when the court is crowded by lawyers?
35. What types of judicial works can be done when the lawyers are on strike or have passed a resolution of no adverse order?
36. What should be the priority of taking up the cases for hearing in the court?
37. What should the Presiding Officer do when the counsel for both the parties are present in the court but the order-sheet recorded on the previous date does not specify as to what application is to be heard today or what other proceeding is to be undertaken today?
38. What should be done by the Addl. Civil Judges (Junior Division) when the CJM or ACJM suddenly assigns some criminal work like remand, bail, recording of statements u/s 164 CrPC etc.?
39. Arrogance, show offs, pomp and show, over assessment of self are sworn enemies of a Judicial Officer and extremely dangerous and destructive of his future prospects—How to test whether one is suffering from such weaknesses of personality?
40. Interest in village politics, election of village Pradhans highly dangerous for Judicial Officers.
41. How to deal with the family opponents in the native village and Mohalla?
42. Frequenting to the village where parents and family members reside—Cautions exercisable by the Judicial Officers?
43. How to deal with the classmates practicing as lawyers at the place of posting?
44. Cautions required in going to markets for purchases.
45. Cautions required in purchases of daily needs through peons.
46. Exchanging messages or other contents with others on Mobiles etc loaded with political contents or loose remarks extremely dangerous for Judicial Officers.
47. Extreme level caution required to ensure that crucial conversation of Judicial Officer is not recorded by others on Mobile etc.

48. Humility and mannerism free from arrogance required of a Judicial Officer in all conditions when in journey, especially with the police personnel irrespective of their rank or behavior---Any misdealing with them to prove costlier to the Judicial Officer.
49. Toll Plazas on highways-----Cautions for Judicial Officers?
50. What to do when met with accident on road? Having Mobile Nos. of CJM or of batchmates or of some other Magistrate of the district while passing through his district for contact and help in emergency.
51. How to deal with Sifarish made by relatives and acquaintances for favours in judicial matters?
52. How to deal with Sifarish for favours in judicial matters made by senior or junior judicial officers posted in the same district or else where?
53. Judicial Officer must tell in candid words to his family members not to talk to or assure any one either face to face or on Mobile etc in relation to a case pending in his court and should avoid to be blackmailed later at their hands, especially in the era of Mobiles with voice recording devices.
54. To be voluble either in court or outside is bad trait and erodes the respectability of the Judicial Officer in long term.
55. How to react on being praised by a lawyer in court either for knowledge of law or anything else?
56. How to react in court or outside court when angered by remarks passed by an errant advocate?
57. Understanding the composition of the Bar and various factions formed within it on various negative factors prevalent in the society?
58. Understanding the dangers of going too close to one district Judge means inviting the wrath of the incoming district judge. How to formulate a cautious and uniform policy for long term in this regard?
59. Maintaining normal relations with all Judicial Officers—But how?
60. Monthly meetings or other gatherings of Judicial Officers--- A junior must not speak or give suggestions on any issue unless specifically called upon to do so by the district judge or by any senior officer close to the district judge.
61. Out witting or proving wrong a senior should always be avoided.
62. Posing to be over smart has not been the tradition of the judicial department. Hierarchical distance and respect should be maintained even when the senior is foolish.
63. To speak less and listen more should be the habit without disclosing own mind either in the court or outside in meetings etc.
64. A reasonable seriousness in personality will pay a lot in long term. But what can be its outer limit?
65. No advocate, junior or foolish senior, should be mocked for his foolish submissions. Its simply fraught with the dangers of aberration in one's own personality.
66. Junior advocates should be guided by the Presiding Judge in their legal mistakes, and not snubbed or mocked. It will gradually bring much respect for the Presiding Judge and make him popular and respectable in the Bar as compared to others. No

one moves applications for transfer of cases or complaints against a well- behaved Judge who commands respect in the Bar.

67. Tacts and tips for smooth and respectful survival on a station without tensions and troubles is an art which a Judicial Officer must try to learn as early as possible.
