IN THE MATTER OF MAHENDRA PAL CHAUDHRY

[HIGH COURT, 1998 (Fatiaki J) 7 April]

Civil Jurisdiction

Courts- contempt of court- nature and ingredients of the offence- whether proceedings for contempt in breach of constitutional right to freedom of expression Constitution (1990) Sections 13 and 121.

Constitution – whether proceedings for contempt of court unconstitutional- Constitution (1990) Sections 13 and 121.

The respondent published a report which contained an allegation that Judges and Magistrates employed lawyers as "receiving agents" for corrupt purposes. In adjudging the respondent guilty of contempt the High Court explained the nature and purpose of proceedings for contempt. It also specifically rejected the contemnor's contention that his publication was protected by the constitutional right to freedom of expression.

Cases cited:

Attorney-General v. Butler [1953] N.Z.L.R. 944
Attorney-General v. Times Newspapers Ltd. [1973] 3 All E.R. 54
Attorney-General (N.S.W.) v. Munday (1972) 2 NSWLR 887
Chiltern D.C. v. Keane [1985] 2 All E.R. 118
Chokolingo v. Attorney General of Trinidad [1981] 1 All E.R. 244
Harmsworth v. Harmsworth [1987] 3 All E.R. 816
In re Bramblevale Ltd. [1970] 1 Ch.D. 128
In re Pollard (1886) L.R. 2 P.C. 106
R. v. Dunbabin ex-parte Williams (1935) 53 CLR 434
R. v. Gray (1900) 2 Q.B. 36
R. v. Kopyto 47 DLR (4th) 213
Solicitor-General v. Radio Avon Ltd. and Anor. [1978] 1 N.Z.L.R. 225
Vijaya Parmanandam v. Attorney-General (1972) 18 FLR 90

Motion for committal for contempt of Court.

S. Banuve and *S. Kumar* for the Applicant
R. Naidu for the Respondent

Fatiaki J:

The Fiji Labour Party is one of the four political parties represented in Parliament. Last year on Friday 11th of July the 12th Annual Delegates Conference of the Party was held at the Tokatoka Resort Hotel in Nadi.

Mahendra Pal Chaudhry (the respondent) is and was the Secretary-General of the Fiji Labour Party (FLP) at all material times. He prepared for presentation to the FLP Annual Delegates Conference, a comprehensive 30-

page report dated the 8th July 1997 and entitled : FIJI LABOUR PARTY 1997 ACTIVITIES REPORT (The report).

Chapter 6 of the report is entitled: LAW AND ORDER and contains ten paragraphs of which it is only necessary, for present purposes, to refer to two which read :

> "Allegations of corrupt practices in the Police, DPP's Office and the judiciary have received wide publicity in the media. A recent disclosure on corrupt practices in the judiciary resulted in an inquiry being appointed by the Attorney General but its report has not been made public.
>
> There has been public suspicion since the coups that many in our judicial system are corrupt. In several cases well known lawyers have been identified as receiving agents for magistrates and judges. A number of lawyers are known to arrange for them to appear before their preferred magistrates or judges."

On the 14th of July 1997 edition of the Daily Post newspaper under a front page article carrying a large bold headline : "JUDICIARY CORRUPT" the above latter paragraph was extensively quoted in speech marks and attributed to the Secretary General of the Fiji Labour Party.

Six months later on the 22nd of January 1998 the Attorney-General sought leave under Order 52 of the High Court Rules to apply for an order of committal against Mahendra Chaudhry on the following basis as set out in paras. 2 & 3 of the accompanying Statement which reads :

> "2. THE relief sought herein is an Order that the Applicant be at liberty to apply, for an order of committal in respect of Unionist and Member of Parliament Mahendra Pal Chaudhry of Suva, for his contempt of this Court on the 12th day of July, 1997 in a pamphlet duly signed by the said Mahendra Pal Chaudhry and delivered at the Labour Party Convention at Sabeto, Nadi, which was published in the Daily Post on the 14th July, 1997.
>
> 3. THE grounds upon which the said order is sought are the words used in the said pamphlet in particular the fourth paragraph of page 22 of the said pamphlet. In particular the words "in several cases well known lawyers have been identified as receiving agents for magistrates and judges", which scandalise this Honourable Court in that they are a scurrilous attack on the Judges and Magistrates thereby lowering the authority of this Honourable Court."

On 5th February 1998 leave was granted to the Attorney-General to issue contempt proceedings and on the 10th of February 1998 a Notice of Motion was issued against Mahendra Pal Chaudhry seeking his committal to prison for "... his contempt of this Honourable Court in publishing pamphlets and causing it (sic) to be published in the issue of The Daily post dated the 14th July, 1997, under the Heading JUDICIARY CORRUPT".

It is convenient at this stage to deal with the respondent's first head of defence which seeks to attack the form and contents of the proceedings undertaken by the Attorney-General.

To begin with, counsel for the respondent writes in his written submissions : "there is no proof of service (of the motion)." It is not entirely clear what is meant by the sentence in the absence of an affidavit denying service, but if it means that counsel should be served with the papers or a copy of an Affidavit of Service or that he be advised of the same, then I entirely disagree.

Order 52 r.3(3) of the High Court Rules 1988 merely requires personal service on the person sought to be committed of the Notice of Motion, together with a copy of the Statement and affidavit in support of the application for leave under Rule 2.

Suffice it to say that there is an Affidavit of Service in the court file dated the 17th day of February 1998 deposed by an employee of the Attorney-General's Chambers which fully complies with the requirements of the above Order. There is no merit in this submission.

Secondly, counsel writes : "No grounds of the alleged contempt are contained in the motion." This, it is submitted, is a fatal non-compliance with the requirements of the rules and Counsel refers to several cases in support, chief amongst which, are the judgments of the English Court of Appeal in Harmsworth v. Harmsworth [1987] 3 All E.R. 816 and Chiltern D.C. v. Keane [1985] 2 All E.R. 118. Both were decisions dealing with contempts for disobedience of court orders.

Both cases refer to prescribed Forms and court Rules that require the Notice of Motion to set out particulars sufficient to let the person alleged to have been guilty of contempt know the subject matter of the breach(es) alleged against him.

In particular the relevant County Court Form in Harmsworth's case provides for there to be set out in the notice to show cause the particular breach(es) of the order alleged, and, in Chiltern's case, the relevant court Rule expressly required the Notice of Motion to commit to state the grounds of the application.

There is no such requirement in respect of the Notice of Motion to commit in Order 52 of our High Court Rules which only requires the Statement under Order 52 r.2(2) to set out the grounds on which committal is sought.

I accept however that :

> "... no person should be punished for contempt of court, which is a criminal offence, unless the specific offence charged against him be distinctly stated and an opportunity of answering it given to him ..." (In re Pollard (1886) L.R. 2 P.C. 106, 120.)

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But as was said by Woolf L.J. in Harmsworth's case (ibid at p.823) :

> "What is not required by the relevant rules is that the notice of motion should be drafted as though it was an indictment in criminal proceedings."

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The test as propounded by Sir John Donaldson M.R. in Chiltern's case (ibid at p.119) is :

> "... that what is required is that the person alleged to be in contempt shall know, with sufficient particularity to enable him defend himself, what exactly he is said to have done or omitted to do which constitutes a contempt of court."

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and later the learned Master of Rolls said at p.120 :

> "Every notice of application to commit must be looked at against its own background. The test as I have said, is : Does it give the person alleged to be in contempt enough information to enable him to meet the charge?"

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Clearly with those principles in mind the framers of our High Court Rules determined that it would be sufficient for a copy of the Statement to accompany the Notice of Motion when service is effected upon the person sought to be committed.

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It is undisputed in this case that a copy of the Attorney-General's Statement together with the affidavits in support of the application for leave were personally served on the respondent along with the Notice of Motion. That is all that is required under our High Court Rules.

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Turning then to counsel's highly pedantic analysis of the Notice of Motion, having considered all four documents served together with the annexures, I am more than satisfied that the information supplied to the respondent not only strictly complied with the High Court Rules, but also contained sufficient particulars to enable the respondent to defend himself against the contempt alleged against him.

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It must be remembered that the simple background to the present application is the publication in a local newspaper of the offending paragraph attributed to the respondent. We are not here dealing with several court orders or injunctions or even with numerous alleged breaches occurring over an extended period of time.

Viewed against that background the Notice of Motion read with paragraphs 2 & 3 of the Attorney-General's Statement and the Daily Post newspaper article, gives more than sufficient information both as to the nature and details of the particular contempt alleged, as well as, the manner and occasion when it is alleged to have been committed. I accordingly reject this submission.

The Attorney-General's motion is supported by two very brief affidavits, one deposed by Mesake Koroi of the Fiji Daily Post Co. Ltd. and, the other, by Kamal Iyer, a senior journalist in the employ of Fiji Broadcasting Commission. Both affidavits annexed a copy of the report and described how the respective deponents came to be in possession of the same.

In particular, Mesake Koroi deposed that :

> "ON 12th of July, 1997 I was at the Parliament Complex at Veiuto, Nasese, Suva where I picked up a copy of a pamphlet which was disseminated for public consumption."

Kamal Iyer for his part, deposed :

> "THAT I was given a pamphlet at the Fiji Labour Party's annual delegates conference held at the Tokatoka Hotel on Friday July 11th 1997."

Neither identified the supplier or source of the pamphlet nor, in Mesake Koroi's case, the exact place from where it was picked up.

The Attorney-General's motion was fixed to be heard on the 26th of February 1998.

The relevant papers were duly served on the respondent on the 13th of February, 1998. On the hearing date the respondent appeared by counsel who sought a short adjournment to enable answering affidavits to be filed on his behalf. This was granted and on the 4th of March 1998, three affidavits were filed. They are deposed by Rajendra Pal Chaudhry Administrative/ Research Officer in the Fiji Labour Party Office at the Parliamentary Complex at Veiuto (the FLP Office) ; by Dipika Patel, Secretary in the same office and by Rakesh Chandra the Office Messenger/Clerk. There was no affidavit from the respondent.

The latter two affiants merely deposed that on the 12th of July 1997, a Saturday, neither was present at the FLP Office and neither was aware of any reason why the FLP Parliamentary Office would be open on that day.

Rajendra Chaudhry for his part whilst confirming the closure of the FLP Office on the 12th of July 1997 and the holding of the FLP Annual Delegates Conference at the Tokatoka Resort Hotel on Friday 11 July 1997; and the presentation of the report thereat, deposed inter alia that : "(The delegates conference) was a private meeting, attended by approximately 60 delegates from the FLP's various branches around Fiji and neither the media nor the

general public was invited to attend the delegates Conference."

He further deposed that the the report was not intended for circulation to the general public but there is no suggestion that the copies of the report in the possession of Mesake Koroi and Kamal Iyer were either unauthorised copies or unlawfully obtained.

It is plain from the answering affidavits that issue was being taken on the date (ie. 12th July 1997) when Mesake Koroi deposed he picked up a copy of the report; also, on the source or supplier of the report to the respective reporters; and on who was responsible for its subsequent publication in the Daily Post. The authorship, intended readership and actual contents of the report are not denied however.

In this latter regard the report bears in the middle of its cover page the following wording :

> "presented by the Secretary-General to the 12th Annual Delegates Conference" ;

and on the first page under the heading, the following attribution appears :

> "Report of the Secretary-General to the 12th Delegates Conference
> Tokatoka Resort NADI - 11 July, 1997."

The report then opens with the personal words : "I shall begin the report ..." which suggests to my mind that it was intended to be delivered orally, and the last page bears the date 8 July, 1997 and carries a handwritten signature above the words :

> `Mahendra P. Chaudhry
> SECRETARY GENERAL`

On the 5th of March, when the Attorney-General's motion was being heard in open court, State Counsel mindful of the above, orally sought from the bar table to amend the date in Mesake Koroi's affidavit and when this was disallowed, Mesake Koroi was called into Court and after identifying a copy of the report, testified, over defence counsel's objections, that on the afternoon of the 11th July 1997 he was called into the FLP Office at the parliamentary complex and was given a copy of the report by Mr. Rajendra Chaudhry who was packing at the time.

It is convenient at this stage to deal with the second head of defence advanced by counsel for the respondent entitled : "Lack of proof to any standard," which as the name suggests, seeks to challenge the quality of the evidence adduced in support of the Notice of Motion.

The allegation against the respondent may be conveniently summarised as follows - that he published (and I would here emphasise the disjunctive nature of the charge) or caused to be published in the 14th of July 1997 issue of the

Daily Post, words which constitute a contempt of Court in that they are a scurrilous attack on the Judges and Magistrates thereby lowering the authority of the Courts.

In the absence of any affidavit evidence from the respondent, Counsel submits that the respondent neither published the report or caused it to be published in the Daily Post.

In this latter regard the evidence of Mesake Koroi is that he personally wrote the article in the Daily Post which was based on a copy of the report that he had obtained from the FLP Office. There is no evidence however that the respondent either supplied the report or authorised or knew of the article or indeed, that he in any way caused the article to be written or published in the Daily Post newspaper. I am accordingly not sufficiently satisfied that the respondent caused the offending words to be published in the Daily Post albeit that they were undoubtedly extracted from the report presented by him.

Did he then in any way publish the report containing the allegedly contemptuous passage ? Counsel for the respondent although accepting that on the face of (the report) it was circulated to 60 political party delegates nevertheless submits, that that is not a sufficient publication. I cannot agree.

I cannot accept that publication for the purpose of contempt arising out of written matter is in any way dependant on the number of persons for whom and to whom the matter is circulated. Were this so then a letter written personally to the Chief Justice and containing scurrilous abuse of the Chief Justice would not amount to contempt and Martins case (1747) 34 R.R. 1771 where an intending suitor had written to the Lord Chancellor referring to his proposed action and enclosing a £20 note plainly disproves this proposition albeit that that was a blatant if somewhat, hopeless case of attempted bribery.

Nor in my view, does the limited partisan nature of the readership or intended audience of the report have any bearing on the question. In Attorney-General v. Butler [1953] N.Z.L.R. 944 which concerned a circular letter dictated by a Union Secretary and sent by post to ten branches of the Union and which inter alia described an Arbitration Court's award as a travesty of justice, the New Zealand Supreme Court on a Motion to commit the Union Secretary "for the contempt of Court in publishing a circular letter to the members of the (named branches) ..." found him guilty of contempt and ordered him to pay the costs of the proceedings.

Clearly in that case the Supreme Court did not consider itself constrained by the necessarily restricted circulation of the secretary's letter or by the essentially private internal nature of the correspondence.

Bearing in mind counsel's concession, the clear purpose and intended readership of the report, and Rajendra Chaudhry's sworn affidavit to the

effect that the report was presented to (the FLP annual delegates) Conference, I am satisfied beyond a reasonable doubt that the respondent did publish the offending words albeit to a limited audience.

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Counsel for the respondent also criticised the use of the word "pamphlet" in the papers filed by the Attorney-General. Suffice it to say that in my view, nothing turns on that description.

This limb of the second head of defence is accordingly dismissed.

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The respondent for his part entered a not guilty plea through his counsel and upon the Court's intimation elected through his counsel to rely solely upon the affidavits filed on his behalf.

So much then for the evidence in this case.

I turn next to consider the law. In R. v. Gray (1900) 2 Q.B. 36 Lord Russell of Killowen C.J. in holding that the contents of the newspaper article in that case constituted a contempt of court said at p.40 :

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> "Any act done or writing published calculated to bring a Court or a judge of the Court into contempt or to lower its authority, is a contempt of Court ... (which) ... belongs to the category which Lord Harwicke L.C. characterised as 'scandalising a Court or a judge' That description of that class of contempt is to be taken subject to one and an important qualification. Judges and Courts are alike open to criticism, and if reasonable argument or expostulation is offered against any judicial act as contrary to law or the public good, no Court could or would treat that as contempt of Court."

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More recently Lord Diplock in delivering the opinion of the Privy Council in Chokolingo v. Attorney General of Trinidad [1981] 1 All E.R. 244 described the contempt of scandalising the court, at p.248 :

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> "(as) a convenient way of describing a publication which, although it does not relate to any specific case either past or pending or any specific judge, is a scurrilous attack on the judiciary as a whole, which is calculated to undermine the authority of the courts and public confidence in the administration of justice."

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Quite plainly in my view, and with this there can be little disagreement, the nature of the contempt (if any) committed by the respondent in this case is that of scandalising the Court. Certainly that is the terminology adopted by the Attorney-General in his Statement in support of the application for leave and uniformly addressed in counsel's submissions to the Court.

As for the purpose of this jurisdiction to summarily punish contempt of Court, Rich J. in the High Court of Australia said, in R. v. Dunbabin ex-parte Williams

(1935) 53 CLR 434, at 442:

> "This jurisdiction ... exists for the purpose of preventing interferences with the course of justice ... such interferences may ... arise from publications which tend to detract from the authority and influence of judicial determinations, publications calculated to impair the confidence of the people in the Court's judgment because the matter published aims at lowering the authority of the Court as a whole or that of its Judges and excites misgivings as to the integrity, propriety and impartiality brought to the exercise of the judicial office."

then in similar vein to the qualification earlier referred to in Lord Russell's judgment in R. v. Gray (ibid), his honour continued :

> "The jurisdiction is not given for the purpose of protecting the Judges personally from imputations to which they may be exposed as individuals. It is not given for the purpose of restricting honest criticism based on rational grounds of the manner in which the court performs its functions. The law permits in respect of courts, as of other institutions, the fullest discussions of their doings so long as that discussion is fairly conducted and is honestly directed to some definite public purpose."

In this country too, the Court of Appeal had occasion to deal with this rare form of contempt of court in the case of Vijaya Parmanandam v. Attorney-General (1972) 18 FLR 90 and, in upholding the Supreme Court's finding of contempt, said at p.95 :

> "The power to punish for contempt (of scandalising the Court itself) 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."

As to the standard of proof required of such a contempt, Lord Russell said in R. v. Gray (ibid) at p.41 :

> "It is a jurisdiction, however, to be exercised with scrupulous care, to be exercised only when the case is clear and beyond reasonable doubt ;"

In similar vein it was held in Attorney-General (N.S.W.) v. Munday (1972) 2 NSWLR 887 that :

> "Scandalising the court is a form of criminal contempt triable on indictment except in exceptional circumstances, for instance where the contempt is established clearly and beyond

reasonable doubt ..."

(See also : per Lord Denning M.R. in In re Bramblevale Ltd. [1970] 1 Ch.D. 128 at 137.)

Quite plainly in this instance this Court did not consider it necessary to deal with the respondent either summarily or *in brevi manu*. The Attorney-General however, in his wisdom and upon his independent and impartial assessment of the public interest in maintaining the due administration of justice in all its integrity, has decided to bring this matter to the Court's attention and consideration by way of a Notice of Motion to commit the respondent for his contempt of Court, and for that, this Court makes no criticism.

Having said that however, I am firmly of the view that not every unwarranted or discourteous criticism of the judiciary amounts to the contempt of scandalising the Court. Before such criticism may constitute scandalising contempt it must, viewed objectively, amount to what has been termed scurrilous personal abuse of a judge or, be of such a nature as to be calculated to excite misgivings as to the integrity, propriety and impartiality of the Courts.

What is more, in both instances, the Court must be satisfied that there is a real risk as opposed to a remote possibility of interference with the due administration of justice.

I disagree however with counsel's attempt to link this requirement with the question of publication. In my view it is not so much the audience to which the offending words are addressed that determines the question but, whether or not the offending words themselves are, viewed objectively, calculated to bring the administration of justice or the Courts into disrepute and the author's intention is irrelevant.

As was said by Lord Reid in Attorney-General v. Times Newspapers Ltd. [1973] 3 All E.R. 54, 63 :

> "The question whether there was a serious risk of influencing ... is certainly a factor to be considered in what course to take by way of punishment, as is the intention with which the comment was made. But it is I think confusing to import this into the question whether there was any contempt at all or into the definition of contempt."

In any event bearing in mind the respondent's position within the FLP ; the representative nature of the participants attending the FLP annual delegates conference drawn from throughout Fiji ; and counsel's concession that the report was circulated to 60 political party delegates, I am satisfied that there was a real risk of bringing the Courts into disrepute.

Needless to say I disagree with the elevation of this requirement into an element of the actus reus, preferring to see it instead, as a factor in the exercise of the

Court's ultimate discretion whether or not to impose punishment.

A For the sake of completeness and in the absence of any evidence or submissions in that regard, I record my respectful agreement with the judgment of the New Zealand Court of Appeal where it held in Solicitor-General v. Radio Avon Ltd. and Anor. [1978] 1 N.Z.L.R. 225 that:

> "It is not necessary in proceedings for contempt consisting of lowering the authority of a court or judge to prove that the
B defendant intended his action to have that effect ... but the defendants intention is relevant to the penalty to be imposed."

So much then for the applicable law.

I turn next to consider the offending paragraph in the report and in particular the words :
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> "In several cases well known lawyers have been identified as receiving agents for magistrates and judges ..."

In doing so, I have been guided by the applicable law. I have also borne in mind the necessarily limited and partisan audience for whom the report was
D originally intended and adopted an open even cynical mind. I have also given the words used, their plain and ordinary meanings and considered the context and content of the report in which they occur, and I am mindful that no denial, explanation, justification or rationalisation has been proffered, at any time, by the respondent for his deliberate choice of words.

E It is immediately noticeable that no specific names or details of cases are mentioned in the paragraph which begins with a general allegation that many in our judicial system are corrupt to be immediately followed by what can only be described as an instance of a highly corrupt practice namely, the soliciting or acceptance of bribes by judicial officers using lawyers as receiving agents.

F Learned counsel for the Attorney-General submits that the above paragraph is a :

> "scurrilous attack upon the judiciary as a whole ... without specificity and its whole tenor questions their integrity i.e. personal financial gain is a factor which sways the decision of
G a magistrate or judge in a particular litigated matter."

and further (at p.4) :

> "... the said words ... by their very lack of specificity and the inflammatory words utilised constitute a scurrilous attack on the Judiciary or Magistracy of this country as a whole with no other intent (by the choice of the words used) but to undermine public confidence in it."

and finally :

> "(the) words utilised are a scurrilous abuse of the Courts of this country, and the passage ... constitute contempt, in imputing that judges and magistrates as a whole are on the take. The gravamen of the offence is that determinations by magistrates and judges of this country in their official capacities are often swayed by personal financial gains solicited through well-known lawyers as agents, rather (than) on argument based on legal issues governing the cases before them."

In his defence on this aspect, learned counsel for the respondent sought protection under the constitutional right to free speech conferred under Section 13(1) of the 1990 Constitution. I would point out however, that there is an important difference between a right and a freedom. A right is conferred in positive language whereas a freedom may be negatively defined as what remains after all restrictions or regulations in a particular area or sphere of activity have been accounted for.

Furthermore the protection afforded by Section 13 is not and has never been absolute.

In this latter regard section 13(2) expressly provides (so far as relevant for present purposes):

> "Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision -
>
> (b) for the purpose of ... maintaining the authority and independence of the Courts
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> except so far as that provision ... is shown not to be reasonably justifiable in a democratic society."

As for the particular law in question, Section 121 of the Constitution specifically recognises that :

> "The superior courts shall have power to punish persons for contempt in accordance with the law."

There is not the slightest doubt in my mind that the law of contempt of court is a legitimate, necessary and reasonably justifiable law in a democratic society and has, as its sole purpose, the maintenance of the authority and independence of the Courts. There cannot be, and it has certainly not been shown to this Court, that the position is otherwise.

The Supreme Court (now High Court) in dismissing a similar argument in Vijaya Parmanandam's case (supra) said at p.2 :

> "The Court has been addressed by Counsel for the respondent on the right of the respondent under the Constitution of Fiji to freedom of speech. However there is a profound difference between freedom, be it freedom of action or freedom of expression, and licence. While justice is not a cloistered virtue and it is open to all to criticise temperately and fairly the administration of same, criticism which is actuated by malice or which imputes improper motives to those taking part in the administration of justice or which is calculated to bring a Court or a judge of the Court into contempt or to lower his authority cannot shelter behind the bulwark of freedom of speech.
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> Abuses of the freedom of speech are the excrescences of liberty and to curtail such abuses is not to imperil liberty but to safeguard it and ensure its natural and healthy growth."

In so far as learned counsel referred to the Canadian case of R. v. Kopyto 47 DLR (4th) 213 in support of his submission, I would respectfully point out that the Canadian Charter of Rights does not contain any express exclusions or limitations as in Section 13(2) of our Constitution and, with all due respect to the opinions of the majority of the Court, and except as to the requirement of mens rea, I prefer the dissenting judgment of Dubin J.A.

I would dismiss this ground of defence.

Without the confidence of the people and their representatives, the judiciary in this country could not function and the rule of law would be gravely undermined. The respondent himself recognised this when he wrote in the report (at p.22) : "It is indeed damning for Fiji that such is the public perception of our law enforcement agencies. It has shaken public confidence in our system of preserving law and order in the society."

If I may say so the respondent's earlier contemptible remarks on that same page can only further undermine that public confidence so vital to the proper functioning of the Courts and the administration of justice.

The words deliberately chosen and used by the respondent were intemperate and inflammatory, and the context in which they occur in the report only serves to highlight their wanton and gratuitous tone and satisfies me beyond a reasonable doubt that they constitute a technical contempt of this Court in scandalising the Court by unfairly, improperly and indiscriminately imputing to unnamed members of the Court the commission of serious criminal offences in the performance of their judicial functions.

I accordingly find the respondent guilty of contempt of this Court and order him within seven days to pay the costs of these proceedings which I fix at $500.00.