

The background of the journal cover features a top-down view of a wooden desk. On the desk, there is a pair of black leather brogue shoes in the top left, a black leather bag in the top right, an open notebook with a silver pen in the bottom left, and a black leather watch with a silver face in the bottom right. A large white rectangular panel is centered over the desk, containing the journal's title and ISSN. A yellow horizontal band is at the bottom of the cover.

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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provided dedicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

R.K GARG VERSUS **THE STATE OF HIMACHAL PRADESH**

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Abstract

The disseminating of any information or the performance of any act that—scandals or tends to scandalize, lowers or tends to lower the authority of any court; prejudices or interferes or tends to interfere with the proper conduct of any judicial proceeding; or interferes or tends to interfere with, or obstructs or tends to obstruct, the administration of justice is referred as the Contempt of the Court. When the behavior for which the apology is delivered may indeed be "ignored without jeopardizing the decorum of the court," or where it is intended to be the last recourse, an apology may be accepted. An apology can also be a sign of sincere repentance, but, it must be genuine. If an apology is hollow, lacks remorse, regret, or repentance, or is simply an attempt to avoid the harshness of the law, it cannot be accepted. This paper aims to examine the application of the contempt of the court statute and the rules of apology acceptance in the case R.K GARG V. THE STATE OF HIMACHAL PRADESH.

Keywords: Contempt of the Court, apology, grave and sudden provocation, and punishment or sentence.

Case Title	R.K GARG V. THE STATE OF HIMACHAL PRADESH
Case No	CONTEMPT CASE NO.7 OF 1980, CONTEMPT APPEAL NO.19 OF 1981.
Date Of The Order	22-04-1981
Jurisdiction	Supreme Court of India
Quorum	Hon'ble Mr. Chief Justice Y.V Chandrachud, Hon'ble Mr. A.P Sen
Author Of The Judgement	Both Hon'ble Justices

Appellant	R.K Garg
Respondent	The State of Himachal Pradesh
Counsel For Appellant	V.M Tarkunde, S.S. Ray, K.K. Venugopal, Dr. LM. Singhvi, KapilSibbal, C.M. Nayar and L.K. Pandey.
Counsel For Respondent	L.N. Sinha (Attorney General), K. Parasaran, Soli. General and Miss A. Subhashini.
Acts and Section Involved	The Contempt of Courts Act, 1971, Section 15(2) in the Contempt of Courts Act, 1971, Section 228 in the Indian Penal Code, Section 10 in the Contempt of Courts Act, 1971, and Order IX Rule 2 of Civil Procedure Code.

1. Factual Matrix of the case:

The Appellant was an advocate who appeared for the petitioner under the Rent Act, of 1948. During the case hearing, the petitioner had not paid the processing fee, resulting in the judge's non-issuance of summons to the respondents. Judge dismissed the petition under Order 9 Rule 2 of the Civil Procedure Code (CPC). As a result of the dismissal, the appellant flung his shoe at the judge which hit him on his shoulder. Judge proceeded under Section 288 of the Indian Penal Code (IPC) and issued a warrant against the appellant and he made reference to the High Court under Section 15(2) of the Contempt of Courts Act, 1971. The appellant justified his act that his irresistible impulse was induced by the provocative language used by the judge. The High Court is satisfied and held him guilty of contempt of courts and sentenced him to simple imprisonment for six months and a fine of Rs. 200/- The appellant pleaded that he lost his balance and made an apology for an such act.

2. Substantial questions of law or Issues before the Court:

1. Whether the case is maintainable under a court of law?
2. Whether the appellant's act is criminal contempt under section 15(2) of the Contempt of Courts Act?
3. Whether the appellant's act is an intentional insult to the judge under Section 228 of IPC?
4. Whether the punishment justified?

3. Arguments by the parties:

3.1 Appellant's Contention:

The appellant of this case proceeded with the reason for such a criminal act as it's just a result of the grave and sudden provocation. The words of the Judge made him act in such a way and it's a cause of irresistible impulse. He lost his balance which resulted in such an accidental act. His act wouldn't have happened if the judge has not provoked him. The appellant justified his act by stating all the facts that on the previous date of the incident, the appellant was informed to pay the court fee for the proceedings by the judge and he recorded the statement of being unable to pay with reason. The reason for non-compliance with the order stated in the statement was that the respondent was admitted to the hospital and left the hospital and the house in which he lived was also locked, so the address of the respondent is not certain which cannot be given as a record. But the judge was not in a position to hear those statements, instead, he remarked the appellant was a rascal and also repeated such remark which provoked the appellant to put his hands on the shoe. Also, after the incident appellant apologized before the judge as the unfortunate event had happened and he was obliged with any actions by the judge in reflection of this action. They also stressed that the appellant had no desire for such an act or any intention prior to such an act. Keeping the grave and sudden provocation as a main defense the counsel argued that they deeply regret the acts and the suffering of reputation were already suffered by the appellant and with the confrontation of apology tendered they requested for reducing the sentence made by the High Court at Himachal Pradesh.

3.2 Respondent's Contention:

The respondent was the state of Himachal Pradesh which is representing the Hon'ble Senior Sub-Judge and Chief Judicial Magistrate at Solan. The appellant was guilty of his act as its complete contempt before a court. Non-payment of the processing fee in the proceeding would lead to the dismissal of the petition under Order 9 Rule 2 of CPC and the Judge has the power to dismiss the such petition. Similarly, in this case, the respondent had done his duty and nothing ultra-virus his obligation. Also, there is no such grave and sudden provocation that would provoke the appellant to hurl his shoe and throw it against the Hon'ble judge at the dais in the courtroom. Such an act by the appellant is clearly Contempt of the Court which is punishable under Section 228 of IPC. The appellant also forced the Justice to allow the petition without the payment of the required fee which was against the procedure under CPC. Though the High Court satisfied the appellant's contention, his act was punishable and was awarded simple imprisonment for one month and a fine of Rs 1000/- finally. As a result of his act reputation and the identity of the Court was affected.

So, his act is absolutely punished. All the justifications of the appellant were partly considered as the act done by him not only insulting the Hon'ble judge but also the court. The disrespectful act done by the appellant and as an advocate, he holds a major part in maintaining respect before the court which he has breached¹

4. Judicial Interpretations that deduced the verdict:

For the acts of the appellant, the Judge made reference to the High Court of Himachal Pradesh which had sentenced him under section 228 read with section 345 of CrPC. This reference was made under section 15(2) of the Contempt of Courts Act, 1971. After the reference, the respondent was issued notice and he did not deny his action and added a defense of provocation which made him act. In the argument of the case, the precedent of *Bathina Rama Krishna Reddy V. State of Madras*² was made. In this case, the essentials of section 228 of IPC were clearly stated, namely, intention, insult, or interruptions to a public servant, and the public servant must be sitting in any stage of judicial proceedings. Also, there was a mention that if anything more than that of the essentials like contempt, then the accused can be tried for the contempt accordingly under section 228 of IPC. All these were satisfied in this case, so the appellant was tried for contempt. The wording mentioned in *Brahma Parkash V. State of Uttar Pradesh*³ was also added. In this case, the object to punish contempt was delivered. It stated that the object was not to protect the individual imputations exposed by the conduct but to protect the public interest of the individuals and the authority, confidence, and administration of justice in the court. Finally, the observation on the *State of Madhya Pradesh V. Revashankar*⁴ was put in front to precede the case with a lot more confidence. In this case, the element of insult attracts section 228 of IPC and the jurisdiction of the High Court to take cognizance over the conduct of contempt under section 10 of the Contempt of Courts Act was added. Proceeding with all these references the court sentenced him to simple imprisonment for six months and a fine of Rs 200/- which in appeal converted to imprisonment for one month complied with an enhanced fine of Rs 1000/- with part allowance.⁵

¹ <https://www.casemine.com/judgement/in/56092c0be4b01497111f8c78>

² AIR 1952 SC 149

³ AIR 1954 SC 10

⁴ AIR 1959 SC 102

⁵ <https://www.lawweb.in/2016/11/when-court-should-not-accept-apology.html>

5. Interpretation put forth by the court:

The interpretation presented before the court includes a detailed explanation of sections 15(2) and 10 of the Contempt of Courts Act, 1971, section 228 of IPC read with section 345 of CrPC which deals with the procedure for contempt cases, and order 9 rule 2 of CPC which was initially used in the case. Section 15(2) of the Contempt of Courts Act states the jurisdiction of the High Court to deal with the cognizance of contempt cases made reference by the subordinate courts. With an extension of section 15(2), section 10 of the Contempt of Courts Act refers to the powers and authorities of the High Court to handle the case with the same procedure as the subordinate trial courts. In this case, contempt is referred to the High Court of Himachal Pradesh under section 15(2) of the Contempt of Courts Act, 1971. The punishment of contempt was made under section 228 of IPC read with 345 of CrPC. The former section notifies the penalty for the insult or interruption given to the public servant during a judicial proceeding. The sentence can be simple imprisonment which may extend to six months and a fine of Rs 1000/- or both. With respect to this case, the punishment given to the appellant in High Court is six months simple imprisonment and Rs 200/- fine which was then changed in the appeal to one-month imprisonment and Rs 1000/- as a fine. Order 9 Rule 2 of CPC deals with the dismissal of a petition when the plaintiff failed to pay the court fee for the processing. Also, the ten commandments of the advocates contain a point of honesty and respect which means that advocates who appear to the court and be the part of bar council, should be honest and respectful to the court which the appellant completely breaches in this case. According to the rules of the Bar Council of India under the Advocates Act, of 1961, the appellant had overridden the rules of the court mentioned in Chapter VI. The rule of maintaining a respectful attitude before the court was violated by the appellant which made veil that he did not mind the dignity of the judicial officer (mentioned in Rule 2). The appellant by improper means influenced the judicial officer for the dismissal of the petition which is a procedure under CPC. This is a violation of Rule 3 of the Bar Council rules as there exists a violation of the rule of influence in the decision of the court through improper means.⁶

6. Verdict of the case:

Once the appellant was sentenced to six months of simple imprisonment and a fine of Rs 200/- the appeal to the Supreme Court proceeded. The appellant proposed an apology to the judge to whom he had misconducted and it was an unconditional apology to the court. Also, the counsel on behalf of the appellant confronted that he had already suffered enough mental stress and loss

⁶ <https://www.lawyerservices.in/RK-Garg-Advocate-Versus-State-of-Himachal-Pradesh-1981-04-22>

of reputation. They purposely requested for reduction of bodily injury in the appeal. Considering the appeal, Justice, Chandrachud, Y.V. partly allowed the appeal. As the appellant was a practicing lawyer and an officer of the court in the town of Salton, he cannot be condemned adequately which made judges more reprehensible. The reason for reducing the sentence was specified as there presented an unconditional apology to the court. Two main points were made clear one is the devaluation of respect for all authority in the court and the other is consideration of unconditional apology, deep regret and genuine contrite of the appellant. Balancing the two the final decision of judgement was delivered by the Justice Chandrachud. Finally, reduction of imprisonment period and not imposing a long sentence happened. The imprisonment was reduced to one month from six months and the fine was enhanced to Rs 1000/- from Rs 200/-. The lord has directed such fine to be handed over to the Legal Aid functioning in the State of Himachal Pradesh. The High Court of the same State will decide on the utilization of such amount which would be beneficial to the society that is a little likelihood of the judiciary.⁷

7. Critical Comments:

As this case was heard in the year 1981, all the provisions under the Contempt of Courts Act and Advocates act were considered and decided accordingly. Though the decision of the court is justifiable the disrespectful act of the appellant was very worst to the authority to which he profess. Such an act was certainly punished by the court but the succeeding sentence which reduced the imprisonment period was slightly a con for the layman. But the act done by him was provoked by the word expression of the judge, and the reduction of bodily suffering was justified by the unconditional apology given by him. Critically analyzing the case would teach the responsibilities of advocates to maintain decorum in the courtroom and the respect they should serve to the insiders. Merely giving an apology for the acts done without any knowledge of the impact of such acts is an unacceptable act in the judiciary and it should definitely be punished. So, the judgment in the case was given with clear analysis and was satisfactory. The sentence was agreeable because it should make the other person afraid of doing such a disrespectful act against the court which is referred to as contempt of the court.

⁷ <https://indiankanoon.org/docfragment/193525/?formInput=contempt%20of%20court%20by%20judges>