A

VIJAYA PARMANANDAM

v.

ATTORNEY-GENERAL

B

[COURT OF APPEAL, 1972 (Gould V.P., Marsack J.A., Bodilly J.A.), 16th, 17th, 23rd June]

Criminal Jurisdiction

Contempt of Court—real offence is wrong to public by weakening authority and influence of tribunal—temperate and fair criticism permissible—criticism actuated by malice or imputing improper motives is contempt—Supreme Court constituted by three judges sitting on application for committal—jurisdiction—sentence—apology—Criminal Procedure Code (Cap. 14) s.246(1)—Supreme Court Ordinance (Cap. 9) ss.6(2), 7, 31(1) —Supreme Court Ordinance (Cap. 4—Laws of Fiji 1955) s.45—Interpretation Ordinance 1967, s.2(4)—Penal Code (Cap. 11) s.128.

C

Contempt of court—practice and procedure—contempt committed otherwise than in connection with any proceedings—criminal contempt—appeal from order under the provisions and procedure governing appeals in criminal cases—Supreme Court Rules 1968, Order 52 (as applied) rr.1(1) (2) (3)—Supreme Court Rules 1968, r.6(2)—Court of Appeal Ordinance (Cap. 8) s.21.

D

The power to punish for contempt of court is not for the personal vindication of the judges; the real offence is the wrong done to the public by weakening the authority and influence of a tribunal which exists for the public good alone. While it is open to all to criticise the administration of justice temperately and fairly, criticism which is actuated by malice or which imputes improper motives to those taking part or which is calculated to bring a court or judge into contempt or lower his authority, cannot shelter behind the bulwark of free speech.

E

In sitting upon an application by the Attorney-General that the appellant be committed for contempt of court the Supreme Court was constituted by three judges.

F

HELD : The court so constituted had jurisdiction to make the order asked for in the absence of any statutory provision to the contrary. Neither section 246(1) of the Crminal Procedure Code nor section 31(1) of the Supreme Court Ordinance presented any impediment to this view.

G

The contempt alleged in the present case, though it may have been motivated by a criticism of the appellant in a judgment of the Supreme Court, was not "in connection with proceedings", within the meaning of rule 1 (2) (a) of Order 52 (as applied) of the Supreme Court Rules, 1968, and therefore fell within rule 1(2) (b) as a contempt committed otherwise than in connection with any proceedings.

H

Notwithstanding rule 6(2) of the Supreme Court Rules, 1968, which provides that the rules shall not apply to any criminal proceedings, cases of criminal contempt in the category of the present one, fall to be governed by Order 52.

Semble: the provisions and procedure governing appeal from an order punishing any person for criminal contempt are those governing the right of appeal in ordinary criminal cases.

Imprisonment was an appropriate punishment for the contempt in question, but some weight could be given to an apology in the form tendered and the term of imprisonment imposed would be reduced.

Cases referred to:

R. v. Dunbabin, Ex parte Williams (1935) 53 C.L.R. 434.

R. v. Metropolitan Police Commissioner, Ex parte Blackburn [1968] 2 Q.B.150; [1968] 2 All E.R.319.

Morris v. Crown Office [1970] 2 Q.B.114; [1970] 1 All E.R.1079.

O'Shea v. O'Shea & Parnell, Ex parte Tuohy (1890) 15 P.D.59; 62 L.T.713.

McLeod v. St. Aubyn [1899] A.C.549; 81 L.T.158.

Izuora v. R. [1953] A.C.327; [1953] 1 All E.R.827.

Joseph v. Director of Public Prosecutions (S.C.Cr. App.13 of 1972 — unreported).

Appeal from a judgment of the Supreme Court committing the appellant for contempt of court and imposing a sentence of imprisonment.

S. M. Koya, K. C. Ramrakha and R. Krishna for the appellant.

J. N. Falvey, Attorney-General, D. I. Jones and G. Trafford-Walker for the respondent.

The facts appear from the judgment of the court.

23rd June 1972

Judgment of the court (read by Gould V.P.):

This is an appeal from a judgment of the Supreme Court whereby the appellant was found guilty of contempt of Court and was committed to prison for six months.

The material relied upon as constituting the contempt was contained in a speech made by the appellant at a political meeting at the Suva Civic Centre on the 28th March, 1972, and in a pamphlet distributed on the 13th April, 1972. The making of the speech in the terms given below, and the appellant's responsibility for the content and distribution of the pamphlet are not matters of controversy.

The text of the speech is as follows:—

> "President of the National Federation Party and citizens of the future National Federation government. This evening friends I will be speaking on a topic which is usually not one talked about at political meetings. It is a topic on which I am compelled to speak. It is a specialised topic and perhaps it is a topic which might not be of as general interest as other topics normally talked about. The topic in question is the judiciary. Now to make things quite clear so that

be there any member of the press or radio present and in order to ascertain that there will be no misquotations or distortions deliberate or ortherwise can I advise the house that the whole of this speech is being taped. Can I check with you Mr. Shiu Prasad? Thank you.

There are three arms of the Government — the legislative, the executive and the judicial. The judicial is one which is not seen in the public eye as often as the other two arms of Government. It is due unfortunately to the Alliance Government's mismanagement that I now refer to certain practices of the Fiji judiciary. It is a neutral zone and one not normally attacked in political meetings as I said earlier. This attack is being made on the NFP platform to clean the judiciary once and for all so that in future there would be no need for any further attacks on the judiciary.

Ladies and gentlemen the Alliance government has followed the practice, the colonial practice, of promoting magistrates to the Supreme Court benches. This is despite a 1969 law society resolution whereby the house passed words to the effect that the practice of promoting magistrates to the supreme court be abolished and that all future appointments be from the bar — that is members in actual practice either overseas or locally. Yet despite this every member of the present bench of the supreme court, with the exception of the Chief Justice, was a former magistrate either in Fiji or overseas.

The Alliance government, through the legal and judicial services commission, has completely disregarded the majority opinion of the practising solicitors of Fiji. There is a rule ladies and gentlemen, a rule, an unwritten rule practised in commonwealth countries, that is countries using English law, that once a magistrate always a magistrate. This principle has been evolved so that there may not be occasions created by which any particular magistrate at any particular time fall into sacrificing a principle or a rule, or a particular rule of law, for the sake of expediency or for the sake of promotion. Yet all magistrates in this country are put into this position almost every day. And that is the state of your halls of justice under the Alliance Government of Fiji.

The judicial department and the judiciary is supposed to dispense justice but when there is an attack on say the judicial department, as there was in the Fiji Times dated the 17th April, 1970 by a civil servant under the heading "Promotions within the Judicial Department", very quickly certain members of the judicial department wrote out a complaint and this gentleman was served with proceedings, that is disciplinary proceedings, under which he was reprimanded. Only recently one of the judges of the Supreme Court remarked to a very senior practising lawyer that he wished to be transferred to Lautoka because of the Supreme Court's politics. This is the sort of justice you get under the Alliance banner.

Not so long ago you will recall that my friend Mr. K. C. Ramrakha led an attack on the proposed, or the then proposed appointment of the present Chief Justice, Chief Justice Sir John Nimmo. You will recall that there was requisitioned a special general meeting of the law society wherein 17 lawyers were against this proposed appoint-

ment. You will also recall that my name appeared first on this requisition. You will also recall that one-third of the house, of the members present that is the law society, were against the idea of appointing an Australian as Chief Justice of Fiji.

Despite this, ladies and gentlemen, the Alliance Government went ahead with the appointment. This particular gentleman, Sir John Nimmo, an Australian, who was appointed Chief Justice of Fiji, you will recall his salary, or part of his salary, is paid by the Australian Government. Now where is our independence? Have we sold our independence for a few measly thousand dollars to Australia? This is the position, ladies and gentlemen, under the present Alliance Government.

Now, ladies and gentlemen, there is a very cherished principle in English law and British tradition that a man must not be condemned without his hearing, that a man must be given his right to be heard. Yet the very same Chief Justice, Sir John Nimmo, condemned recently two Suva lawyers who were not even present, who were not even charged. This is a Chief Justice acting under the Alliance Government. When your very throne of the judiciary, the base of the judiciary, acts in such a manner then the whole judiciary seems, or gives the impression, that it is cracking up. It is akin somewhat to the commencement of the decline and fall of the Greco-Roman empire. And what have you? At present we have sitting today in Fiji a Fiji Court of Appeal the president of which is the Chief Justice, Sir John Nimmo. And on which sits three retired judges, one locally retired judge. Now if a man is retired he ought to remain retired. There is a reason for every person's, for a limit, for age limit being set on persons in any form of employment, for retirement. Now you have three judges sitting, two of them are appointed from New Zealand. They are also retired judges. Yet they are brought over by the Chief Justice of Fiji who is president of the Court of appeal. Their future appointments in sessions depend entirely upon him. What is the position when a judgment of his goes up to be decided by these gentlement from New Zealand or locally retired judges.

These all gentlemen are different aspects of the judiciary which needs cleaning up. And if you vote NFP into power, judiciary will be cleaned up once and for all. Thank you."

The pamphlet reads :—

"IT WAS UNDER
THE ALLIANCE
GOVERNMENT THAT TWO SUVA LAWYERS WERE
CONDEMNED IN ABSENTIA IN A COURT OF LAW.

VOTE FEDERATION
FOR THE PROTECTION OF YOUR
FUNDAMENTAL HUMAN RIGHTS"

At the foot of the pamphlet was a statement that it was "Authorised and Published by Vijaya Parmanandam of 50 Beach Road, Laucala Bay for and on behalf of the National Federation Party."

It will be seen that the speech contains an allegation that the Chief Justice condemned two Suva lawyers in their absence and the pamphlet contains a similar reference. It is common ground that the respondent was referring to the case of Sylvester Joseph and others versus the Director of Public Prosecutions (Criminal Appeal No. 13 of 1972) from which notice of appeal had been given before the hearing of the proceedings in the Supreme Court. The notice has since been withdrawn and the case is no longer *sub judice*. We therefore quote from the judgment of the learned Chief Justice a passage in which he criticised two lawyers, one of whom was the appellant:—

> "Mr. Parmanandam, in going beyond a general statement to the appellants that if they pleaded guilty they would be likely to be treated more leniently than if they fought the charges, acted improperly. In attempting to forecast the precise sentence that would ultimately be imposed by the magistrate after he had become acquainted with the relevant facts he was attempting to usurp the function of the court. For the same reason it was wrong for him to express in his affidavit that the effect of his statements to the appellants had been to destroy their freedom of choice. Whether it was or not was the question for the Court alone to determine.
>
> I also find it necessary to draw attention to the extraordinary admission made by Mr. Chand that he informed the presiding magistarte that he was in substantial agreement with the facts as presented by the prosecutor although he knew that those facts were not admitted by his clients and differed very much from their version of what had happened on the morning in question. His explanation for his failure to discharge his duty to his clients by putting their version to the magistrate appears to be that he accepted without question Mr. Parmanandam's attempt to forecast precisely what that magistrate would do after the appellants had pleaded guilty and he had heard the relevant facts. I regret that the behaviour of both Mr. Parmanandam and Mr. Chand impels me to issue a reminder that not only is a high standard of integrity required of those who practice law but there is also required of them a highly developed sense of responsibility and an ever present appreciation of the high degree of care they owe to the Court and their clients."

The judgement makes it clear that the criticisms were based upon affidavits made and filed in the proceedings by the two persons mentioned.

To dispose of the matter we would say at once that to describe this criticism in terms that "the Chief Justice . . . . . condemned recently two Suva lawyers who were not even present, who were not even charged" is a gross misstatement of the position. The ordinary listener, particularly in view of the association of the word "condemned" with the word "charged", would envisage some form of criminal offence or some punishment, instead of a mere criticism which the Chief Justice was entitled to make. There was a clear imputation that the Chief Justice had disregarded basic and elementary principles of justice. It was an imputation both false and, particularly when coming from an officer of the Court, unworthy.

In its judgment now under appeal the Supreme Court pointed out, quoting *R. v. Dunbabin Ex parte Williams* (1935) 53 C.L.R. 434, that the power to punish for contempt is not for the personal vindiction of the judges; the real offence is the wrong done to the public by weakening the authority and influence of a tribunal which exists for the public good alone. It referred also to the difference between freedom of speech and licence, pointing out that while it is open to all to criticise the administration of justice temperately and fairly, criticism which is actuated by malice or which imputes improper motives to those taking part or which is calculated to bring a court or judge into contempt or lower his authority, cannot shelter behind the bulwark of free speech. We repeat these portions of the judgment under appeal not only because we agree with them, but because they are well worthy of repetition.

The Supreme Court, having pointed out the deliberately planned nature of the attack, and considered the terms of the speech and content of the pamphlet, concluded that they fell squarely within the category of publications calculated to impair the confidence of the people in the Courts' judgments, because the matter published aimed at lowering the authority of the Courts and excited misgivings as to the integrity, propriety and impartiality brought to the exercise of the judicial office. The Court took its words from the judgment of Rich J. in *R. v. Dunbabin Ex parte Williams* (supra) at p.442.

In his submissions for the appellant before this Court, Mr. Koya took a number of points. He said that the Supreme Court should have required the contempt to be proved beyond reasonable doubt. But in the course of the argument in the court below the learned Chief Justice accepted that as the appropriate standard, and there is no reason whatever to think that the Court did not apply it. Mr. Koya further criticised the emphasis the Supreme Court put on the phrase "cleaned up" and said that it should have been interpreted in the context of the whole speech, as meaning that the appellant intended to rectify the defects he had mentioned through the proper channel i.e. Parliament. This does not, we think, affect the imputation that the judiciary needed cleaning — for example that the Chief Justice was capable of condemning people unheard and that the judges of the Court of Appeal would not be impartial in sitting on an appeal from the Chief Justice. Mr. Koya also appeared to suggest that some latitude should be given to words used at a political meeting. We think, however, that the introduction of the topic of the judiciary, which is traditionally and necessarily aloof from politics, into a political meeting for the purpose of criticism, rather lends emphasis to what was said than the contrary.

Mr. Koya's main ground on the merits of the matter was that the speech and pamphlet were within the limits of criticism allowed in the interests of the right of free speech. He relied upon the judgments of the Court of Appeal in *R. v. Metropolitan Police Commissioner Ex parte Blackburn* [1968] 2 All E.R.319, particularly that of Lord Denning M.R. Among other things Lord Denning said that it was the right of every man to make fair comment, even outspoken comment, on matters of public interest. Salmon L.J. said that no criticism of a judgment, however vigorous, can amount to contempt of Court, provided it kept within the limits of reasonable courtesy and good faith. With these statements of course we respectfully agree. Every such criticism however, must be judged upon

its own content; and in our opinion the language used by the appellant went far deeper than mere criticism of a judgment, and was markedly lacking in the elements of courtesy and good faith mentioned by Salmon L.J. A

Mr. Koya referred also to an affidavit by the respondent in which he said (inter alia) that he honestly believed that his words were a fair comment and that the Chief Justice had violated the rules of natural justice; that he did not intend to bring the judges or courts into disrepute or impute any improper motive. As to this, the matter complained of must be construed, as Mr. Koya admits, objectively and as a whole. The test is what any fair minded and reasonable man would understand from the speech and pamphlet, and we are satisfied that a construction so arrived at fully supports the finding of the Supreme Court that this went beyond fair criticism and amounted to a gross contempt. That is all we propose to say on this aspect of the matter — a number of authorities are listed in the judgment of the Supreme Court and there is no need to set them out again. B C

There are however, two procedural matters to which a great deal of the argument was directed. These are in the nature of technical objections, but, as Lord Denning observed in *Morris v. The Crown Office* [1970] 1 All E.R.1079, 1081, "one must remember that, by our law, everyone who is accused is entitled to avail himself of every point which can legitimately be raised on his behalf, no matter how technical." D

We will deal first with an objection taken on the ground that the Supreme Court consisted of three judges instead of one. It may well be that this course was adopted because it was considered the fairest to the appellant. In any event, no objection was taken in the Supreme Court to the manner of its constitution. It has been taken on this appeal, as a matter going to jurisdiction. E

Mr. Koya's argument was that by section 246(1) of the Criminal Procedure Code (Cap. 14) trials under that Code shall be by a judge sitting with assessors; section 31(1) of the Supreme Court Ordinance requires that civil causes shall be tried by a judge alone, except where express provision to the contrary has been made. It was submitted that the case must fall under one or other of those heads. In the context of the Criminal Procedure Code, however, section 246 is referring to trials pursuant to an information filed by the Attorney-General. This procedure may be used for cases of contempt, but not necessarily, for the Court has always had inherent power to punish for contempt summarily, without the necessity of an information (or indictment): see *O'Shea v. O'Shea and Parnell* (1890) 15 P.D.59. As to section 31(1) of the Supreme Court Ordinance, it applies to civil causes only, and, this being a contempt of a criminal nature, it does not fall within the ambit of those words. In passing we would observe, that the section is aimed primarily at establishing that civil causes are to be tried before a judge alone as distinct from a judge and assessors or, as a glance at the forerunner of the section (section 45 of the Supreme Court Ordinance Cap. 4 Laws of Fiji 1955) shows, a judge and jury. F G H

Though, in our opinion, neither of the two sections relied upon presents any impediment to constituting a Court of three judges, it is still necessary to ascertain whether a court so constituted had jurisdiction in this part:

cular case. In our judgment it had, for these reasons. There is no provision of the law which denies the Supreme Court that right. Further, section 6(2) of the Supreme Court Ordinance provides that any judge of the Court may exercise all or any part of the jurisdiction of the Court and "for such purpose shall be and form a Court". The effect of section 2(4) of the Interpretation Ordinance 1967 is that the word "judge" may be construed as including the plural unless a contrary intention appears. We do not think a contrary intention appears, particularly as section 7 indicates which judge of the Court shall preside. That implies that a Court will consist, in some cases at least, of more than one judge. We would be reluctant to accede to the proposition that, inherently, a Supreme Court consisting of three judges, each of whom has full jurisdiction, cannot in the absence of statutory provision to the contrary, do what each of the judges individually may validly do.

The next procedural objection is this. Te proceedings for the committal of the appellant were instituted by the Attorney-General under Order 52 of the Rules of the Supreme Court, 1965, as applied to the Supreme Court of Fiji by the Supreme Court Rules 1968 and as amended thereby. The submission on behalf of the appellant is that this particular contempt does not fall within the ambit of Order 52 and that as a consequence the Supreme Court was without jurisdiction.

For a better understanding of Order 52 it s helpful to look at its object from a historical point of view. There was over many years controversy concerning which types of contempt were punishable by attachment and which by committal. The difference between the two types of process, though material, is not now relevant. Amendments to the Rules of the Supreme Court made in 1960 did little to simplify the matter and the distinction in some cases remained. The present Order 52 however provides that the power of the Supreme Court to punish for contempt of court may be exercised by committal, and, by rule 2, that no application to the Court for an order of committal may be made unless leave has been granted under that rule.

The effect of the order is procedural. It does not create a right of punishment for contempt but regulates the method to be adopted. This is so in Fiji as in England, but whereas the English Order is in the widest terms, when it was applied to Fiji its scope was limited. As so applied, the first three subrules of Rule 1 read as follows —

> "(1) The power of the Supreme Court to punish for contempt of court may be exercised by order of committal.
>
> (2) This Order applies to contempt of Court —
>
> (a) committed in connection with —
>
> (i) any civil proceedings before the Supreme Court; or
>
> (ii) civil proceedings in an inferior court;
>
> (b) committed otherwise than in connection with any proceedings.
>
> (3) An order of committal may be made by a single judge."

It is the contention of Mr. Koya that the present contempt does not fall within any of these categories whereas the submission on behalf of the Attorney-General is that it falls under subrule 2(b) as being committed otherwise than in connection with any proceedings. It is common ground that the contempt is one of a category to which the term "criminal contempt" is applicable.

In our opinion the submission on behalf of the Attorney-General must prevail. Though the motive of the appellant may have originated in the criticism directed at him in the judgment of the Chief Justice in *Joseph v. Director of Public Prosecutions* (supra) that does not make the contempt one "in connection with" those proceedings in the sense usually attributed to those words. Examples of what is intended are disobedience of orders of the Court made in civil proceedings, interference with witnesses in a particular action, publication of the photograph of an accused person on trial. The connection of such cases (and there are many others) with particular proceedings is direct and obvious. But the present case involves an attack upon the impartiality of the judiciary generally and we do not consider that one misleading statement, in which no particular case is mentioned, results in the whole being "in connection with proceedings."

The matter does not end there. As we have said, this is a contempt of a criminal nature. The Supreme Court Rules 1968, which apply, with modifications, the English rules to Fiji (including Order 52) contain the following rule —

> "6(2) These Rules shall not apply to any criminal proceedings in the Supreme Court of Fiji."

The point is well taken that if these are criminal proceedings the procedure under Order 52 is inapplicable. There is an apparent conflict. Nevertheless it is not possible to construe Order 52 as modified, as applying only to civil contempts. It embraces contempts connected with civil proceedings, which may be either civil or criminal contempts, and it specifically includes contempts not in connection with any proceedings. In this category the great majority, if not all, would be criminal contempts. As it is not possible to limit the construction of Order 52 to civil contempts it must be accepted that the draftsman's reference to criminal proceedings in rule 6(1) was meant to refer to criminal proceedings in the full sense, as envisaged by the Criminal Procedure Code, and not to this hybrid or quasi — criminal type of proceeding. However this may be, and in spite of the anomaly that Order 52 does not include in its provision any procedure for contempts in connection with criminal proceedings, in our judgmnt the present case falls to be governed by it.

It is not, therefore, necessary for us to consider whether, if the opposite view prevailed, the Supreme Court would have been able in its inherent jurisdiction to adjudicate on a question of contempt in relation to an officer of the court who was before it, by a process which, though fair, was not specifically authorised. In any event, the appellant was before the Court, was represented by counsel, and had every opportunity of presenting his case on facts which were never in dispute.

We would at this point mention one other procedural question which was raised. In England the question of appeal from an order punishing

any person for contempt (civil or criminal) is regulated by specific legislation. In Fiji it has been left to the general legislation governing appeals to this court in civil cases and in criminal cases. It appears that a would-be appellant must decide for himself which provisions and procedure are appropriate. In the case of a criminal contempt, in our view the matter must be governed by the right of appeal in criminal cases which limits it in ordinary cases to those specified in section 21 of the Court of Appeal Ordinance (Cap. 8).

We finally deal with the appeal against the punishment imposed upon the appellant; he was committed to prison for six months and ordered to pay the costs of the proceedings. Mr. Koya referred to punishments awarded in the case of *McLeod v. St. Aubyn* [1899] A.C.549 (imprisonment for fourteen days) *R. v. Dunbabin Ex parte Williams* (supra (fines of £200 and £50), *Izuora v. R.* [1953] 1 All E.R. 827 (a fine of £10 set aside on appeal) ad others. He also relied upon section 128 of the Penal Code which provides that certain specified acts of contempt shall be punishable, and under which the maximum imprisonment is three months. The section provides that it is in addition to and not in derogation of the power of the Supreme Court to punish for contempt.

It is difficult to draw very much from sentences imposed in other cases, as no set of facts completely parallels another and the gravity of a contempt must be estimated in its own context. Mr. Koya makes a valid point however in referring to the maximum punishment of three months' imprisonment in contempt proceedings under the Penal Code, even though it may be that the intention of the legislature was to bring mnior cases within magisterial jurisdiction.

We agree with the Supreme Court that this contempt was gross and deserving of a sentence of imprisonment. The fact that the appellant is a barrister and solicitor enhances the gravity of the offence though at the same time it no doubt would intensify the degree of mental suffering attendant upon such a sentence.

We haev given this question anxious though. The appellant made two qualified apologies to the Supreme Court, which were, we think rightly, held not to be a sincere purging of the contempt. He has now filed a further affidavit, paragraphs 5 — 7 of which read —

> (5) *THAT* whatever may be this Honourable Court's judgment in this matter and whatever is the legal effect of my speech given at a political meeting held at the Suva Civic Centre on the 28th day of March, 1972 and the subsequent publication of my pamphlet complained of *AND* without prejudice to my lawful and constitutional right to institute further appeal (if necessary) to determine whether in law the said speech and the said pamphlet constituted a contempt of court (criminal or otherwise), I hereby make an apology in the manner hereinafter contained.
>
> (6) *THAT* I hereby tender my *BINDING, SINCERE, UNQUALIFIED AND UNCONDITIONAL apology* to this Honourable Court, the Supreme Court of Fiji and to all the Honourable Judges of this country (including the Honourable the Chief Justice of Fiji) in respect of the matters for which an Order for Committal was made against me on the 9th day of May, 1972.

(7) *THAT* I make this apology on my own volition and declare on *OATH* that the contents of paragraph (5) hereof are not intended to minimise the seriousness or the signifcance of my apology referred to in paragraph (6) hereof in any manner whatsoever.

This is an apology for the actions of the appellant but not an admission that they amounted to contempt. His sincerity may still be doubtful though a desire to reserve a right of appeal to the highest court is natural enough.

We take the view that the punishment of six months imprisonment imposed by the Supreme Court was a heavy one. The appropriate punishment for contempt of this type is difficult to assess and we do not say that the committal was manifestly for too long a period. Having regard, however, to our own view that we would have been inclined to impose a somewhat shorter term, and giving such weight as we can to the apology now tendered, we think it appropriate to effect a reduction of the sentence by setting aside the order of committal for six months and substituting an order for committal of three months, to run from the commencement of the original order. The order for costs made by the Supreme Court will stand, but there will no order for costs in this Court.

It follows from what we have already said, that the appeal against the order dated the 19th April, 1972, giving leave to apply for an order of committal cannot be entertained and is struck out.

Appeal against conviction dismissed: sentence reduced.