IN THE SUPREME COURT OF INDIA

(INHERENT JURISDICTION)

Contempt Petition (Crl.) No. 2 of 2020

SHRIRANG KATNESHWARKAR & ORS. … Petitioner

VERSUS

KUNAL KAMRA … Contemnor/Respondent

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Place: New Delhi

Date: 28 January 2021 Filed through

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AFFIDAVIT ON BEHALF OF THE RESPONDENT

I, Kunal Kamra, son of Mr. Naresh D. Kamra, aged about 32 years, residing at [redacted] Mumbai 400016, and presently at New Delhi, do hereby solemnly affirm and state on oath as follows:

Bar Bench

1. That I am the Respondent in the abovementioned Contempt Petition and being familiar with the facts and circumstances of the case, hence am competent to swear this Affidavit.

2. That I have understood the contents of the present Contempt Petition filed by the Petitioner herein and I am filing the instant Affidavit to state as follows.

3. Some people who did not find a few of my tweets funny have approached this Court seeking that I be prosecuted and punished for criminal contempt of court.

4. I believe there need be no defence for jokes. Jokes are based on a comedian's perception, which they use to make the audience

that shares that perception laugh. These jokes are not reality, and don't claim to be so. Most people do not react to jokes that don't make them laugh; they ignore them like our political leaders ignore their critics. That is where the life of a joke must end. The truth about the attention economy is that the more attention one gives to criticism or ridicule, the more credible it appears to be.

5. Through my work, I attempt to abide by comedy's tenet of comforting the afflicted, and afflicting the comfortable. Take for instance the joke 'Behind every successful Indian businessman there is a nationalised bank'. The humour attempts to blunt the grimness of the situation, and offers a measure of comfort to the afflicted, including the families of citizens who find themselves unable to withdraw their hard earned money from their bank accounts. Jokes like these at best make the comfortable squirm in their plush chairs, even as they sit secure in the knowledge that a joke cannot make the heavens fall.

6. My tweets were not published with the intention of diminishing the faith of the people in the highest court of our democracy. It is funny though, how little faith the Petitioner appears to have in the people of this country. The suggestion that my tweets could shake the foundations of the most powerful court in the world is an over-estimation of my abilities. Just as the Supreme Court values the faith the public places in it (and seeks to protect it by the exercise of its criminal contempt jurisdiction), it should also trust the public not to form its opinions of the Court on the basis of a few jokes on Twitter. The public's faith

in the judiciary is founded on the institution's own actions, and not on any criticism or commentary about it.

7. To believe any institution of power in a democracy is beyond criticism is like saying migrants need to find their way back home during an ill-planned, nationwide lockdown: it is irrational and undemocratic. Judges of our constitutional courts are amongst the most powerful people in our country. They have extraordinary powers over the fundamental rights and lives of citizens of this country, and their office and tenure are constitutionally protected to shield them from political interference. However, I believe that constitutional offices – including judicial offices – know no protection from jokes. I do not believe that any high authority, including judges, would find themselves unable to discharge their duties only on account of being the subject of satire or comedy.

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8. Irreverence and hyperbole are essential tools for the comedic enterprise. A comic raises questions on issues of public interest in their own unique way. The language and style I resort to are not with the intention to insult, but to draw attention to and prompt an engagement with issues that I believe are relevant to our democracy and which have also been raised in the public domain by more serious and learned commentators.

9. Comedy does not permit an artist the luxury of articulating the basis of jokes through long, nuanced essays or measured prose. Brevity may not be a familiar concept for the legal community, but it continues to be the soul of comedy (and Twitter – with its 280 character limit). I would be happy to take advice on

comedy from the Petitioners, but that requires that they have a sense of humour first.

10. I believe that there is a growing culture of intolerance in this country, where taking offense is seen as a fundamental right and has been elevated to the status of a much loved national indoor sport. We are witnessing an assault on the freedom of speech and expression, with comedians like Munawar Farooqi being jailed for jokes that they have not even made, and school students being interrogated for sedition. At such a time, I hope that this Court will demonstrate that the freedom of speech and expression is a cardinal constitutional value, and recognise that the possibility of being offended is a necessary incident to the exercise of this right. Should powerful people and institutions continue to show an inability to tolerate rebuke or criticism, we would be reduced to a country of incarcerated artists and flourishing lapdogs. If this Court believes I have crossed a line and wants to shut down my internet indefinitely, then I too will write Happy Independence Day post cards every 15th August, just like my Kashmiri friends.

11. Lastly, I may disagree with many decisions by many courts in many matters, but I promise this Bench that I will respect any decision that comes my way with a broad smile. I will not vilify this Bench or the Supreme Court in this matter specifically because that would actually be contempt of court.

DEPONENT

VERIFICATION:

Verified at New Delhi on this the 28th day of January 2021 that the contents of the above Affidavit are true to my knowledge and belief, no part of it is false and nothing material has been concealed there from.

DEPONENT

Identified by
IDENTIFIED BY
Vasudha Sharma
Advocate / Regd. Clerk
29/360/2013

ATTESTED
NOTARY DELHI
29 JAN 2021

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