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To,

Hon'ble Chief Justice of India

Sub: - i) To take suo-motu cognizance of contempt of court against Smt. Justice Manjula Chellur, Chief Justice , Bombay High Court for her willful disregard and defiance of the lawlaid down by Hon'ble Supreme Court.

ii) To forthwith withdraw all the works assigned to Hon'ble Smt. Justice Manjula Chellur, Chief Justice Bombay High Court and to save the Hon'ble Bombay High Court , the litigants and the Bar from further damage as her incapacity and poor level of understanding has been ex-facie proved from the orders passed by her.

Ref: - i) Order passed to clerical staff to not to accept complaint against Judges by violating the guidelines given in Justice A. M. Bhattacharjee's case **(1995) 5 SCC 457 & in AIR 2015 SC 645** proving her adamant, contemptuous conduct and thereby lowering down of the majesty and dignity of the Supreme Court and High Court.

ii) Order passed in Adv. Matthew Nedumpara's case showing poor level of understanding of Smt. Justice Manjulla Chellur.

iii) Unjustified remark on reporters showing hypersensitive, impatient behavior.

Hon'ble Sir,

By way of this letter we would like to draw your attention to the impatient, adamant, contumacious, illegal, hypersensitive conduct of Smt. Justice Manjulla Chellur of Bombay High Court showing her poor mental level and her inability to understand the law which proved harmful, counterproductive and non-conducive to the administration of Justice and more particularly to Hon'ble Bombay High Court.

SUMMARY OF CHARGES.

The summary of charges against Smt. Justice Manjula Chellur are as under;

1. CHARGE #1:- CONTEMPT OF HON'BLE SUPREME COURT'S DIRECTIONS IN AIR 2105 SC 645

She has asked her staff not to accept the complaints against any of the Judges of Bombay High Court. However as per "In-House Procedure" as ordered by Hon'ble Supreme Court in AIR 2015 SC 645, the complaint against Judges should be given to the Chief Justice of that respective High Court.

We have reasons to believe that, this is done by her to save the (accused) Judge Shri S.J. Kathawala as the complaint was against him. Therefore she is liable to be prosecuted U-Sec. 166, 218, 219, 201 etc of I.P.C.

2. CHARGE #2:- SHE DOES NOT POSSESS THE BASIC KNOWLEDGE OF THE LAW AND HAS A RECORD OF PASSING ILLEGAL & UNLAWFUL ORDERS REGULARLY

She passed an order issuing notice U-Sec.14 of Contempt of Courts Act to one Adv. Matthew Nedumpara while he was not present in the court. This is against the law laid down by Supreme Court in Leila David v. State of Maharashtra & Ors AIR 2010 SC 862, **Smt. Manisha Mukherjee v. Asoke**

Chatterjee , 1985 CRI. L. J. 1224 and 2015 (2) KCCR 1809 – High Court of Karnataka Vs. Jai Chaitanya Dasaa.

3. CHARGE #3:- ADAMANT IN NATURE AND HAVE NO RESPECT FOR LAW AND HABITUAL IN BREAKING LAW AS PER HER WHIM AND CAPRISE

She repeated the same illegality in subsequent orders even if any of her previous orders are overruled by the Higher Courts. Smt. Chellur, in the case of High Court Vs Jai ChaitanyaDasa 2015 kar, gave her opinion that even if the procedure U-Sec. 14 of the Contempt of Courts Act is not properly followed i.e. sub-sec. 1, 2 etc of Sec. 14 are not followed then also proceeding can continue further as per Sec. 14(3), (4) etc of the Act.

The above observation of Smt. Chellur was rejected by the Division Bench in 2015 Kar.

Notwithstanding above, Smt. Chellur again on 15/03/2017 in Writ Petition No. 2334 of 2013, has committed the same illegality and proceeded further without following the provisions of Sec. 14 of the Act.

This shows that either she doesn't know the law or she is adamant to break the law. **'Judges cannot be the law unto themselves, expecting others to obey the law'**

4. CHARGE #4:- HABITUALLY COMMITS CONTEMPT OF SUPREME COURT AND VIOLATING THE PRINCIPLES OF NATURAL JUSTICE BY PASSING ORDERS WITHOUT ASSIGNING REASONS AND THEREBY COMMITTING CONTEMPT OF SUPREME COURT'S DIRECTING IN SHIAMA ZAFRI'S CASE (2013) 14 SCC 348, AND OTHER CATENA OF CASES.

That it is a declared law that any orders passed by the court should be a reasoned order, else it is an illegal order.

But Smt. Chellur in her order dated 24th March 2017 in Contempt petition No. 03 of 2017, passed order and directed

You Tube to remove some videos without giving any reason for such directions.

Moreover, she did not even take the written preliminary objection of the respondents on record that one of the videos in fact directed to be removed from You Tube, contains appreciation of Justice Oka.

This proves her adamant and Injudicious conduct and it is a sufficient ground for her forthwith removal.

5. CHARGE #5:- DOES NOT KNOW THE BASIC PROCEDURES AND RULES OF CONDUCTING A COURT PROCEEDING AND IS A VIOLATOR OF PRINCIPLES OF NATURAL JUSTICE. COMMITTED CONTEMPT OF SUPREME COURT IN AIR 1991 SC, MANU/MH/0334/2009.

That in Contempt Petition No.03 of 2017 on 24th March 2017 Justice Chellur took the additional affidavit of the petitioner on record without providing the copy of the same to the other party and straightaway passed the order directing you tube to delete the videos which were mentioned in additional affidavit – as allegedly containing contemptuous material.

This is gross violation of principles of natural Justice as has been mandated by Hon'ble S.C. in **MANU/SC/0124/1991 : (1991)ILLJ29SC** & **MANU/MH/0334/2009** & in Mohan Singh's case.

6. CHARGE #6:- ACTED AGAINST THE LEGAL PROCEDURE IN CASES OF STING OPERATION SET OUT BY SUPREME COURT IN R. K. ANAND'S CASE IN MATTER OF STING OPERATION (AIR 2009 SWC 6876) AND FOLLOWED BY OTHER HIGH COURTS IN JAGAT PATEL'S CASE MANU/GJ/0361/2017, ONLY WITH A VIEW TO SAVE THE CORRUPT JUDGE ON WHOM STING OPERATION WAS PERFORMED AND UNETHICAL ADVOCATE WHO IS THE SON OF SITTING BOMBAY HIGH COURT JUDGE.

Therefore she is guilty of offences U-Sec. 201, 218, 219, 120(B) & 34 of I.P.C. and also under contempt of Courts Act as per Rabindranath Yadav's Case(2010) 3 SCC (Cri.) 165.

The complainant Mr. Ashiq Merchant filed a complaint addressed to CJ Smt. Manjula Chellur along with the copy of the sting operation of the court proceedings showing misconduct of some advocates and Judge S.J. Kathawala. The CD proved the dishonesty of Judge Kathawala that he did not take the deposition of the witnesses on record and passed an order in favor of accused.

When such a sting operation is done and complaint is given to the Chief Justice then it is her duty to direct investigation against guilty person as done in Jagat Patel's case **MANU/GJ/0361/2017** and to take suo-motu cognizance of contempt against guilty advocate Mr.AspiChinoy, adv. Vishal Kanade&Ors. In the present case as has been done by Delhi High and approved by Hon'ble Supreme Court in R.K anand's Case in 2009 AIR SWC 6876.

But Smt. Chellur did not follow this procedure which shows her Corrupt motive [vide **AIR 2016 SC 3356** R.R. Parekh's case]

7. CHARGE #7:- HYPER SENSITIVE IN NATURE - TRIED TO PRESSURIZE MEDIA PERSONS ILLEGALLY AND UNLAWFULLY AND ASKED THEM NOT TO PUBLISH THE TRUTH OF THE PROCEEDINGS IN VIOLATION OF ART.19 OF THE CONSTITUTION.

Therefore unfit to hold the sensitive post of a Judge not even as a magistrate [**AIR 2001 SC 1975**]

8. CHARGE #8:- DOES NOT KNOW THE BASIC RULES THAT AN ADVOCATE CAN APPEAR WITHOUT VAKALATNAMA AND CAN UNDERTAKE TO FILE VAKALATNAMA BEFORE

THE NEXT DATE IN THE MATTER [2003 CR. L.J. 350, 1975 CR. L.J. 1808]

That in contempt petition No. 03 of 2017 on 7th April 2017 Adv. Mathew Nedumpara a/w Adv. Suresh Ghamre appeared for Respondent No.8. He said that they would file Vakalatnama and started his submission. But Smt. Chellur stopped Mr. Mathew Nedumpara and told that she will not allow him to argue the case till he filed the Vakalatnama in the case. This clearly shows her lack of knowledge and her adamant, unlawful, non-judicious conduct.

In Contempt cases the respondent is entitled for all safeguards of criminal cases [vide **Ashok Agrawal's case (2014) 3 SCC 602**].

In criminal cases, there is no need for the advocate to file Vakalatnama before arguing the case it can be filed subsequently. [2003 Cr.L.J 350, 1975 Cr.L.J 1808]

But she doesn't know this law. This proves her poor mental level.

9. CHARGE #9:- DOES NOT HAVE MORAL VIGOR, ETHICAL FIRMNESS AND IS NOT IMPERVIOUS TO CORRUPT OR VENIAL INFLUENCES. ON THE OTHER HAND SHE IS COUNTER-PRODUCTIVE AND NON-CONDUCTIVE TO THE ADMINISTRATION OF JUSTICE AS SHE IS EASILY SUSCEPTIBLE TO PRESSURE. WHICH IS A PROVED MISBEHAVIOR AND SUFFICIENT GROUND FOR HER REMOVAL AS PER ART.124(4) OF THE CONSTITUTION.

Hon'ble. Supreme Court in C. Ravinchandranlyyer's case **(1995)5 SCC 457** , ruled that the persistent failure to perform the judicial duties of the Judges or willful abuse of the office "dolus malus" would be misbehavior within the meaning of Art. 124(4) of the constitution for removal of a High Court Judge.

In **AIR 2001 SC 1975**, it is ruled by Hon'ble Supreme Court that if there are more than one instances of non-followance of Supreme Court order then it is a ground for strict action against that Judge.

Here Smt. Chellur had done more than 15 offences, therefore she should be removed forthwith.

10. CHARGE #10 :- UNABLE TO DECIDE THE SERIOUS MATTERS THE UNAPOLOGETIC APPROACH IN DECIDING SERIOUS HIGH PROFILE MATTER, PROVES THAT SHE IS NOT HAVING ETHICAL FIRMNESS AND IS SUSCEPTIBLE TO PRESSURE AND IS THEREFORE A THREAT TO INDEPENDENCE OF THE JUDICIARY.

That in the matter against some influential person like Adv. Vishal Kanade who is son of Justice V.M. Kanade or in the issues like illegal strike by the Bar Council of India, Smt. Chellur always adopts an approach so as not to hurt the mighty people and there she passes cryptic orders and thereby abusing the post of Chief Justice of High Court, which is for doing justice without fear or favour.

That in the case of Manoj Shirsat Vs Bar Council of India P.I.L No. 37 of 2017, Smt. Chellur did not decide the question whether the strike called by Bar Council is legal or illegal.

The order passed by her on 30th March 2017 is a proof of her incapacity and inability.

Hon'ble Supreme Court in the case of **Sundarjas Kanyalal Bhathija and others -Vs- The Collector, Thane, Maharashtra AIR 1990 SUPREME COURT 261** held that, **the Judges are bound by precedents and procedure - They could use their discretion only when there is no declared principle to be found, no rule and no authority The question of law directly arising in the case should not be dealt with apologetic approaches. The law must be made more effective as a guide to behaviour. It must be**

determined with reasons which carry convictions within the Courts, profession and public. Otherwise, the lawyers would be in a predicament and would not know how to advise their clients. Sub-ordinate courts would find themselves in an embarrassing position to choose between the conflicting opinions. The general public would be in dilemma to obey or not to obey such law and it ultimately falls into disrepute- where a single judge or a Division Bench does not agree with the decision of a Bench of co-ordinate jurisdiction, the matter shall be referred to a larger Bench. It is a subversion of judicial process not to follow this procedure - it is the duty of judges of superior courts and tribunals to make the law more predictable. The question of law directly arising in the case should not be dealt with apologetic approaches. The law must be made more effective as a guide to behaviour. It must be determined with reasons which carry convictions within the Courts, profession and public. Otherwise, the lawyers would be in a predicament and would not know how to advise their clients. Sub-ordinate courts would find themselves in an embarrassing position to choose between the conflicting opinions. The general public would be in dilemma to obey or not to obey such law and it ultimately falls into disrepute- One must remember that pursuit of the law, however glamorous it is, has its own limitation on the Bench. (Paras 17, 20)

11. CHARGE #11:- TOO TALKATIVE AND DOES NOT ALLOW THE PARTIES AND COUNSEL TO PUT FORTH THEIR SUBMISSION. THEREFORE ALL SUCH HEARINGS AND ORDERS ARE VITIATED CAUSING LOSS OF PRECIOUS TIME AND PUBLIC MONEY.

A JUDGE WHO TALKS TOO MUCH IS HARMFUL IT IS NOT A FAIR AND ORDER PASSED BY HIM IS SET ASIDE NEW TRIAL ORDERED.(Jones V. National Coal Board (1957) 2 Q.B. 55)

Over-speaking judge is not well tuned cymbal.

An over speaking judge may create a situation where the lawyer arguing his case is prevented from developing his case in a proper way. This is nothing but a denial of fair hearing which is one of the basic features of any judicial proceeding. In a particular case it may vitiate the decision itself. There is one English case which must be remembered by a judge who talks too much.

The case is **Jones V. National Coal Board (1957) 2 Q.B. 55**, and the judge who talked too much and asked too many questions, one after another in quick succession was Sir Hugh Imbert Periam Hallett. In this case the roof of a coal mine had fallen in. a miner had been buried by it and died. The widow of the miner claimed damages. The ground, among others, that Judge's interruption had made it impossible for her counsel to put her case properly.

The Board put in a cross-appeal on the ground among others that the judge's interruptions had prevented the Board from having a fair trial. The court of appeal held-

“.....the interventions taken together, were far more than they should have been. In the system of trial which we have evolved in the country, the Judge sits to hear and determine the issue raised by the parties, not to conduct in investigation or examination on behalf of society at large A Judge of active perception, acknowledged learning, and actuated by the best of motives, has nevertheless himself intervened so much in the conduct of the case that one of the parties – nay – each of them has come away complaining that he was not able properly to put his case; and these complaints are, we think, justified In these circumstances, we think we must grant the widow a new trial. There is one thing to which everyone in this country is entitled, and that is a fair trial at which he can put his case properly before the Judge.”

In *Re Ex parte Lloyd* (1822) Mont 70 at 72 Lord Greene M R explained that “Justice is best done by a judge who holds the balance between the contending parties without himself taking part in their disputations.”

Lord Chancellor Bacon said that:

“Patience and gravity of hearing is an essential part of justice; and an over-speaking judge is not well tuned cymbal.”

That Former Chief Justice of India Shri Y. K. Sabarwal in his message to all Judges on ‘canon of judicial ethics’ made it clear that **a Judge would not disturb the submissions of the lawyers midway only to project a ‘know-all’ image for**

himself/herself. He/she should sit with open mind and eager to be advised by the counsel of the parties. In many cases Hon'ble Court set aside the orders of the court because the Judge was too talkative and did not allow the parties to put their case.

Same is the case with Smt. Chellur she doesn't know the law and she is not willing to hear the parties and interrupts the parties and pass cryptic and whimsical orders.

12. CHARGE #12:- JUDICIAL ADVENTURISM: - PASSING ORDERS BY IGNORING LAW LAID DOWN BY HON'BLE SUPREME COURT.

As seen above she had passed various orders against law laid down by Supreme Court and this conduct is termed as Judicial Adventurism by Hon'ble Supreme Court's Full bench in AIR 1997 SC 2477.

JUDICIAL ADVENTURISM - 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 - It should not be permitted to Subordinate courts including High Courts to not to apply the settled principles and pass whimsical orders granting wrongful and unwarranted relief to one of the parties to act in such a manner - The judgment and order of the High Court is set aside - The appellant would be entitled to costs which are quantified at Rs. 20,000.00.

13. CHARGE #13:- GUILTY OF MALICE IN LAW & MALICE IN FACT.

Passing an order of final nature of removing interviews in a Contempt Petition without watching it and without there being any backing of provisions in passing an order of final nature directing to remove the alleged contemptuous interviews uploaded on You Tube, without even watching these interviews and without there being any provisions in the Contempt of Courts Act to this effect..

That as has been ruled by Hon'ble Supreme Court in Tamil Nadu Mercantile Bank's case(2009)2 SCC 784, the court Hearing a case of Contempt is not having jurisdiction to pass injunction order and that too of a permanent nature in a Contempt petition also relied on **2006 Cri. L. J. 2903**.

But Smt. Chellur passed the order directing You Tube to remove the interview without assigning any reason and therefore she is guilty of 'Malice in Law' for passing an order for an unauthorized purpose [vide:(2013)16 SCC 147].

The malice in law is well explained by Hon'ble Supreme Court in **AIR 2007 SC 976**

14. CHARGE #14 :- DISQUALIFIED FOR JUDGE OF SUPREME COURT AS HER ELEVATION IS REJECTED , MAKES HER DISQUALIFIED TO HOLD THE POST OF CHIEF JUSTICE OF HIGH COURT.

That as per constitution of India, High Court and Supreme Court Judges are equal in rank and position. High Court is not subordinate to Supreme Court [Vide(2010)3 SCC 571, 5 Judge constitution Bench in "**Committee of protection of Democratic Rights case**"]

It is further ruled that the power under Art.226 given to High Court are wider than the powers given to Supreme Court under Art.32 of the constitution powers under Art.32 can be exercised only for the enforcement of fundamental rights on the other hand powers conferred by Art.226 can be exercised

not only for the enforcement of fundamental rights but for any other purpose as well i.e. for enforcement of any legal rights conferred by a statute etc.

Under these circumstances if Smt. Chellur is found to be disqualified for the post of Supreme Court Judge, then how she can be fit for the post of Chief Justice of the Bombay High Court. Therefore she needs to be dismissed forthwith.

15. CHARGE #15:- BREACH OF THE OATH TAKEN AS HIGH COURT JUDGE.

Every Judge is bound with his office with the oath taken by him/her that he or she shall uphold the sovereignty & integrity of India and to truly and faithfully perform the duties of their offices without fear or favor, affection or ill-will and will uphold the constitution.

But Smt. Chellur had breached her oath taken as a Judge by doing favor to some persons by and not taking action under fear or for extraneous consideration and acted with malice and ill-will with the advocates who exposed the corruption and illegalities and therefore she had forfeited her right to continue as a High Court Judge.

THE CHARGES AGAINST SMT. JUSTICE MAJULLA CHELLUR, WHICH ARE BASED ON THE SOUND PROOFS OF UNIMPECHABLE CHARACTER ARE EXPLAINED IN DETAIL AS UNDER;

16. CHARGE : - CONTEMPT OF HON'BLE SUPREME COURT'S ORDER/DIRECTIONS IN THE CASE OF DISTRICT JUDGE AIR 2015 SC 645

16.1) That as per IN- HOUSE – Mechanism Procedure, 1999 which has been ruled and explained by Hon'ble Supreme Court in the case of **Addl. District Judge 'X' Vs. Registrar High Court , AIR 2015 SC 645**, any complaints against a high Court Judge has to be made to and enquired by Chief Justice of that High Court or Hon'ble High Court'ble Chief Justice of India. That the Hon'ble Supreme Court in **AIR 2015 SC 645 (Supra)** had given directions to all Chief Justices as under ;

Complaint against Judges of High Court- In house procedure - A complaint may be received, against a sitting Judge of a High Court, by the Chief Justice of that High Court, Chief Justice of India and President of India - The role of the Chief Justice of the High Court, being limited to the first stage of the investigative process, during which the only determination is, whether a prima facie case is made out requiring a deeper probe - "in-house procedure" contemplates the implied exclusion of colleague Judges, from the same High Court.

Therefore as per that judgment Shri. Ashiq Merchant wrote one letter to Smt. Justice Manjulla Chellur, enquiring about the fate of his complaint against Justice S. J. Kathawala.

Surprisingly the dispatch clerk informed the victim Ashiq Merchant that they cannot receive complaint/communications regarding High Court Judge.

This is a gross contempt of Hon'ble Supreme Court's directions in abovesaid case.

16.2) It is worth to mention here that in the letter, said Ashiq Merchant gave refrence of the above said judgment of Hon'ble Supreme Court but then also Smt. Justice Manjulla Chellur refused to accept the letter. She shown wilful direspect and disregard to Hon'ble Supreme Court's direction and undermined the majesty and dignity of the Hon'ble Supreme Court.

In this regard Mr. Ashiq Merchant made complaint to Hon'ble President of India & Hon'ble Chief Justice of India. Being **President of India's grievance/case No. PRSEC/E/2017/4055** on 29/03/2017.

16.3) The above conduct /act of Smt. Justice Manjulla Chellur in not following the directions of Hon'ble Supreme Court is gross contempt on the part of Smt. Justice Manjulla Chellur & the concerned staff and it is also an offence under section 166, 218, 219, R/w 120 (B) &34 of I.P.C.

In the case of **SPENCER & COMPANY LTD -Vs- VISHWADARSHAN DISTRIBUTORS PVT. LTD (1995) 1 SCC 259** it is held that the Supreme Court's order even if is only in the form of a request instead of explicit command or direction it is a judicial order and is binding and enforceable throughout the territory of India – In case of flouting of the order by High Court, it is open to Supereme Court to initiate Contempt proceedings against the erring Judges of High Court.

In **Rabindra Nath Singh -Vs- Pappu Yadav case (2010 (3) SCC (Cri) 165** Hon'ble Supreme Court held that the High

Court committed contempt of Court in not following the guidelines of Supreme Court in the concerned matter.

NDMC Vs. M/s Prominent Hotels ltd. (2015) 222 DLT 706 , where it is ruled that **FAILURE TO FOLLOW HIGHER COURT'S DECISION AND PASSING ORDER BY IGNORING LAW DECLARED BY HIGHER CORTS MAKES THE JUDGE LIABLE FOR ACTION UNDER CONTEMPT: -**

In **Re: M.P. Dwivedi & Ors., (1996) 4 SCC 152**, the Supreme Court initiated suo moto contempt proceedings against seven persons including the Judicial Magistrate, who disregarded the law laid down by the Supreme Court - 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 willful, have not been held to be a sufficient ground of defence in a contempt proceeding.

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 - **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 - and they cannot ignore it either in initiating proceedings or deciding on the rights involved in such a proceeding - If in spite of the earlier exposition of law by the Superior Court having been pointed out and attention being pointedly drawn to that legal position and if anything done by any authority, in utter disregard of that position, it must be held to be a willful disregard of the law laid down by the Court and would amount to civil contempt as defined in section 2(b) of the Contempt of Courts Act, 1971 -in the administration of justice, judges and lawyers play equal roles. like judges, lawyers also must ensure that truth triumphs in the administration of justice - Failure to follow Higher Court's decision and ignorance of law makes the Judge liable for action under Contempt.

If the subordinate courts, Tribunals and authorities within the territory of particular High Court refuse to carry out the directions given to them by the Superior Court the result will be chaos in the administration of justice and the very democracy founded on rule of law crumbles. [1996 Cri. L.J. 564]

16.4) Section 166, 218, 217, 201, 219 ETC. of I.P.C. - MISUSE OF POWER TO SAVE THE ACCUSED.

Sec. 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.

Sec. 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.

It is clear that Justice Smt. Chellur acted with a motive to save the accused and also herself from the anticipated litigation of act of commission and omission.

IPC : Section 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.

Hon'ble Bombay High Court in the case of **AIR 1921, Bom. 115** held that,

*“**IPC 218**:-The gist of the section is stifling of truth and the perversion of the course of justice in case where an offence has been committed, to screen any particular person. It is sufficient that he knows it to be likely that justice will not be executed and that someone will escape from punishment”*

OTHER SECTIONS OF IPC

201. Causing disappearance of evidence of offence, or giving false information to screen offender.—Whoever, knowing or having reason to believe that an offence has been committed, causes any evidence of the commission of that offence to disappear, with the intention of screening the offender from legal punishment, or with that intention gives any information respecting the offence which he knows or believes to be false; if a capital offence.—shall, if the offence which he knows or believes to have been committed is punishable with death, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine; if punishable with imprisonment for life.—and if the offence is

punishable with 1[imprisonment for life], or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; if punishable with less than ten years' imprisonment.—and if the offence is punishable with imprisonment for any term not extending to ten years, shall be punished with imprisonment of the description provided for the offence, for a term which may extend to one-fourth part of the longest term of the imprisonment provided for the offence, or with fine, or with both. Illustration A, knowing that B has murdered Z, assists B to hide the body with the intention of screening B from punishment. A is liable to imprisonment of either description for seven years, and also to fine.

- 16.5) In the case of High Court Judge **Raman Lal vs State 2001Cr. L.J. 800**, the Judge was prosecuted by way of sec. 120(B) of I.P.C. it is ruled as under;

Conspiracy - Proceeding against accused High Court Judge who was involved - I.P.C. Sec. 120 (B) - Apex court made it clear that an inference of conspiracy has to be drawn on the basis of circumstantial evidence only because it becomes difficult to get direct evidence on such issue - The offence can only be proved largely from the inference drawn from acts or illegal ommission committed by them in furtherance of a common design - Once such a conspiracy is proved, act of one

conspirator becomes the act of the others – A Co-conspirator who joins subsequently and commits overt acts in furtherance of the conspiracy must also be held liable – Proceeding against accused High Court Judge who was involved in criminal conspiracy cannot be quashed.

17. CHARGE :- UNABLE TO ADOPT THE CULTURE OF JUDGE ASKING REPORTERS ABOUT THEIR CULTURE OF THEIR DRESS CODE.

That on 29/03/2017, Smt. Justice Manjula Chellur became furious upon some reporters as they were wearing T-shirts & Jeans.

In marathi news paper it is also published about the comments of Smt. Justice Chellur that she shouted at the reporters and said that the reporter should only publish the orders of the court and nothing else. She was said to be annoyed because of publication of news regarding issue related with Doctors which ridiculed her for her childish comments on doctors to leave their jobs if they fear about attacks by people's mob on them.

The above said incidence has to be appreciated in the light of following legal position to see the poor mental level of Smt. Justice Chellur.

That there is no dress-code for any reporters and secondly wearing T-shirts and Jeans is not unsober. Moreover this is not the way for a Judge to shout in the court to settle her personal scores.

A High Court Judge and more particularly Chief Justice is never expected to be such nature else she will ruin the life of many litigant which found their petition at her hands for their decision.

17.1) In **Vishwanathan's case 1990 Cri.L.J 2179**, replying on Hon'ble Supreme Court's (7 Judge Bench) judgement it has been ruled that **in AIR 1982 SC 149, S.P. Gupta v. President of India** where he observed in para 1256 as under :-

"A Judge should be independent of himself. A Judge is a human being who is a bundle of passions and prejudices, likes and dislikes, affection and ill-will, hatred and contempt and fear and recklessness. In order to be a successful Judge these elements should be curbed and kept under restraint and that is possible only by education, training, continued practice and cultivation of a sense of humility and dedication to duty. These curbs can neither be bought in the market nor injected into human system by the written or unwritten laws.

The life of a Judge does not really call for great acts of self sacrifices, but it does insist upon small acts of self-denial almost every day."

17.2) In : **High Court of Karnataka Vs. Jai Chaitanya Dasa and Ors., 2015 (2) KCCR 1809** , it has been ruled that "The bad behaviour of one Judge has a rippling effect on the reputation of the judiciary as a whole. When the edifice of judiciary is built heavily on public confidence and respect, the damage by an obstinate Judge would rip apart the entire judicial structure built in the Constitution."

It is questionably true that courtesy breeds courtesy and just as charity has to begin at home, courtesy must begin

with the judge. A discourteous judge is like an ill-tuned instrument in the setting of a court room.

The legal profession is a solemn and serious occupation. It is a noble calling and all those who belong to it are its honourable members.

Respect is not to the person of the Judge but to his office. The duty of courtesy to the Court does not imply that he should not maintain his self-respect and independence as his client's advocate. Respect for the Court does not mean that the counsel should be servile. It is his duty, while respecting the dignity of Court, to stand firm in advocacy of the cause of his client and in maintaining the independence of the Bar. It is obviously in the interests of justice that an advocate should be secured in the enjoyment of considerable independence in performing his duties.

In **Bidhi Singh ...Vs.. M. S. Mandyal 1993 Cri. L.J. 499**, it is ruled that,

A Presiding Judge is expected to maintain decorum in the proceedings before him. He is expected also to act with restraint- One would expect him to be sober, unruffled and temperate in language even when faced with a situation where those appearing before him may tend to lose their composure. In this scheme of things any vituperative outburst on the part of the Presiding Officer, howsoever grave the provocation to him, cannot be countenanced as an action sustainable as one performed by him "while acting or purporting to act in the discharge of his official duty

17.3) It has been laid down by Hon'ble Supreme Court in **K. Veerswami Vs. Union of India 1991 (3) SCC 655** that,

(53) The judiciary has no power of the purse or the sword. It survives only by public confidence and it is important to the stability of the society that the confidence of the public is not shaken. **The Judge whose character is clouded and whose standards of morality and rectitude are in doubt may not have the judicial independence and may not command confidence of the public. He must voluntarily withdraw from the judicial work and administration.**

(54) The emphasis on this point should not appear superfluous. Prof. Jackson says "**Misbehavior by a Judge, whether it takes place on the bench or off the bench, undermines public confidence in the administration of justice, and also damages public respect for the law of the land; if nothing is seen to be done about it, the damage goes unrepaired. This a must be so when the judge commits a serious criminal offence and remains in office**". (Jackson's Machinery of Justice by J.R. Spencer, 8th Edn. pp. 369-70.

(55) The proved "misbehaviour" which is the basis for removal of a Judge under clause (4) of Article 124 of the Constitution may also in certain cases involve an offence of criminal misconduct under Section 5(1) of the Act. But that is no ground for withholding criminal prosecution till the Judge is removed by

Parliament as suggested by counsel for the appellant. One is the power of Parliament and the other is the jurisdiction of a criminal court. Both are mutually exclusive. Even a government servant who is answerable for his misconduct which may also constitute an offence under the Indian Penal Code or under S. 5 of the Act is liable to be prosecuted in addition to a departmental enquiry. If prosecuted in a criminal court he may be punished by way of imprisonment or fine or with both but in departmental enquiry, the highest penalty that could be imposed on him is dismissal. The competent authority may either allow the prosecution to go on in a court of law or subject him to a departmental enquiry or subject him to both concurrently or consecutively. It is not objectionable to initiate criminal proceedings against public servant before exhausting the disciplinary proceedings, and a fortiori, **the prosecution of a Judge for criminal misconduct before his removal by Parliament for proved misbehaviour is unobjectionable.**

“.....But we know of no law providing protection for Judges from criminal prosecution. Article 361(2) confers immunity from criminal prosecution only to the President and Governors of States and to no others. Even that immunity has been limited during their term of office. **The Judges are liable to be dealt with just the same way as any other person in respect of criminal offence. It is only in taking of bribes or with regard to the**

offence of corruption the sanction for criminal prosecution is required.

17.4) After going through the above settled legal position, the conduct of Smt. Justice Manjulla Chellur comes under the category of misbehavior.

The word misbehavior is explained in **C. Ravichandran Iyer Vs. Justice A.M. Bhattacharjee and Ors, (1995)5SCC457**, where it is ruled that ;

Misbehaviour by a judge - Judicial office is essentially a public trust. Society is, therefore, entitled to expect that a Judge must be a man of high integrity, honesty and required to have moral vigour, ethical firmness and impervious to corrupt or venial influences. He is required to keep most exacting standards of propriety in judicial conduct. Any conduct which tends to undermine public confidence in the integrity and impartiality of the court would be deleterious to the efficacy of judicial process. Society, therefore, expects higher standards of conduct and rectitude from a Judge.

The conduct that tends to undermine the public confidence in the character, integrity or impartiality of the Judge must be eschewed. It is expected of him to voluntarily set forth wholesome standards of conduct reaffirming fitness to higher responsibilities.

Guarantee of tenure to a Judge and its protection by the Constitution that he will not be removed without impeachment

would not, however, accord sanctuary for corruption or grave misbehavior.

To keep the stream of justice clean and pure, the Judge must be endowed with sterling character, impeccable integrity and upright behavior. Erosion thereof would undermine the efficacy of the rule of law and the working of the Constitution itself. The Judges of higher echelons, therefore, should not be mere men of clay with all the frailties and foibles, human failings and weak character which may be found in those in other walks of life. They should be men of fighting faith with tough fibre not susceptible to any pressure, economic, political or any sort. The actual as well as the apparent independence of judiciary would be transparent only when the office holders endow those qualities which would operate as impregnable fortress against surreptitious attempts to undermine the independence of the judiciary. In short, the behavior of the Judge is the bastion for the people to reap the fruits of the democracy, liberty and justice and the antithesis rocks the bottom of the rule of law.

Scope and meaning of "misbehavior" in Article 124(4):

Willful abuse of judicial office, wilful misconduct in the office, corruption, lack of integrity, or any other offence involving moral turpitude would be misbehavior.

Misconduct implies actuation of some degree of mens rea by the doer. Judicial finding of guilt of grave crime is misconduct. Persistent failure to perform the judicial duties of the Judges or wilful abuse of the office dolus malus would be misbehavior. Misbehavior would extend to conduct of the Judge in or beyond the execution of judicial office.

A mis behaviour which is ' a good behaviour may be improper conduct not befitting to the standard expected of a Judge.

The bad behaviour of one Judge has a rippling effect on the reputation of the judiciary as a whole. When the edifice of judiciary is built heavily on public confidence and respect, the damage by an obstinate Judge would rip apart the entire judicial structure built in the Constitution.

26. Bad conduct or bad behavior of a Judge, therefore, needs correction to prevent erosion of public confidence in the efficacy of judicial process or dignity of the institution or credibility to the judicial office held by the obstinate Judge.

17.5) Secondly the dictatorship of Smt. Justice Manjulla Chellur by directing media persons to not to publish the arguments of the parties are shocking .

The law is settled that the media persons has to publish the arguments and other attending circumstances of the case.

In **Meghraj Taword Vs Kapoor Chandra Kulish, 1987 (1) Raj L.R. 204** it has been ruled that

“A news item regarding any decision or proceeding of the Court when published it should be kept in mind that contentions of both the parties should be fairly described to give balanced view points of each of the parties as placed before the Court by them in their petitions and the replies; arguments advanced by learned counsel appearing for both the parties should also be properly described so that reader is in a position to understand the viewpoints placed before the Court by both the counsels; and the facts and material on which the Court basis its decision in the matter should also be described in the news item so that the readers are in a position to understand why the Court took a particular view while deciding the matter.”

17.6) If any wrong news is published then Smt. Is expected to send letter to media. This is the procedure which is generally/normally followed.

It is worth to quote few para from Justice Nirmal Yadav's case **2011(4) RCR(Criminal) 809**, where in a situation of similar nature Registrar of Supreme Court sent letter to Hindustan Times to publish corrigendum. It is as under;

55.**During the course of hearing, Mr. Anupam Gupta has placed on record copy of a letter dated 10.2.2010 said to be issued from the office of Shri M.P.Bhadran, Secretary General, Supreme Court of India addressed to the Editor-in-chief, the Pioneer newspaper denying the factum of refusal of sanction at the level of Hon'ble**

CJI. The contents of the letter are reproduced here under:-

10th February, 2010

"To

The Editor in Chief

The Pioneer, IInd Floor, Link House,

3, Bahadur Shah Zafar Marg,

New Delhi.

Sub: News item captioned "Cash-at-door Scame: Bar association slams CJI" published in the Pioneer, New Delhi on 10th February, 2010.

Sir,

In respect of today's news item in your newspaper under the caption "Cash-at-door Scame: Bar association slams CJI", this is to clarify that no such request for sanction to prosecute a Judge of the Punjab & Haryana High Court, has been made by the CBI to Hon'ble the Chief Justice of India regarding the alleged delivery of cash. Even the final report in this regard has not been shown to Hon'ble the Chief Justice of India by CBI. So it is incorrect to say that Hon'ble the Chief Justice of India has denied sanction to prosecute the Judge. Hence I request you to publish a

clarification in your newspaper at a prominent place.

Thanking you,

Yours faithfully

Sd/-

M.P. Bhadran"

56. It is stated that on the basis of the news item published in various newspapers, Office of Hon'ble CJI clarified that the matter was never placed before the then Hon'ble CJI, Justice K.G. Balakrishnan and thus question of refusal does not arise.

17.7) Even in section 4 of the Contempt of Courts Act & in Defamation Section 499 of I.P.C the **Fair and accurate report of judicial proceeding** is kept out of the purview of the clutches of the law

Section 4 reads as under;

4. Fair and accurate report of judicial proceeding not contempt.—Subject to the provisions contained in section 7, a person shall not be guilty of contempt of court for publishing a fair and accurate report of a judicial proceeding or any stage thereof. — Subject to the provisions contained in section 7, a person shall not be guilty of contempt of court for publishing a fair and accurate report of a judicial proceeding or any stage thereof."

Section 499 of I.P.C reads as under;

**S. 499 . - Fourth Exception.—
Publication of reports of proceedings**

of Courts.—It is not defamation to publish substantially true report of the proceedings of a Court of Justice, or of the result of any such proceedings. Explanation.—A Justice of the Peace or other officer holding an inquiry in open Court preliminary to a trial in a Court of Justice, is a Court within the meaning of the above section. Fifth Exception.—Merits of case decided in Court or conduct of witnesses and others concerned.—It is not defamation to express in good faith any opinion whatever respecting the merits of any case, civil or criminal, which has been decided by a Court of Justice, or respecting the conduct of any person as a party, witness or agent, in any such case, or respecting the character of such person, as far as his character appears in that conduct, and no further.

Apart from the right to publish truth of the proceedings, every media and citizen are given right to fair criticism of the judgement of the court.

- 17.8) In **Court on its own Motion Vs. DSP Jayant Kashmiri** , **MANU/DE/0609/2017** , it is also ruled that the judges should not be hyper sensitive .

It is ruled that ,

*The **fifth** normative guideline for the Judges to observe in this jurisdiction as laid down in (1978) 3 SCC 339, In Re: S. Mulgaokar case is that the Judges should not to be hypersensitive even where distortions and criticisms overstep the*

limits, but to deflate vulgar denunciation by dignified bearing, condescending indifference and repudiation by judicial rectitude.

Judgments are open to criticism. No criticism of a judgment, however vigorous, can amount to contempt of court - Fair and reasonable criticism of a judgment which is a public document or which is a public act of a judge concerned with administration of justice would not constitute contempt. Such a criticism may fairly assert that the judgment is incorrect or an error has been committed both with regard to law or established facts.

Hon'ble Apex Court in *S. Mulgaokar*, reported in MANU/SC/0067/1977 : AIR 1978 SC 727 has laid down the rules for guidance of the Judges. The first rule in this branch of contempt power is;

“ A wise economy of use by the Court of this branch of its jurisdiction. The Court should be willing to ignore, by a majestic liberalism, trifling and venial offenses - the dogs may bark, the caravan will pass. The court will not be prompted to act as a result of an easy irritability.

Secondly, to criticize the judge fairly, albeit fiercely, is no crime but a necessary right, twice blessed in a democracy. Free people are the ultimate guarantors of fearless justice. Such is the cornerstone of our Constitution; such is the touchstone of our Contempt power.

“We should not become hyper sensitive even where distortions and criticism oversteps the limits. We have to deflate vulgar denunciation by dignified bearing, condescending indifference and repudiation by judicial rectitude. THE BENEFIT OF DOUBT SHOULD BE GIVEN GENEROUSLY AGAINST THE JUDGE, ..”

17.9) In **R.K. Anand's case 2009 AIR SCW 6876** it is ruled that the role of media as under;

Constitution of India, Art.19(1)- Freedom of press/media - Any attempt to control and regulate media from outside is likely to cause more harm than good - Norms to regulate media and to raise its professional standards must come from inside. (Para 198)

18. CHARGE :- SMT. JUSTICE MANJULA CHELLUR DON'T KNOW THE BASIC PROCEDURE OF CONTEMPT OF COURTS ACT

The classic example of Smt. Justice Manjula Chellur's poor mental level to know the basic law can be seen from the order passed by her on 15th March, 2017 in Writ Petition No. 2334 of 2013.

The illegality of the order is capulized as under:

18.1) That the order dated 15th March, 2017 in Writ Petition No. 2334 of 2013 is about the gross misconduct of Mr. Mathew Nedumpara, Advocate on the face of the court and therefore, notice is issued under Article 215 of the Constitution of India and section 14 of the Contempts of Courts Act. It is mentioned in the order that **the order under Sec. 14 of the Contempt**

of Courts act is passed after Mr. Nedumpara left the court. This itself proves the poor mental level of Smt. Justice Manjula Chellur.

It can be appreciated from Two legal positions:

(A) The Judge proceeding under section 14 of the Contempt of Courts Act must know the basic principles as to when it is used.

In 2013 CRI. L. J. 3391, it is ruled that ,

Section 14 of the Act empowers the High Court to take immediate and emergent action when the contempt is on the face of the Court. Contempt proceedings under Sec. 14(1) can be initiated only when (a) the contempt is clear, (b) the contempt affects a trial in progress or about to start, (c) it is urgent and imperative to act immediately in order to prevent justice being obstructed and undermined and to preserve the integrity of the trial, and (d) no other procedure can be resorted to, to meet the ends of justice[Vide: 2013 CRI. L. J. 3391]

(B) Secondly the power under section 14 has to be used before the alleged contemnor leaves the precincts of the Court.

In Smt. Manisha Mukherjee v. Asoke Chatterjee , 1985 CRI. L. J. 1224, it is ruled as under ;

Contempt of Courts Act (70 of 1971), S.14, S.15- Contemner alleging no confidence in Division Bench in the presence and hearing of the High Court the

court has to follow the procedure laid down in S.14 - **made the person to be proceeded against is required to be detained in custody, informed of the charge, and he is to take his defence immediately. The implication of the above is that the allegation is to be made soon after the conduct has been indulged in before the offender has left the precincts of the Court. But allegations may be made under S.15 of the Act within a reasonable time after the impugned conduct was indulged in; and at the time of making the allegation the offender may be away from the Court for which he is to be personally served with notice under S.17 of the Act.**

Two different procedures have been prescribed for conduct amounting to contempt indulged in two broadly different circumstances. When the offending conduct has been indulged in the presence or hearing of the Supreme Court or High Court, the court will follow the procedure laid down in S.14. In all other cases, that is to say, when offending conduct was resorted to at places outside the presence or hearing of the Supreme Court or High court, the procedure prescribed by S.15 is to be followed. S.14 occurs first and S.15 coming subsequently expressly mentions "In cases of criminal contempt, other than criminal contempt referred to in S.14". S.15 thus excludes from its ambit the cases covered by S.14. So the conclusion is unavoidable that the two sections are mutually exclusive and apply to

two different types of cases, otherwise there was no necessity for prescribing two different procedures for two different types of cases under the Act.

- 18.2) The same principle is reiterated by Hon'ble Supreme Court in **Leila Davids' case AIR 2010 SC 862, where it is ruled that if any contempt happens to be on the face of court then the case under section 14 of the act is required to be dealt with, at the time of the incident itself and after realizing that the person on bail the further summary procedure under section 14(2), (3), 4 etc. has to be followed.**

That the procedure laid down under section 14 of the act is that if the contempt is on the face of the court, then such person who is committing contempt, is liable to be detained forthwith and be released on bail and then the matter be heard by following the procedure prescribed under section 14(2), (3), (4) of the Act.

And if this procedure is not followed then the court can proceed under section 15 of the Act but proceeding should not be under 14 of the Act.

But the order passed by Smt. Justice Manjula Chellur shows that she is issuing notice of sec 15 and saying the order under section 14 .

- 18.3) Needless to mention here that , same illegality was committed by Smt. Justice Manjula Chellur in the Year 2009 . Which has been observed in **2015 (2) KCCR 1809 - High Court of Karnataka Vs. Jai Chaitanya Dasaa** where High Court discharged the contempt notice and dropped the contempt of courts case against three Advocates.

The important factor of the above said judgment is that in the abovesaid judgments, it was proved that the understanding of law of Hon'ble Smt. Justice Manjula Chellur (then judge of Karnataka High Court) was very poor and she

does not know the basic provision of the Contempt of Courts Act.

The view taken by Smt. Justice Manjula Chellur (then judge of Karnataka High Court) was noted in para 61 as under:

61. The learned Third Judge Hon'ble Mrs. Justice Manjula Chellur, after referring to Article 215 of the Constitution, Section 14 and Section 15 of the Act, held as under:

"24. Sub-section (1) under Section 14 refers to procedure to be adopted where contempt is on the face of the Supreme Court or a High Court. Apparently, **when it appeared upon its own view that the contemnors were guilty of contempt, no proceedings as contemplated under the said section was initiated on the same day. But initiation was only thereafter. The order dated 15-9-2009 is to be considered only as a view of the Court that contempt has been committed as no proceedings were initiated as contemplated in the I part of sub-section (1) of Section 14. Therefore, the next stage contemplated is as per sub-section (1) of section 14 at (a), (b), (c) & (d).**

In abovesaid case in suo-motu contempt notice, the issue was regarding the procedure to be followed under section 14 of the contempt of Courts Act. In that case Smt. Justice ManjulaChellur's opinion was that even if the procedure under sub section (1) Of the section 14 is not followed, the other procedure under section 14(2) be considered to proceed further with the contempt notice. This view of Smt. Justice ManjulaChellur (then judge of Karnataka High Court) was

rejected by Hon'ble Division Bench relying on the law laid down by Supreme Court in **Leila Davids' case AIR 2010 SC 862**.

It is observed as under ;

CONTEMPT OF COURTS ACT, 1971 - Sections 14 and 15 of the Act of 1971, prescribe procedure for two different types of cases. Where Contempt of Court is committed in the presence of the Supreme Court or High Court, procedure prescribed in Section 14 has to be followed. In all other cases, procedure of Section 15 has to be followed. Proceedings under Sections 14 and 15 of the Act of 1971 contemplate two entirely different types of and mutually exclusive procedure.

- Suo motu contempt against Advocates and parties for scandalous draft - Application filed by a party to the proceedings requesting a Judge to recuse himself from hearing the case on the ground that he is biased, whether constitute contempt - HELD, if the Contempt is on the face of the Court then the procedure under section 14 of the contempt of courts act should be followed - as per law declared by Supreme Court in the case of Leila David v. State of Maharashtra & Ors reported in AIR 2010 SC 862, the case of contempt in the face of the Court under this section is required to be dealt with at the time of the incident itself - In the instance case, the contempt alleged is the words used in the affidavit filed in support of the application - If the Judges on entertaining the said application

felt as such, A. 1 should have been detained in custody and pending determination of the charges, he could have been released him on bail as provided in Sub-section (4) of Section 14 of the Act. Thereafter inform him in writing, of the contempt with which he is charged and afford him an opportunity to make his defence to the charge. Then they should have taken such evidence as may be necessary or as may be offered by A.1. After hearing the matter, they could have decided whether the charge is proved or not and accordingly punished A. 1 or discharge him. Admittedly, the Court did not follow this procedure - It is under these circumstances, the contempt proceedings now which is initiated cannot be construed as the proceedings under Section 14 of the Act.

When the contempt is on the face of the Court, then it is very essential for that Court to follow the procedure as prescribed in Section 14 of the Act. But for any reason if the concerned Court does not proceed in accordance with Section 14 of the Act and refers the matter to the Hon'ble Chief Justice of the High Court informing about the alleged contempt, then in that event, it is always open and within the powers of the High Court to take suo moto cognizance of the same and proceed against the alleged contemnor in accordance with the procedure as laid down under Section 15 of the Act.

19. Section 14 of the Contempt of Courts Act no doubt contemplates issuance of notice and an opportunity to the contemnors to answer the charges in the notice to satisfy the principles of natural justice. However, where an incident of the instant nature takes place within the presence and sight of the learned Judges, the same amounts to contempt in the face of the Court and is required to be dealt with at the time of the incident itself.

18.4) It is shocking that even after 7 years of the said law cleared by Hon'ble Supreme Court & High Court, Smt. Justice ManjulaChellur is not able to understand the law nor she is intending to follow the law and the procedure which is reuled by Hon'ble Supreme Court and the rules framed by Hon'ble Bombay High Court.

18.5) The procedure is properly followed by Jharkhand High **Court on its own motion Vs. K.K Jha'Kamal; 2007 (2) BILR 2545.**

where it is observed as under

*" Since this action amounts to Criminal Contempt, I direct the Registry to place this matter also before Hon'ble the Chief Justices for consideration by an appropriate larger Bench. Proceedings against Mr. Jha will be placed as a separate contempt proceedings. I feel that personal appearance of Mr. Jha is necessary before the Bench. **He is directed to furnish bail bond to the tune of Rs. 20,000/- (Rupees Twenty Thousand) before the Jt. Registrar (Judicial) of this Court with an undertaking to appear before the***

appropriate Bench when the matter to listed. The Register will communicate to Mr. Jha the date of listing of the matter before the appropriate larger Bench after obtaining instructions from Hon'ble the Chief Justice."

18.6) This makes it clear that the procedure followed by Smt. Justice Manjula Chellur on 15th March, 2017 in Writ Petition No. 2334 of 2013 is unknown to the section 14 of the Act. Hence, it is clear that Smt. Justice Manjula Chellur is not having proper knowledge of the law rather to say she willfully disobeyed the law and procedure laid down by Hon'ble Supreme Court . Therefore she herself is guilty of committing contempt of the Supreme Court .

Therefore the notice issued by Smt. Justice Manjula Chellur to Adv. Nedumpara is illegal null and void and vitiated as being violative of fundamental rights guaranteed under Article 21 of the constitution of India.

18.7) Hence, it is clear that Smt. Justice ManjulaChellur is not having basic knowledge and her interpretation of law is counter-productive and non-conducive to the administration of Justice.

18.8) Full Bench of Hon'ble Supreme Court in **Bal Thackeray Vs. Harish AIR 2005 SC 396.**

In Bal Thackeray's case, the Full Bench of Hon'ble Supreme Court quashed the proceeding under the Contempt of Courts Act on the ground that the Hon'ble Bombay High Court did not follow the procedure of placing the matter before Chief Justice in Chamber first as has been mandated in P.N. Duda's case.

Hon'ble Supreme Court also directed all High Courts to frame necessary rule and/or practice on the line.

It has been ruled in **AIR 2005 SC 396** as under;

“.....Contempt of Courts Act (70 of 1971), S.15
- Cognizance of criminal contempt - Procedure-

22. In these matters, the question is not about compliance or non-compliance of the principles of natural justice by granting adequate opportunity to the appellant but is about compliance of the mandatory requirements of Section 15 of the Act. As already noticed the procedure of Section 15 is required to be followed even when petition is filed by a party under Article 215 of the Constitution, though in these matters petitions filed were under Section 15 of the Act.

18.9) Dealing with the nature and character of the power of the courts to deal with contempt in the case of **Pritam Pal v. High Court of Madhya Pradesh, Jabalpur Through Registrar, [(1993) Supp (1) SCC 529]**, Hon'ble High Court'ble Supreme Court Court observed :

11. The nature and power of the Court in contempt jurisdiction is a relevant factor for determining the correctness of observations made in Duda's case (supra). Dealing with the requirement to follow the procedure prescribed by law while exercising powers under Article 215 of the Constitution to punish for contempt, it was held by this Court in Dr. L.P. Misra v. State of U. P. [(1998) 7 SCC 379] that the High Court can invoke powers and jurisdiction vested in it under Article 215 of the Constitution of India but such a jurisdiction has to be exercised in accordance with the procedure prescribed by

law. The exercise of jurisdiction under Article 215 of the Constitution is also governed by laws and the rules subject to the limitation that if such laws/rules stultify or abrogate the constitutional power then such laws/rules would not be valid. In L. P. Misra's case (supra) it was observed that the procedure prescribed by the Rules has to be followed even in exercise of jurisdiction under Article 215 of the Constitution. To the same effect are the observation in Pallav Sheth's case (supra).

21. ...High Court observed that being Court of Record it can evolve its own procedure, which means that the procedure should provide just and fair opportunity to the contemner to defend effectively and that the contemner has not expressed any prejudice or canvassed any grievance that he could not understand the charge involved in the proceeding which he had been called upon to defend.

22. In these matters, the question is not about compliance or non-compliance of the principles of natural justice by granting adequate opportunity to the appellant but is about compliance of the mandatory requirements of Section 15 of the Act. As already noticed the procedure of Section 15 is required to be followed even when petition is filed by a party under Article 215 of the Constitution, though in these matters petitions filed were under Section 15 of the Act.In absence of compliance of mandatory requirement of Section 15, the petitions were not maintainable.

18.10) **How such person who herself don't know the law and doesnot follow the law and rules can be a Chief Justice Of Bombay High Court. ??**

18.11) **She was disqualified then also hearin case of Adv. Nedumpara When she herself took the Cognizance of the Contempt then as per law laid down by Supreme Court she herself had recused from the case but she formed a 5 Judge Bench headed by herself without any logical reason and started hearing the matter.**

When matter was listed on Monday i.e. on / 04/ 2017 she did not acted as per law and procedure of Sec. 14 (2) of the Contempt of Courts Act.

As per Sec. 14 (2) of the Contempt of Courts Act it is duty of Smt. Chellur to ask Mr. Nedumpara as to he wants to avail right to be tried by other bench. (Vide : AIR 1992 SC 642 Mohd. Zahir Khan Vs. Vijai Singh) ,

It is ruled in AIR 1992 SC 642 as under ;

5. Before proceeding with the matter we informed the contemner that under Section 14(2) of the Contempt of Courts Act, 19 71 he had an option to have the charge against him heard by some judge or judges other than the judge or judges in whose presence or hearing he is alleged to have committed contempt. We felt it necessary to do so since his written reply was silent in this behalf. We thought it our duty to inform him of this provision. He stated that we may dispose of the matter ourselves and he did not desire it to be placed before any other judge or judges.

18.12) **The law regarding disqualification of a Judge who took the cognizance is capulized as under;**

Hon'ble Apex Court in the matter of **Mohd. Yanus Khan Vs. State of U.P. (2010) 10 SCC 539** has held that no person should adjudicate which he has dealt with in other capacity. The Hon'ble Supreme Court, time and again has reiterated that the contempt proceeding is sui generis. The Court is both the accuser as well as the Judge of the accusation. The principle that no man shall be the Judge of his own case, is cardinal principle of jurisprudence and the same squarely applicable in the present case. The two-fold position of a prosecutor and a Judge in one man is a manifest contradiction. The undesirability of allowing the prosecutor to be the Judge has been stated and restated in noble language of both England and this Country.

In the case of R.V. Lee, (1882) 9 QBD 394 Field, J., observed:

“There is no warrant for holding that, where the Justice has acted as member by directing a prosecution for an offence under the Act, he is sufficiently disqualified person so as to be sit as Judge at the hearing of the information.”

Lord Justice Beweb in Lession Vs. General Council of Medical Education and registration, (1889) 43 Ch. D. 366 at P. 384) has held as under;

“*** nothing can be clearer than the principle of law that a person who has judicial duty to perform disqualifies himself for performing it if has a pecuniary interest in the decision which he is about to give, or a bias which renders him otherwise than an impartial Judge, if he is an accuser he must not be a Judge.”**

That in a recent judgment of Hon'ble Bombay High Court in the case of Suresh R. Palande Vs. The Government of Maharashtra, 2016 (2) Mh.L.J. 918, it is ruled as under;

Justice can never be seen to be done if a man acts as a judge in his own cause or is himself interested in its outcome. This principle applies not only to judicial proceedings but also to quasi-judicial and administrative proceedings.

Justice should not only be done but should manifestly be seen to be done. It is on this principle that the proceedings in courts of law are open to the public except in those cases where for special reason the law requires or authorizes a hearing in camera.

As to the tests of the likelihood of bias what is relevant is the reasonableness of the apprehension in that regard in the mind of the party. The proper approach for the Judge is not to look at his own mind and ask himself, however, honestly, 'Am I biased?'; but to look at the mind of the party before him."

A judgment which is the result of bias or want of impartiality is a nullity and the trial ' coram non iudice '

It is well settled that every member of a Tribunal that is called upon to try issues in judicial or quasi-judicial proceedings must be able to act judicially; and it is of the essence of judicial decisions and judicial administration that Judges should be able to act impartially, objectively and without any bias. In such cases the test is not whether in fact a bias has affected

the judgment; the test always is and must be whether a litigant could reasonably apprehend that a bias attributable to a member of the Tribunal might have operated against him in the final decision of the Tribunal. It is in this sense that it is often said that justice must not only be done but must also appear to be done. As Viscount Cave, L.C. Has observed in *Frome United Breweries Co. v. Bath Justices*[(1926) AC 586, 590] "This rule has been asserted, not only in the case of Courts of Justice and other judicial Tribunals, but in the case of authorities which, though in no sense to be called Courts, have to act as Judges of the rights of others."

18.13) Also there is observation of Lord Esher in *Allinson Vs. General Council of Medical Education and Registration*, (1894) 1 QB 750 at p. 758) which is set out below;

"The question is not, whether in fact he was or was not biased. The Court cannot enquire into that. There is something between these two propositions. In the administration of Justice, whether by a recognized legal Court or by persons who although not a legal public Court, are acting in a similar capacity, public policy requires that in order that there should be no doubt the purity of the administration, any person who is to take part in it should not be in such a position that he might be suspected of being biased."

Eve, J., in the case of *Law v. Chartered Institute of Patent Agents*, (1919 (2) Ch 276 at p. 289) made a similar observation:

“If he has bias which renders him otherwise than an impartial Judge he is disqualified from performing his duty. Nay, more (so jealous is the policy of our law of the purity of administration of justice), if there are circumstances so affecting a person acting in a judicial capacity as to be calculated to create in the mind reasonable man a suspicion of that persons impartiality, those circumstances are themselves sufficient to disqualify although in fact no bias exists. One such circumstance which has always been held to bring about disqualification is the fact that the person whose impartiality is impugned has taken part in the proceedings, either by himself or his agent, as prosecutor or accuser.”

- 18.14) The principle that bias disqualifies a person from acting as a Judge has also been reiterated by Viscount Cave, L.C. in *Frome United Breweries Co. Ltd. V. Justice of Bath*, (1926 AC 586) and by Lord Thankerton in *Franklin v. Minister of Town and country Planning* (1948 AC 87).

The view of law in our country is not different as can be seen from the fact that the same view has been expressed by the Hon'ble Supreme Court in the case of *Gullapalli Nageshwararao V. State of Andra Pradesh* (AIR 1959 SC 1376), wherein the Hon'ble Supreme Court has held as under:

“The principles governing the ‘doctrine of bias’ vis-à-vis Judicial Tribunals are well-settled and they are (i) no man shall be a Judge in his own cause: (ii) justice should not only be done but manifestly and undoubtedly seem to be done. The two maxims yield the results that if a member of a judicial body is ‘subject to a bias’ (whether financial or other) in favour of, or against, any party to a dispute, or is in such a position that a bias must be assumed to exist, he ought not to take part in the decision or sit on the tribunal; and that ‘any direct pecuniary interest, however, small, in the subject-matter of inquiry will disqualify a Judge, and any interest, though not pecuniary, will have the same effect, if it be sufficiently substantial to create a reasonable suspicion of bias.’ The said principles are equally applicable to authorities, though they are not Courts of justice or judicial tribunals who have to act judicially in deciding the rights of others, i.e. authorities who are empowered to discharge quasi-judicial functions. The said principles are accepted by the learned Counsel on the both sides.” (Shamlal Sen private Ltd. V. collector of Customs, 1963 (2) Cri LJ 75 at pp. 80, 81 (Cal))”

- 18.15) Hon'ble Apex Court in the matter of **State Vs. Rajangam (2010) 15 SCC 369** has, in no unclear terms, held that the person at whose instance prosecution is launched, cannot enquire the case. Similarly, the Apex Court in the matter of **Davinder Singh Bhullar Vs. State of Punjab (2010) 14 SCC 770** has held as under;

“The decision-maker should have no interest by way of gain or detriment in the outcome of a proceeding. Interest may take many forms. It may be indirect, it may arise from a personal relationship or form a relationship or form a tenuous one – No one should be Judge of his own case. This principle is required to be followed by all judicial and quasi-judicial authorities as non-observance thereof, is treated as a violation of the principle creates an apprehension of bias on the part of Judge.”

In a constitutional order grounded in the rule of law, it is imperative that judges make decisions according to law, unclouded by personal bias or conflicts of interest. Accordingly, upon ascending the bench, every federal judge takes an oath to “faithfully and impartially discharge and perform all the duties” of judicial office; and the Due Process Clause of the Fourteenth Amendment to the United States Constitution has been construed to guarantee litigants the right to a “**neutral and detached,**” or impartial, judge.

- 18.16) **Moreover, in a democratic republic in which the legitimacy of government depends on the consent and approval of the governed, public confidence in the administration of justice is indispensable. It is not enough that judges be impartial; the public must perceive them to be so. The Code of Conduct for United**

States Judges therefore admonishes judges to “act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary” and to “avoid impropriety and the appearance of impropriety in all activities.”

- 18.17) When the impartiality of a judge is in doubt, the appropriate remedy is to disqualify that judge from hearing further proceedings in the matter. **In Caperton v. A.T. Massey Coal Co.,** 4 a case concerning disqualification of a state supreme court justice, the U.S. Supreme Court reaffirmed that litigants have a due process right to an impartial judge, and that under circumstances in which judicial bias was probable, due process required disqualification. The Court noted, however, that disqualification rules may be and often are more rigorous than the Due Process Clause requires. So it is with disqualification requirements for

In common parlance, some use “disqualification” and “recusal” interchangeably, while others distinguish between the two, using “recusal” to mean withdrawal on the judge’s own initiative, and “disqualification” to mean withdrawal on the motion of a party. Because applicable federal statutes use “disqualification” broadly to embrace withdrawal on motion and sua sponte and do not refer to “recusal,” this monograph will follow their lead and do the same, except to the extent that quoted material from the cases speaks of recusal. Disqualification has ethical and procedural dimensions. The ethical dimension is governed by Canon 3C of the Code of Conduct for United States Judges, as construed by the Codes of Conduct Committee of the Judicial Conference of the United States.

The text of Canon 3C on disqualification⁸ is substantially similar to 28 U.S.C. § 455, and both seek

to promote public confidence in the judiciary, the focus of the two is different: Whereas the goal of the Code of Conduct, including Canon 3C, is to inform federal judges of their ethical obligations to the end of advising them on how judges should conduct themselves, § 455 is a procedural statute aimed at articulating disqualification standards to the end of preserving the rights of litigants to impartial justice. This monograph focuses on the procedural dimension of federal judicial disqualification through an analysis of the applicable statutory law. 5. 28 U.S.C. § 455(a). 6. The D.C. Circuit has stated that “[t]he Code of Conduct is the law with respect to the ethical obligations of federal judges.”

- 19) **CHARGE : SMT. MANJULA CHELLUR DELIBERATELY DID NOT FOLLOWED THE PROCEDURE APPROVED AND BY HON’BLE SUPREME COURT IN R. K. ANAND’S CASE 2009 AIR SCW 6876& BY DIVISION BENCH OF GUJARAT HIGH COURT IN JAGAT J. PATEL VS. STATE , MANU/GJ/0361/2017 ON THE CASE OF STING OPERATION MR. ASHIQ MERCHANT WITH A OBLIQUE MOTIVE TO SAVE THE ACCUSED JUDGE AND HIS CO CONSPIRATORS.**

That in the present case of sting operation Mr. Ashiq Merchant on 09.03.2017 made complaint to Smt. Justice Manjula Chellur along with a copy of CD the said sting operation. Then the proper course which was required to adopted was to see the CD and the averments in the complaint and either to call complainant forthwith for producing more evidence or if she is satisfied then take suo-motu action of Contempt at least against Mr. Aspi Chinoy, Sr. Advocate and Adv. Vishal Kanade, M/s. Federal and

Rashmikant for their conspiracy to not to allow the court to record the deposition of the Talathi.

Such, procedure is adopted by Hon'ble Delhi High Court in **R. K. Anand's case 2009 Cr. L. J. 677** and upheld by Full Bench of Hon'ble Supreme Court in 2009 AIR SCW 6876.

(A) Contempt of Courts Act (70 of 1971), S.2(C)- Criminal contempt - Suborning witness in criminal trial by defence lawyer - Sting operation against defence lawyer by T.V. Channel - Defence lawyer cannot plead any alleged wrong doing by T.V. Channel as defence against charge of criminal contempt - Suborning a witness in a criminal trial is an act striking at the root of the judicial proceeding and it surely deserves the treatment meted out to the appellant. (Para 52)

(C) Contempt of Courts Act (70 of 1971), S.2(c)- Criminal contempt - Suborning witness in criminal trial - Sting operation against defence lawyer by T.V. Channel - Authenticity and integrity of sting recordings never disputed or doubted by contemnor - Thus, its formal proof not required - Copies of all sting recordings along with their transcripts given to contemnor - He was made aware of charge against him - Conviction of contemnor for contempt of Court on basis of said sting recordings - Proper and valid. (Para 95)

(F) Contempt of Courts Act (70 of 1971), S.2- Procedure - Sting operations carried by T.V. Channel against Special Public Prosecutor and defence lawyer in pending criminal trial - Initiation of contempt proceedings on that basis

- High Court only asking for copies of original sting recordings and allowing original microchips and magnetic tapes to be retained in custody of T.V. Channel - Once copies of recordings obtained there was no possibility of any tampering with microchips from that stage - Moreover, High Court might have felt that studio/laboratory of T.V. Channel would be better place for handling and conservation of such electronic articles than High Court Registry - Thus, there was no lapse on part of High Court and leaving microchips in safe custody of T.V. Channel, have no bearing on final decision of case. (Para 133)

19.1) Moreover, in the similar case of sting operation of Judges, Hon'ble Gujarat High Court registered FIR against the two corrupt Judges and by recent order dated 14th March, 2017 in **MANU/GJ/0361/2017**, Gujarat High Court transferred investigation to Anti-corruption Bureau with direction to investigate the malafides of the vigilance cell of the High Court in previous investigation against Judges.

19.2) But no such procedure is adopted by Smt. Justice Manjula Chellur.

On the other hand shockingly she herself heading the bench of Contempt against the Complainant and witnesses and therefore, she herself is accused and liable for prosecution u/s. 201,218,511, 120(B) of Indian Penal Code.

Hon'ble High Court in **2001 Cr. L.J. 800**, in the case against a High Court Judge explained the definition of conspiracy and said that no direct proof is required. It is observed that “

A] Conspiracy – I.P.C. Sec. 120 (B) – Apex court made it clear that an inference of conspiracy has to be drawn on the basis of circumstantial evidence only because it becomes difficult to get direct evidence on such issue – The offence can only be proved largely from the inference drawn from acts or illegal omission committed by them in furtherance of a common design – Once such a conspiracy is proved, act of one conspirator becomes the act of the others – A Co-conspirator who joins subsequently and commits overt acts in furtherance of the conspiracy must also be held liable – Proceeding against accused cannot be quashed.

B] The applicant – Ram Lal Addl. High Court Judge hatched criminal conspiracy – The Bar Association submitted a representation to Hon'ble Chief Justice of India on 11-09-1997 requesting to not to confirm Raman Lal as Judge of the High Court – Later on he was transferred to Principal Judge of city Civil and Sessions Court at Ahmedabad – S.P. (C.I.D.) Jaipur sent a questionnaire through the registrar, Gujrat High Court to accused Addl. High Court Judge – Chief Justice granted permission to I.O. to interrogate – Later on I.O. sent letter to applicant to remain present before Chief Judicial Magistrate at the time of filing the charge-sheet – Applicant filed petition before High Court challenging it – Petition

of applicant was rejected by High Court and Supreme Court in limine - No relief is required to be granted to petitioner in view of the facts of the case.

19.3) In Anirudha Bahal's case 2010 (119) DRJ 104, it is ruled as under ,

CaseNote: Duty of a citizen under Article 51A(h) is to develop a spirit of inquiry and reforms - Constitution of India mandates citizens to act as agent provocateurs to bring out and expose and uproot the corruption - Sting operation by citizen - the sting operation was conducted by them to expose corruption - Police made them accused - The intention of the petitioners was made clear to the prosecution by airing of the tapes on T.V channel that they want to expose corruption - Quashing the charge-sheet and order of taking cognizance and issuing summons against whistle Blower high Court observed that- it is a fundamental right of citizens of this country to have a clean incorruptible judiciary, legislature, executive and other organs and in order to achieve this fundamental right, every citizen has a corresponding duty to expose corruption wherever he finds it, whenever he finds it and to expose it if possible with proof so that even if the State machinery does not act and does not take action against the corrupt people when time comes people are able to take action

It is argued by learned Counsel for the State that the petitioners in this case in order to become witnesses should have reported the matter to CBI rather conducting their own operation. I need not emphasize that in cases of complaints against the persons, in powers how CBI and police acts. The fate of whistle blowers is being seen by the people of this country. They are either being harassed or being killed or roped in criminal cases. I have no doubt in my mind that if the information would have been given by the petitioners to the police or CBI, the respective MPs would have been given information by the police, before hand and would have been cautioned about the entire operation.

Chanakaya in his famous work 'Arthshastra' advised and suggested that honesty of even judges should be periodically tested by the agent provocateurs. I consider that the duties prescribed by the Constitution of India for the citizens of this country do permit citizens to act as agent provocateurs to bring out and expose and uproot the corruption

- 19.4) That the very conduct of Smt. Justice Manjula Chellur in not following the proper procedure and passing orders against the procedure without any valid and legally admissible evidence makes it clear that she is acting with corrupt motive (Vide AIR 2016 SC 3356).

Hon'ble Supreme Court in **R.R. Parekh case AIR 2016 SC 3356** ruled as under :

A judge passing an order against provisions of law in order to help accused is said to have been actuated by an oblique motive or corrupt practice - No direct evidence is necessary - A charge of misconduct against a Judge has to be established on a preponderance of probabilities - The Appellant had absolutely no convincing explanation for this course of conduct - Punishment of compulsory retirement directed.

A wanton breach of the governing principles of law or procedure by a Judge is indicative of judicial officer has been actuated by an oblique motive or corrupt practice. In the absence of a cogent explanation to the contrary, it is for the disciplinary authority to determine whether a pattern has emerged on the basis of which an inference that the judicial officer was actuated by extraneous considerations can be drawn - It is not the correctness of the verdict but the conduct of the officer which is in question- . There is on the one hand a genuine public interest in protecting fearless and honest officers of the district judiciary from motivated criticism and attack. Equally there is a genuine public interest in holding a person who is guilty of wrong doing responsible for his or his actions. Neither aspect of public interest can be ignored. Both are vital to the preservation of the integrity of the administration of justice - A charge of misconduct against a Judge has to be established on a preponderance of probabilities - No reasons appear from the record of the

judgment, for We have duly perused the judgments rendered by the Appellant and find merit in the finding of the High Court that the Appellant paid no heed whatsoever to the provisions of Section 135 under which the sentence of imprisonment shall not be less than three years, in the absence of special and adequate reasons to the contrary to be recorded in the judgment of the Court. Most significant is the fact that the Appellant imposed a sentence in the case of each accused in such a manner that after the order was passed no accused would remain in jail any longer. Two of the accused were handed down sentences of five months and three months in such a manner that after taking account of the set-off of the period during which they had remained as under-trial prisoners, they would be released from jail. The Appellant had absolutely no convincing explanation for this course of conduct.

- 19.5) **Judge :** Between the three great organs of the State, the Legislature, the Executive and the Judiciary, the duty of the judiciary is to uphold the Constitutional rights of ordinary citizens and afford protection to citizens from executive tyranny. The judicial process is the only method of enforcing the rights of the citizens under the Constitution. The entire democratic fabric of the society will breakdown if the respect for the judiciary is undermined.

In *Rajendra Sail v. Madhya Pradesh High Court Bar Association*, MANU/SC/0310/2005 : AIR 2005 SC 2473 and at para 32 observed thus:

32.It is also necessary to always bear in mind that the judiciary is the last resort of redressal for resolution of disputes between State and subject, and high and low. The confidence of people in the institute of judiciary is necessary to be preserved at any cost. That is its main asset. Loss of confidence in institution of judiciary would be end of Rule of law.

The judiciary will be judged by the people by what the judiciary does . Cases may happen in which the Judge may be mistaken, but the law has provided a remedy for correction of such mistakes. The party injured is entitled to pursue every method by which such mistakes may be corrected. nothing is more important to the proper functioning of the Constitution than a strong and effective judiciary which is respected and obeyed by the people and also the administration.

It needs no reiteration that on judiciary millions pin their hopes, for protecting their life, liberty, property and the like. Judges do not have any easy job. They repeatedly do what rest of us (the people) seek to avoid, make decisions, said David Pannick in his book "Judges". Judges are mere mortals, but they are asked to perform a function which is truly divine."

27. Nelson Mandela spent 27 years in jail In South Africa. Referring to Caesar's speech, Mandela said : Cowards die many times before their death. Valiant never taste of

death but once". History is replete with examples where judges have shown courage and boldness. This is part of judicial fabric and culture.

28. Needless to state that judges must think positive, act positive, do positive while negativity is counter productive. Judiciary as an institution is recognised as a productive organ. An example of positivity of mind, that occurs to me is one of Alfred Nobel who created a trust, instituted Noble Prize for the richest contributions in the fields of Literature, Physics, Chemistry, Economics, Medicine, Peace. Our judges too nurture the same. Without the role and contribution of judges, it is not possible to translate the meaning of justice, and ensure that each action whether of an individual or the Government is in accordance with the rule of law, in addition to ensuring Parliament and State Legislature remain within the parameters of the Constitution. As noticed supra, judicial decision-making is important. Judges to do what others avoid. They interact with lawyers everyday, ask questions to witnesses in courts since lawyer must know what is in the mind of the Judge. Professor Griffith in his book says, "Judges are a product of a class and have the characteristics of that class....The judges define the public interest, inevitably from the view point of their own class". It is elsewhere said that being a compassionate judge is an indispensable judicial ethic.

It is therefore said that the foundation of the judiciary is the trust and the confidence of the people in its ability to deliver fearless and impartial justice. When the foundation itself is shaken by acts which tend to create disaffection and disrespect for the authority of the court by creating distrust in its working, the edifice of the judicial system gets eroded. Those who indulge in acts, which tend to undermine the authority of law and bring it in disrepute and disrespect by scandalizing it, are to be dealt in right measure and hence courts are entrusted with extraordinary power of punishing for contempt of court, which also includes Contempt by Judges.

"It is a mode of vindicating the majesty of law, in its active manifestation against obstruction and outrage."

22. In *Jennison v. Baker* 1972 (1) ALL. E.R. 997, at page 1006, it is stated:

"The law should not be seen to sit by limply, while those who defy it go free, and those who seek its protection lose hope."

23. *Chinappa Reddy J.*, speaking for the Bench in *Advocate General Bihar v. M.P. Khair Industries* 1980 (3) SCC 3111, citing the above two decisions observed thus:

".....It may be necessary to punish as a contempt a course of conduct which abuses and makes a mockery of the judicial process and which thus extends its

pernicious influence beyond the parties to the action and affects the interest of the public in the administration of justice. The public have an interest, an abiding and a real interest, and vital stake in the effective and orderly administration of justice, because unless justice is so administered, there is the peril of all rights and liberties perishing. The Court has the duty of protecting the interest of the public in the due administration of justice and so it is contempt of Court not in order to protect the dignity of the Court against Contempt of Court may seem to suggest but to protect and to vindicate the right of the public and the administration of justice shall not be prevented, prejudiced, obstructed or interfered with."

(Vide : **Prestige Estates Projects Limited 2016(2)KarLJ191**)

- 19.6) Therefore, it is clear that Smt. Justice Manjula Chellur herself is involved in the conspiracy to save real culprits and therefore, she is disqualified from hearing the case related with it. Yet she is adamantly hearing the said case and thereby dropping the majesty and dignity of the Court in disrepute.
- 19.7) Hence, she is disqualified and also incompetent to hear the cases of Mr. Nedumpara and also case of Ashiq Merchant and Adv. Nilesh Ojha..
- 19.8) While commenting upon such inefficient judges Hon'ble Supreme Court in **AIR 2001 SUPREME COURT 1975** ruled as under;

Contempt of Courts Act (70 of 1971), S.2 – Misinterpretation of order of Court - Civil Judge of Senior Division erred in reading and understanding the Order of Supreme Court - Contempt proceedings initiated against the Judge - Judge tendered unconditional apology saying that with his limited understanding, he could not read the order correctly. while passing the Order, he inadvertently erred in reading and understanding the Order of Supreme Court- Supreme Court issued severe reprimand – Held, 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 -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 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. (Paras 15 16)

19.9) In AIR 1996 SC 2299 it has been ruled as under ;

VIOLATION OF GUIDELINES LAID DOWN BY SUPREME COURT BY JUDGE OF SUBORDINATE COURTS – THEY ARE GUILTY OF CONTEMPT.

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, The contemner 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 - 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.

- 19.10) In a recent case Hon'ble Supreme Court rejected the petition of the Judge against whom enquiry was ordered due to her lack of knowledge as she not following the law declared by Hon'ble Supreme Court and High Court.

19.11) In **2011 (2) ILR (Raj) 530 High court considered the level of understanding of a Judge** and said order is upheld by Hon'ble Supreme Court in recent judgment in the case between **Prabha Sharma Vs. Sunil Goyal & Ors., Civil Appeal Nos. 632-633 of 2017 @ Special Leave Petition (C) Nos. 25552-25553 of 2011, where it is ruled that**

3. Having gone through the impugned Judgment, we find that the Court, in the impugned Judgment, has mainly stated the legal position, making it clear that the 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.

4. We do not find any observation in the impugned Judgment which reflects on the integrity of the appellant. Therefore, it is not necessary to expunge any of the observations in the impugned Judgment.

5. The learned counsel for the appellant submits that based on this Judgment, disciplinary proceedings have been initiated against the appellant by the High Court. We make it clear that the High Court is at liberty to proceed with the disciplinary proceedings and arrive at an independent decision, however, uninfluenced by any of the observations made in the Judgment.

19.12) In **2011 (2) ILR (Raj) 530, it has been observed as under,**

POOR LEVEL OF UNDERSTANIG OF JUDGE - first appellate court without considering

the ratio laid down in the above referred judgments, made distinction in a cursory manner, which is not proper for a Judicial Officer - The wrong interpretation or distinction of a judgment of Hon'ble Supreme Court and this Court by subordinate court amounts to disobedience of the order of Hon'ble Supreme Court and this Court, therefore, the impugned order passed by first appellate court is contemptuous. It also shows that legal knowledge or appreciation of judgment of Hon'ble Apex Court, of the first appellate court is very poor. The distinction made by first appellate court that Hon'ble Apex court has passed the order in S.L.P. is also not proper. The Apex Court, under Article 136 of the Constitution of India may, in its discretion grant special leave to appeal from any judgment, decree, determination, sentence or order in any cause or matter passed or made by any Court or tribunal in the territory of India. Learned first appellate court has also committed an illegality in making a distinction for not following the judgments of this Court on the ground that the orders have been passed in second appeal whereas it was dealing first appeal.

20. CHARGE:- ORDER OF GRANTING INJUNCTION ON 24TH MARCH 2017 OF PERMANENT NATURE IN CONTEMPT PROCEEDINGS WITHOUT THERE BEING ANY PROVISIONS IN CONTEMPT OF COURTS ACT AND WITHOUT HEARING THE RESPONDENTS AND THERBY COMMITTING CONTEMPT

**OF HON'BLE SUPREME COURT BY WILLFUL DISREGARD
AND DISOBEDIENCE OF LAW LAID DOWN IN (2009) 2 SCC
784 TAMILNAD MERCANTILE BANK'S CASE.**

20.1) Hon'ble Supreme Court in Tamilnad Mercantile Bank's case (2009) 2 SCC 784, ruled that there cannot be an injunction in Contempt proceedings. It is ruled that ;

Contempt of Courts Act , Section 19(1)- Ad interim Injunction Order in Contempt Application - Appeal against - order passed by the learned Single Judge is found to be illegal and without jurisdiction having been passed without any application of mind - an irregular order can be set aside by the same court or by a higher court - Doctrine of amity or comity requires that different courts exercising separate jurisdiction pass similar orders. "The Law of Injunctions" denotes that Where a court having general jurisdiction and having acquired jurisdiction of the subject-matter has issued an injunction, a court of concurrent jurisdiction will usually refuse to interfere by issuance of a second injunction - ex debito justitiae the right to have it set aside, save that specifically it includes orders that have been obtained in breach of rules of natural justice - order passed by the learned Single Judge is found to be illegal and without jurisdiction having been passed without any application of

mind and furthermore as the same was obtained by the appellant by suppressing material facts and the proceedings between the parties .

It is furthermore well settled that this Court does not exercise its jurisdiction only because it is lawful to do so. . If two views/ interpretations are possible, as held by this Court, a contempt petition would not lie.

Maintainability of - Interim injunction also filed in contempt petition - Learned Single Judge passed ad interim injunction - Applications filed for vacation of ex-parte interim Order - Intra Court appeal filed - Division Bench held appeals were maintainable as Appellants are the persons aggrieved by Order of learned Single Judge - Held, Assuming that no appeal was maintainable yet an aggrieved person cannot be left without a remedy - Access to justice is a human right - It may also be considered to be a fundamental right - Order passed by the learned Single Judge dated 20th June, 2008 illegal and without jurisdiction having been passed without any application of mind and was obtained by the Appellant by suppressing material facts and the proceedings between the parties - Appeals dismissed.

53. The orders of the High Court speak in two voices. Doctrine of amity or comity requires that different courts exercising separate jurisdiction pass similar orders.

In Lewis & Spelling's - "The Law of Injunctions" at page 10 it is stated:

Where a court having general jurisdiction and having acquired jurisdiction of the subject-matter has issued an injunction, a court of concurrent jurisdiction will usually refuse to interfere by issuance of a second injunction.

It is also well settled that even an irregular order can be set aside by the same court or by a higher court.

The cases that are referred to in these dicta do not support the proposition that there is any category of orders of a court of unlimited jurisdiction of this kind: what they do support is the quite different proposition that there is a category of orders of such a court which a person affected by the order is entitled to apply to have set aside *ex debito justitiae* in the exercise of the inherent jurisdiction of the court without his needing to have recourse to the rules that deal expressly with proceedings to set aside orders for irregularity and give to the judge a discretion as to the order he will make.

- **ex debito justitiae** the right to have it set aside, save that specifically it includes orders that have been obtained in breach of rules of natural justice.

However Smt. Chellur passed a permanent injunction in Contempt petition on 24th March 2017

This shows that she is insensitive to serious issue of violation of Fundamental Rights and herself violated rights under Art. 21, 19 of the Constitution of India.

20.2) That on 24th March 2017 there was a hearing before 5 Judge Bench. During said hearing of Criminal Contempt Petition NO. 03 of 2017, the petitioner's advocate prayed for the direction to "You Tube" to remove the interviews of other respondents including interview of Adv. Nilesh Ojha.

To this submission of petitioner's advocate a strong objection is raised by Adv. Nileah Ojha, Adv. Rajesh Panchal, Adv. Ishwarlal Agrawal, Adv. Preeti Brahmaniya, Adv. Shahid Ansari as under;

'The High Court cannot pass such orders in Contempt Jurisdiction and no copy provided to us to file out reply'

But the said objection is not taken on record.

20.3) Whatever submission on additional affidavit given by the petitioner un-of sudden is not provided to the respondents and they only filed their additional affidavit in the court. Therefore it is violation of principles of Natural Justice violation of law laid down by Hon'ble Supreme Court .

(Smt. Savitri Chandrakesh Pal Vs. State of Maharashtra,
The Hon'ble Cabinet Minister, Food and Civil Supply)

Case Note: The material supplied or shown to the decision making authority without disclosing it to the person against whom it is to be used clearly constitutes breach of principles of natural justice - the impugned order is liable to be quashed and set aside holding it to be bad and illegal being in breach of principles of natural justice.

The adverse material extracted in para- 27 (supra) of the order was used against the petitioner without disclosing it to the petitioner - non-supply of adverse material to the affected person but supply thereof to the authority taking decision against him on that basis constitutes violation of rules of natural justice. In other words, the material supplied or shown to the decision making authority without disclosing it to the person against whom it is to be used clearly constitutes breach of principles of natural justice which is very much applicable to the quasi-judicial proceedings. On this count alone the impugned order is liable to be quashed and set aside holding it to be bad and illegal being in breach of principles of natural justice.

Apex Court judgment in the case of Union of India v. Mohammed Ramzan Khan MANU/SC/0124/1991 : (1991)ILLJ29SC relied on.

In MOHAN SINGH Vs. LATE AMER SINGH, Hon'ble Supreme Court in its judgment dated 01/09/1998 directed that ;

A. A rule should be made that papers intended to be filed in Court in matters in which the other side has entered appearance should be served on the opposite party under acknowledgment endorsed thereon.

B. It is absolutely necessary that every application for permission to file additional evidence should contain a list of documents giving full particulars thereof such as date, parties thereto and description. Apart from that each document should also bear a certificate of endorsement made by the counsel or the party that the said document was the one referred to in the affidavit or application of the party. The application must also specify the number of pages of each document filed therewith. Whenever such applications are filed in pending matters, the copies thereof and copies of the documents sought to be filed as additional evidence should be served on the order side after being duly certified as true copies by the applicant or his counsel. Appropriate rules have to be framed in this regard also.

Therefore first the copy of the said document be provided to the respondents and then after hearing the respondents the court can decide as to copy of any of the video is illegal or offending.

20.4) As per law laid down by Hon'ble Supreme Court in various cases and more particularly in Supreme Court Bar Association case (1998) 4 SCC 409, the High Court cannot pass the order out of the purview of the Contempt of Courts Act 1971. And as there is no provision in the Act or in the rules made thereunder, the High Court cannot pass any injunction order.

In R.N. Dey [(2000)4 SCC 400], it is ruled that in Contempt proceeding no such orders can be passed, such orders are without jurisdiction.

In Midnapore People's Co-op Bank Ltd Vs Chunilal Nanda [2006 Cri.L.J. 2903 (SC)], it is ruled as under;

“ Contempt of Courts Act – In contempt proceeding courts have no Jurisdiction to give directions which adjudicate the rights of the parties.

Held- There was no justification for further direction by the Ld. Judge in Contempt proceedings – These were totally outside the scope of the proceedings for Contempt and amounted to adjudication of rights and liabilities not in issue and liable to be set aside”

20.4) Even otherwise the injunction order cannot be in the nature of a final order of deletion of the video of interviews of the respondents which are even not seen by the Court.

20.5) Needless to mention that the petitioners have no authority to decide and censor the validity of the interviews.

20.6) Most of the interview of respondents contains the legal aspect and teaches the people to respect and follow the law of Supreme Court.

The interview of Adv. Nilesh Ojha is appreciation of Shri. Justice Abhay Oka as a lawyer and also as a Judge.

How such videos can be deleted and this is a gross violation freedom of expression guaranteed under Article 19 and Article 21 of the Constitution of India.

Full Bench of Hon'ble Supreme Court in R.K. Anand's case 2009 AIR SCW 6876 had rejected such plea of the guilty advocates and held that such interview are protected under Art. 19 of constitution of India.

Same is the view of Hon'ble Chief Justice of India on 22nd Feb 2017 as published in Indian Express which states as under;

“ _____ ”

20.7) In (1995) SCC it is ruled that 'the court must harmonise constitutional values of free criticism and the, for a fearless curial process. Needless to state that even obiter dicta of the Supreme Court is binding on all Courts including High Court [Vide ; **AIR 1995 SC 1729** Constitution Bench]

20.8) BUT IT IS SHOCKING TO SEE THE ORDER DATED 24TH MARCH 2017-

Where none of the above issues/grounds/objection taken on record and straightaway the order directing You Tube to delete the interviews is passed.

Even during argument Smt. Justice Chellur made a frantic bid that if Justice Oka is not having problem why you are having problem in deleting the video.

This is laudicrous that the person sitting on the post of Chief Justice is insensitive to the serious issues of violation of fundamental right of freedom of expression and violation of principles of Natural Justice.

20.9) In a similar case, Hon'ble Supreme Court in Re: M.P. Dwivedi AIR 1996 SC 2299 ruled that such insensitive judges action against the law declared by Hon'ble Supreme Court are guilty of Contempt of Court.

'AIR 1996 SC 2299" Therefore strict action is required to be taken against Smt. Justice Manjulla Chellur.

Moreover this is also violation of Hon'ble supreme Court's directions in Ashok Kumar Agrawal's case(2014) 4 SCC 602, where it is ruled that whenever objection is taken then each issue has to be decided by the High Court and the contempt proceedings has to be proceeded strictly according to the law and procedure under contempt of Courts Act.

20.10) Apart from this, it is worth to quote the observation of Hon'ble High Court in the case of Khemchand Agarwal Vs. Commissioner MANU/OR/0003/2004 where it is ruled that *'if the provisions of Contempt of Court Act are held to be made inapplicable to the power of High Court then the High Courts will act arbitrarily and can even pass a death sentence. In the absence of act and rules the power of the High Court may become unreasonable and may suffer from the vice of arbitrariness'*

Therefore it is clear that Smt. Justice Manjula Chellur is not a proper person for the post of a Judge of any Court and her continuance as Chief Justice will bring the majesty and dignity of the Court into disrepute and the fate of the litigants are put to jeopardy at her hands and therefore it is necessary that she should be removed forthwith.

Hon'ble Supreme Court in AIR 2001 SC 1738. Ruled that the understanding level of a Judicial officer is having great impact on the litigants and if there are more than one instances of non-followance or misinterpretation of Supreme Court Judgments and such Judges are guilty of Contempt of Court.

Hon'ble Supreme Court in recent Judgment of R.R. Parekh AIR 2016 SC had ruled that if any Judge passes a order against the Wanton Procedure of law without any explanation about it in the said order then such Judge is presumed to have acted with corrupt and oblique motive and no further proof is needed.

The overall conclusion is that Smt. Justice Manjulla Chellur don't know the basic law nor she is following the law when the legal position is brought to her notice.

21. CHARGE: INCOMPETENCE TO DECIDE THE SERIOUS ISSUES

21.1) That on 31st March 2017, Bar Council called for strike. This was challenged by one Advocate Manoj L. Shrsat by way pf PIL(ldg) no 37 of 2107. The matter came up before Smt. Justice Manjulla Chellur.

By order dated 30th March 2017 she disposed of petition but she did not decide the question as to whether the said act of Bar Council is ilegal and whether Bar Council committed contempt of Supreme Court. Hon'ble Supreme Court in AIR 1990 SC 291 ruled that the issue arising before court should not be dealt with the apologetic approaches.

21.2) Hon'ble Supreme Court in the case of **Sundarjas Kanyalal Bhathija and others -Vs- The Collector, Thane, Maharashtra AIR 1990 SUPREME COURT 261** held that,

**Constitution of India, Art.141-
PRECEDENTS - Judges are bound by
precedents and procedure - They could use
their discretion only when there is no
declared principle to be found, no rule and
no authority - where a single judge or a**

Division Bench does not agree with the decision of a Bench of co-ordinate jurisdiction, the matter shall be referred to a larger Bench. It is a subversion of judicial process not to follow this procedure - it is the duty of judges of superior courts and tribunals to make the law more predictable. The question of law directly arising in the case should not be dealt with apologetic approaches. The law must be made more effective as a guide to behaviour. It must be determined with reasons which carry convictions within the Courts, profession and public. Otherwise, the lawyers would be in a predicament and would not know how to advise their clients. Sub-ordinate courts would find themselves in an embarrassing position to choose between the conflicting opinions. The general public would be in dilemma to obey or not to obey such law and it ultimately falls into disrepute- One must remember that pursuit of the law, however glamorous it is, has its own limitation on the Bench. (Paras 17, 20)

21.3)The Judge who exercise discretion are expected to bear in mind that

- 1) "Discretion when applied to a court of justice, means sound discretion guided by law. It must be governed by rule, not by humour, it must not be arbitrary, vague and fanciful, but legal and regular"

[Tingley -Vs- Dalby, 14 NW 146]

2) “An appeal to a Judge]s discretion is an appeal to his judicial conscience. The discretion must be exercised, not in opposition to, but in accordance with established principles of law.”

**Gudianti Narsimha -Vs- Public
Prosecutor, High Court 1978 Cri. L.J. 502.**

But Smt. Justice Manjulla Chellur. In last para of her judgment observed as under

“We are confident of the wisdom of the lawyers as professionals – We hope that wisdom would prevail on lawyers..we hope that ... with the aforesaid observation both the petitions are disposed off. ”

This shows that she is unable to perform her duty fearlessly and with firmness. She is trying to please the parties. She did not declared the resolution of Bar Council as illegal and unconstitutional.

In fact Hon’ble Supreme Court in many cases declared illegal resolution as unconstitutional.

21.4) Secondly this Hon’ble Supreme Court held that the advocates going on strike will be dealt under contempt of Courts Act.

But Smt. Justice Manjulla Chellur did not even consider the above said judgment nor intellectually and brilliantly decided the serious issues and passed a cryptic order.

This itself proves that she is unfit for the post of any Judge.

22. After going through the level of understanding of Smt. Justice Manjula Chellur, we are worried about the various poor litigant, whose case, she has decided. The very thought of the poor

litigant who happened to have fallen in the lap of Justice Chellur for decision of their cases is spine-chilling.

A High Court judge is a demi-god for poor unwitting litigant. There is hardly any remedy against High Court order for a Court common citizen. In this scenario, Hon'ble Smt. Justice Manjula Chellur should not be allowed to continue even for a moment.

23. That there are other instances of misbehavior and her poor level of understanding the law. She is behaving like a dictator. It shakes the confidence about her integrity, ability, moral vigor and ethical firmness. Her elevation to Supreme Court is already rejected by collegium of 5 Senior Most Judges of Hon'ble Supreme Court.
24. In (1995) SCC it is made clear that the High Court Judges are not sub-ordinate to the Supreme Court Judges. Supreme Court and High Court are two independent Constitutional institutions. Then the question arises that, if Smt. ManjullaChellur is unfit for the post of a Supreme Court Judge then how she is fit for the post of a Chief Justice of Bombay High Court.
25. Previously also a corrupt Justice Mohit Shah whose corruption were proved from the enquiry report of Intellegence Bureau (IB) and Hon'ble Chief Justice of India Shri. Altmas Kabir alongwith 5 Judges collegium wrote letter to Hon'ble President of India that Mr. Mohit Shah is Counter-Productive and non-conducive i.e. Harmful to the administration of Justice [Exh. – D].the corruption of Justice Mohit Shah in tampering the Courts records and passing a order waiving off Rs. 10,000 Crore to Essar Oil company was exposed by Shri. Dushyant Dave, Chairman, Supreme Court Bar Association. [Exh. E].

25.1) Then also the said corrupt incompetent Justice Mohit Shah continued to be a Chief Justice of Bombay High Court by mangling some corrupt members of the Bar Associations of Bombay. This proves that due to some corrupt, unethical Senior Counsels and some members of boneless Bar Associations the corrupt, incompetent Judges are able to enjoy and misappropriate the public funds, and the Bombay High Court is becoming dumping ground for such Chief Justices like Mohit Shah and Manjulla Chellur who found to be incompetent, corrupt, counter-productive and non-conducive and therefore she is passing such orders against the law to please some Bar Members and more particularly to help Milind Sathe, President of Bombay Bar Association who himself is de-facto petitioner and Counsel in the Contempt petition No. 03 of 2017. Through such appearance by lawyer in dual capacity is prohibited by various judgments of Supreme Court and High Court [vide: 2011 ALL MR (Cri) 381, 2002 Cri L.J. 2859, AIR 2014 Mad. 133, 2009 CTC 6].

26. Hence it is clear that Smt. Chellur whose morality, integrity, mental level of understanding, is itself under a cloud and proved against her then she will not inspire the confidence of the public and Bar and allowing her to continue to remain as Judge will be playing with the life and liberties of the Citizens and it will also be misappropriation of public funds to allow her to use the facilities and payment to her will be injustice to the honest Tax-payers and it will be certainly an offence under section 409 of IPC.

27. Now coming to the issue of her posting at Bombay High Court, it has to be worth to mention here the stand taken to Sikkim Bar Association against tainted Justice P.D. Dinakaran as under;

“The Indian Express 10th April 2010. Our High Court is not a Dumping Ground – If Dinakaran is not fit for one Court how he

can be fit for our High Court said D.R Thapa, President of Sikkim High Court Bar Association”

The same rationale/analogy/argument is applicable here.

It is out of logic of any prudent man as to how Smt. Who found to be unfit for the post of Supreme Court Judge will be allowed to continue as Chief Justice of Bombay High Court.

28. Hon'ble Supreme Court in the case of **Electricity Regulatory Commission 2002 (8) SCC 715**, ruled that only because any party had made a complaint against Judges, the High Court cannot refuse to hear him. The maxim audi-alterim-partem mandates that no one should be condemned unheard.

Hence it is clear that, Smt. Justice is guilty of breach of Oath taken as a High Court Judge and therefore she has forfeited her right to continue to office even for a moment.

29. The High Courts are demi-god for the common citizens. Hardly any people can think to challenge the order of High Courts.

The law declared by High Court is taken as binding precedent in all other cases by all Courts in Maharashtra including the High Court of equal Benches.

Under these circumstances allowing such tainted, incompetent, impatient, corrupt person to continue as Chief Justice of Bombay High Court of Bombay which is Economic capital of Country will be greatest disaster.

30. That previously Bombay Bar Association passed a resolution against then Chief Justice of Bombay High Court Shri. A.M. Bhattacharjee about his immoral behavior of publication rights. Then Chief Justice Mr. Bhattacharjee resigned at his own.

31. The same matter came up before Hon'ble Supreme Court and in that case in (1995) 5 SCC 457, it has been ruled and framed

the procedure of complaints against Chief Justice of High Court as under;

(1995)5SCC457

CaseNote: Resolution against Chief Justice of Bombay High Court, to resign from the office as Judge by Bombay Bar Association [BBA] and the Advocates' Association of Western India [AAWI], Bar Council of Maharashtra and Goa [BCMG] - Justice A.M. Bhattacharjee Chief Justice of Bombay High Court resigned from the post.

The BBA filed a counter-affidavit through its President, Sri Iqbal Mahomedali Chagla.

Question raised in the petition about independence of judiciary - Held, when the Bar of the Court, in which the Judge occupies the set of office, honestly believes that the conduct of the Judge or of the Bench fouls the fountain of justice, or undermines or tends to undermine the dignity expected of a Judge and the people are tending to disbelieve the impartiality or integrity of the Judge - It is of importance to emphasise here that impeachment is meant to be a drastic remedy and needs to be used in serious cases. But there must exist some other means to ensure that Judges do not abuse the trust the

society has in them. - proper care should be taken by the Bar Association concerned,. First, it should gather specific, authentic and acceptable material which would show or tend to show that conduct on the part of a Judge creating a feeling in the mind of 2 reasonable person doubting the honesty, integrity, impartiality or act which lowers the dignity of the office but necessarily, is not impeachable misbehavior. In all fairness to the Judge, the responsible office bearers should meet him in camera after securing interview and apprise the Judge of the information they had with them. If there is truth in it, there is every possibility that the Judge would mend himself. Or to avoid embarrassment to the Judge, the office bearers can approach the Chief Justice of that High Court and apprise him of the situation with material they have in their possession and impress upon the Chief Justice to deal with the matter appropriately.

The Chief Justice of India is expected to find a desirable solution in such a situation to avoid embarrassment to the learned Judge and to the Institution in a manner which is conducive to the independence of judiciary and should the Chief Justice of India be of the view that in the interests of the institution of judiciary

it is desirable for the learned Judge to abstain from judicial work till the final outcome under Article 124(4), he would advise the learned Judge accordingly.

Even if the Judge were not eventually condemned, the mere invocation of the statutory provisions might taint him with a devastating stigma. The vestment of authority might remain but the aura of respect and confidence so essential to the judicial function would be forever dissipated. He, therefore, suggested that pressure by the peers would yield salutary effect on the erring judge and, therefore, judicial system can better survive by pressure of the peers

32. There is culture of Hon'ble Supreme Court that it always respected the resolutions passed by the Bar Association and also taken the logical grievances seriously. Following are the few examples;

That the advocates are duty bound to make complaint against Judges when they are having reasonable foundation against a particular Judge .

In the case of *O.P. Sharma and Ors. Vs. High Court of Punjab and Haryana (2011) 6 SCC 86* ,it has been observed by Hon'ble Supreme Court as under ;

Lawyers are the officers of the Court in the administration of justice.

Section I of Chapter-II, Part VI titled "Standards of Professional Conduct and Etiquette" of the Bar Council of India Rules specifies the duties of an advocate towards the Court which reads as under:

Section I - Duty to the Court

1. An advocate shall, during the presentation of his case and while otherwise acting before a court, conduct himself with dignity and self-respect. He shall not be servile and whenever there is proper ground for serious complaint against a judicial officer, it shall be his right and duty to submit his grievance to proper authorities.

A social duty is cast upon the legal profession to show the people beckon (sic beacon) light by their conduct and actions. The poor, uneducated and exploited mass of the people need a helping hand from the legal profession, admittedly, acknowledged as a most respectable profession. No effort should be made or allowed to be made by which a litigant could be deprived of his rights, statutory as well as constitutional, by an advocate only on account of the exalted position conferred upon him under the judicial system prevalent in the country.

- 33.** Needless to mention here that , the active ,honest and justice loving members of Bar always performed their sacred duty by making prompt and proper complaints against erring Judges.

Also Hon'ble Supreme Court always respected the resolutions by Bar Associations .

The few important examples are as under ;

33.1] **2001 Cr.L.J.800 [RamanLal vs.--- C.B.I .]**

In this case the accused High Court Judge was found involved in the case of false implication of a common man. A F.I.R. got registered against the said High Court Judge.

Thereafter Bar Association made representation against said Judge and thereafter the said Judge was demoted from High Court Judge to civil Judge.

33.2] **2011(4) RCR(Criminal) 809 [Justice NirmalYadav vs. C.B.I.]**

In this case the High Court Judge of Punjab and Haryana High Court, Smt. NirmalYadav was found to have taken a bribe of Rs. 15 Lacs for passing a favourable order. C. B. I. registered a case - But it was found that the then Chief Justice of India Shri.K. G. BalKrishnan was not keen to take stern action against corrupt Judge and the sanction for Prosecution was refused. Thereafter Bar Association passed a resolution and news regarding the same was published in 'The Pioneer New Delhi' on 10th February 2010 Under the heading **"Cash - at - door Scam: Bar association Slams CJI "**

With reference to the said news, secretary general of the supreme court issued a letter on 10/02/2010 to the Editor in chief of ' **The Pioneer**' and thereafter sanction to prosecute the said corrupt Judge was accorded. The credit goes to Bar Association because perhaps the truth would not have prevailed, had the Bar Association not acted by passing the resolution.

33.3] **(1995)5SCC457**

In this case the Bombay Bar Association & Advocates Association of Western India passed a Resolution against

Shri Justice A. M. Bhattacharjee the then Chief Justice of Bombay High Court for his doubtful dealing of selling of publication rights of a Book. After strong opposition by Bar, the then Chief Justice A. M. Bhattacharjee resigned from the post.

33.4] Supreme Court Bar Association Vs. Chief Justice Mohit Shah

The chairman of Supreme Court Bar Association, Adv. Dushyant Dave wrote Letter to Chief Justice of India about corruption and doubtful character of then Chief Justice Shri. Mohit Shah of Bombay High Court. Due to the strong objection by Supreme Court Bar Association the elevation of Shri Mohit Shah as a Supreme Court Judge was rejected second time.

33.5] Even otherwise the Bar Associations have also Played a very important role for protecting the Poor citizens who were victim of misuse of power by police & Judge.

In the case of **Secretary H. Bar Association vs. S. P. – AIR 1996 SC 1925**, Hon'ble Supreme Court accepted the representation sent by the Bar Association as Writ petition and directed C. B.I. to investigate. Thereafter the Concerned S.P. was sentenced to jail for 3 months, by the Supreme Court.

Secretary, Hallakandi Bar Association Vs. State of Assam
[1996-AIR(SC)-0-1925, 1996-SCC-9-74]

Prosecution of Police Officer (S.P.) for filling false affidavit/enquiry report before Court – A undertrial prisoner was brutally beaten by police who died up – Bar Association sent letter to Supreme Court – Which was treated a Writ – Court called report from S.P. – S.P. A.K. Sinha Kasshyap filed a false report to save guilty police

officer – Court not satisfied with reply of S.P. called report from C.B.I. – C.B.I. pointed out the disdendful role played by S.P. said to be against all tenants of law morality – The report and affidavit submitted by S.P. found to be false / fabricated – Supreme Court issued a Show Cause notice to S.P. – In reply to the notice S.P. again try to mislead to court and try to justified his illegal acts – S.P. is guilty of Contempt of Court sentenced to imprisonment for three months.

34. That we being responsible officer of the Court, it is our duty to use our tool of resolution only in genuine cases and only in the largest interest of the administration of justice .
35. We should remember that A Judge who doesn't commit mistake is yet to be born. Only because Judge passes wrong order against us does not mean that we should pass a resolution against him.
36. We must have to see the impact of the conduct of the said Judge on the administration of Justice and we should always act in the larger interest of the society.
37. In the present case we have collected authentic Information against Chief Justice Manjula Chellur and we are satisfied that if immediate action is not taken then she will damage the institution and It is necessary to approach Hon'ble Chief Justice of India forthwith .
38. A High Court Judge is demi – god for poor unwitting litigant. There is hardly any remedy against High Court order for a Court Common Citizen. In this scenario, Smt. Justice Manjula Chellur should not be allowed to continue even for a moment.

After going through the level of understanding of Smt. Justice ManjulaChellur, we are worried about the various poor

litigant, who happened to have fallen in the lap of Justice Chellur for decision of their cases is spine-chilling.

39. Therefore we request Your Honour to go through the accompanying representation , supporting documentary evidences, proofs CD of sting operations and the settled legal position.

And after satisfying Your Conscience please perform your sacred duty to protect Hon'ble High Court and all litigants and deserving advocates. And in the interest of Bar and Bench, please take appropriate action forthwith.

40. That the Court 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 Court 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. Integrity is the hallmark of judicial discipline, apart from others. Justice Delivery system made of Bench and Bar. Advocates are officer of the Court. They are part and parcel of the administration of justice. 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. (vide :**Tarak Singh & Anr. Vs. Jyoti Basu & Ors., (2005) 1 SCC 201**)

41. In **High Court of Judicature at Bombay Vs. Udaysingh & Ors., A.I.R. 1997 SC 2286** the Hon'ble Apex Court while dealing with a case of judicial officer held as under:-

"Since the respondent is a judicial officer and the maintenance of discipline in the judicial service is a paramount matter and since 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, we think that imposition of penalty of dismissal from service is well justified."

- 42.** In *All India Judges' Association Vs. Union of India & Ors.*, *AIR 1992 SC 165*, the Hon'ble Supreme Court observed that Judges perform a "function that is utterly divine" and have the responsibility of building up of the case appropriately to answer the cause of justice. "The personality, knowledge, judicial restraint, capacity to maintain dignity" are the additional aspects which go into making the Courts functioning successfully.
- 43.** The bad behaviour of one Judge has a rippling effect on the reputation of the judiciary as a whole. When the edifice of judiciary is built heavily on public confidence and respect, the damage by an obstinate Judge would rip apart the entire judicial structure built in the Constitution."

It is questionably true that courtesy breeds courtesy and just as charity has to begin at home, courtesy must begin with the judge. A discourteous judge is like an ill-tuned instrument in the setting of a court room.

Respect is not to the person of the Judge but to his office. The duty of courtesy to the Court does not imply that the advocates should not maintain their self-respect and independence as his client's advocate. Respect for the Court does not mean that the counsel should be servile. It is his

duty, while respecting the dignity of Court, to stand firm in advocacy of the cause of his client and in maintaining the independence of the Bar. It is obviously in the interests of justice that an advocate should be secured in the enjoyment of considerable independence in performing his duties.

A strong Judge will always uphold the law, and that is also the aim of advocacy, even though the Judge and the advocate may differ in their point of view. The Judge must not do anything which is calculated to obstruct, divert or corrupt the stream of justice. (Please see: High Court of Karnataka Vs. Jai Chaitanya Dasa and Ors, 2015 (2) KCCR 1809)

44. The legal profession is a solemn and serious occupation. It is a noble calling and all those who belong to it are its honorable members. It will be apt to quote the words of Martian Luther King (Jr.) that –

‘Injustice anywhere is threat to justice everywhere’

and

“ Evil Tolerated is Evil Propagated ”

Please remember that

“ If you are neutral in situations of injustice, you have chosen the side of the oppressor. If an elephant has its foot on the tail of a mouse and you say that you are neutral, the mouse will not appreciate your neutrality. ”

- Desmond Tutu

45. Therefore to save the right of advocates, citizens and the Honest Judges, it is necessary that such tendency of some Judges to help influential people and also to help some Senior Counsels of their close proximity and to discriminate other

genius deserving Advocates, has to be stopped. If such tendency is not checked in time, it will harm every common lawyers specially the lawyers of backward community and the Junior Advocates.

- 46.** In a recent case of Shri. Justice Karnan, Hon'ble Supreme Court found that he is incompetent therefore forthwith withdrawn all the judicial work and also initiated Contempt Proceedings by Constituting a 7 Judge Bench. [Exh. – F]

Here the case is more serious. The Judge against whom serious allegations with proof are made is a Chief Justice of High Court and therefore stern and immediate action is necessary.

47. REQUEST:

It is therefore humbly requested that Hon'ble Chief Justice of India may be pleased to;

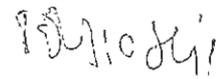
- a) Forthwith withdraw all the works from Smt. ManjulaChellur, Chief Justice, Bombay High Court as has been ruled in C. Ravichandran's case **(1995) 5 SCC 457** and in **AIR 2015 SC 645**.
- b) Take suo-motu cognizance of Contempt of Courts Act against Smt. Manjula Chellur, Chief Justice Bombay High Court for her willful disregard and defiance of Hon'ble Supreme Court Judgments, order and directions.
- c) Direct C.B.I to conduct investigation and file charge sheet before competent court against Smt. ManjulaChelluru.sec. 191, 193, 201, 218, 219 etc of I.P.C.
- d) Direct appropriate authority to recover all the payments and expenses of public money utilized and enjoyed by Smt. Manjula Chellur as she being disqualified and incompetent

utilized the same and thereby guilty of misappropriation of Tax-Payers money as hit by sec. 409 of I.P.C.

- e) Pass any other order which is just and necessary in the interest of Bench and Bar.

Thanking You,

Yours truly,



ADV. DIVYESH JOSHI

(Secretary)

(Indian Bar Association)