

From,

Rajat Verma,
Additional District Judge & Sessions Judge,
Varanasi.

To,

The Registrar General
Hon'ble High Court of Judicature
at Allahabad.

Through,

The District Judge,
Varanasi.

Subject: Representation to the then Hon'ble Administrative Judge of the District Court: Shamli at Kairana against the adverse remarks recorded by the District Judge, Shamli at Kairana against the applicant for the Assessment Year 2020-2021.

Respected Sir,

I most respectfully beg to submit my representation on the subject noted above against the adverse remarks recorded by the District Judge, Shamli. In the assessment year 2020-2021, I was posted in Shamli at Kairana as Additional District and Sessions Judge, Shamli.

Respected District Judge, Shamli has regarding my intergrity mentioned in my ACR that "Doubtful. After dismissal of first bail application my Hon'ble High Court, in a gang rape case, the officer entertained and allowed the second bail application in violation of circulated direction of Hon'ble High Court. Detailed reasons are enclosed as Annexure A-1." The Annexure A-1 reads as under:-

"During the course of annual inspection of the Court of A.S.J.(POCSO), it surfaced on the record of P.S.T. No. 20/2019 titled State vs. Shadab and another, case crime No. 201/2018 under section 363,366,376D I.P.C. and section 5/6 POCSO Act, P.S. Kairana, that 2nd Bail Application No. 499/2020 of accused Shadab, in this P.S.T. was entertained by you as the then Presiding Officer of this Court and decided on 10.06.2020 Similarly 2nd Bail Application of co-accused Jaan Mohammad bearing no. 1018/2020 in the same pending P.S.T. was also entertained by you and decided on 23.07.2020. After going through the material on record, it was found that both the above 2nd 'Bail Applications' have been decided on the ground of hostility, of witnesses of fact. You may be aware that it is settled principle of law that mere hostility of witness is no ground for granting bail." Respected District Judge has also remarked that the bail order has been passed by me without maintaining Judicial propriety as held by Hon'ble High Court in the case of Ram Chandra Shukla vs State of U.P.(1999(II)AWC 2998)

I respectfully submit that in the aforesaid matter the first bail of the applicant/accused had been rejected earlier by the court of Sessions and later on by the Hon'ble High Court vide order date 23.08.2018 Subsequent to the rejection of the bail of the applicant/accused, the evidence of the witnesses of fact was recorded in court during trial. The witnesses of fact (including victim) turned hostile as is mentioned in the said bail order dated 10.06.2020 itself. Only the formal witnesses remained to be examined on behalf of the prosecution. When the said order date 10.06.2020, was passed the first wave of the pandemic Covid-19 was rampant. Normal functioning of the courts was disrupted and only urgent matters were being taken up Examination of witnesses in courts was not taking place in courts on the date when the bail order was passed. In that period it was not certain as to when the normal functioning of courts will begin again, and the remaining witnesses will be examined. The applicant/accused was continuously in jail in the matter since 30.04.2018. Due to the aforesaid reasons, I entertained the said

second bail application of the applicant/accused. On the same grounds the second bail application of the co-accused was also disposed off. It is a settled law that second bail application is maintainable after the rejection of the first one if there is a change in circumstances. Hon'ble M.P. High Court in the case of Chain Singh vs. State of M.P., passed in MCRC-583-2016, order dated 08/02/16, allowed the second bail application of the accused since several prosecution witnesses had turned hostile.

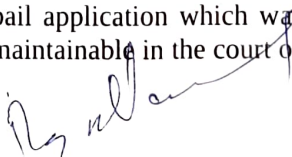
In the case of Kalyan Chandra Sarkar and others vs. Rajesh Ranjan and another. AIR 2005SC921(927)/2005 AIR SCW536: 2005 Cr.L.j.994 Hon'ble Supreme Court has held that " The principles of res judicata and such analogous principles although are not applicable in a criminal proceeding, still the Courts are bound by the doctrine of judicial discipline having regard to the hierarchial system prevailing in our country. The findings of a higher Court or a co-ordinate bench must receive serious consideration at the hands of the Court entertaining a bail application at a later stage when the same had been rejected earlier. In such an event, the courts must give due weight to the grounds which weighed with the former or higher court in rejecting the bail application. Ordinarily, the issues which had been canvassed earlier would not be permitted to be re-agitated on the same grounds, as the same it would lead to a speculation and uncertainty in the administration of justice and may lead to forum hunting.

The decisions given by a superior forum, undoubtedly, is binding on the subordinate fora on the same issue even in bail matters unless of course, there is a material change in the fact situation calling for a different view being taken. Therefore, even though there is room for filing a subsequent bail application in cases where earlier applications have been rejected, the same can be done if there is a change in the fact situation or in law which requires the earlier view being interfered with or where the earlier finding has become obsolete."

From the aforesaid principle of law laid down by the Hon'ble Apex Court it is clear that second bail application can only be maintained in a court when there is a change in the fact situation or in law, from the earlier situation when the earlier bail application was rejected by higher courts. The only thing which the lower court has to be cautious about is that it must give due weight to the grounds which weighed with the former or higher court in rejecting the bail application. In the bail order date 10.06.2020 passed by me, I have not shown any disrespect to the earlier order of rejection of bail of Hon'ble High Court. In fact the bail order dated 10.06.2020 has been passed due to the witnesses of fact(including victim) turning hostile, applicant/accused being continuously in custody since more than two years and also prevailing uncertainty regarding conclusion of trial due to the spread of the pandemic Covid-19. As a result the earlier situation when bail was rejected by Hon'ble High Court had changed.

Hon'ble Supreme Court has held in the case of Criminal Appeal No. 1221/2019(Petition for SLP(Cri.) No. 2232/2018), Sharad vs. State of Maharastra & another order date 8/8/19, that "It may be mentioned in this connection that there is no provision in the Code of Criminal Procedure, 1973 or laid down by this court that once an accused has withdrawn his bail application before the High Court he cannot file a subsequent bail application before, the Sessions Court and that his subsequent bail application would lie before High Court only."

It is therefore also clear from the aforesaid verdict of the Hon'ble Apex Court that the second bail application which was allowed by me vide order date 10.06.21 was maintainable in the court of Sessions.



I never ignored the ruling of Hon'ble Allahabad High Court again in the case of Ram Chandra Shukla vs State of U.P.[1999(11)) AWC 2998], circulated to the Judicial Officers vide C.L. NO. 23/Alld: date 17/9/99. I passed the bail orders date 10/6/20 & 23/7/20 in view of the law laid down by the Hon'ble Supreme Court in the cases of Kalyan Chandra Sarkar & others Vs. Rajesh Ranjan and another (AIR2005SC(927)/2005/AIR SCW536/2005 Cr.L.J.994 and in Criminal Appeal No.122/2019, (Petition for SLP(Cr.) NO.2232/2018)/ Sharad vs State of Maharashtra and another, order dated 08/08/19 and Hon'ble M.P. High Court in the case of Chain Singh vs State of M.P.(MCRC-583-2016, order date 08/02/16) It is pertinent to mention here that no written complaint from members of the bar, or any other person was made against me regarding the above matter or in any other matter in the entire year of assessment.

Respected District Judge, Shamli has also remarked that on a written complaint dated 30/06/20 of the Civil Judge(J.D.) Shamli made against the stenographer of the Chief Judicial Magistrate, Shamli, I called for comments of the concerned employee on the said date without any authority since the said employee was neither deputed to work under me nor was I the Incharge District Judge on the said date since I was on recess till 30/6/20.

It is very humbly submitted that after the retirement of the District Judge Shamli on 30/5/20, I became the Incharge of the court of District Judge, Shamli & Hon'ble High Court vide Notification No. 1165/Admin. (services)/2020 dated 01/06/20, delegated the Financial powers to me in exercise of the powers conferred under clause 12-D(Note) of Financial Hand Book, Volume-V (Part-I) Chapter-II till the assumption of charge of the new District Judge. I was on recess from 21/06/20 to 30/06/20 and in that period Shri Subodh Singh, Addl. District Judge, Shamli who was next to me in seniority in the Judgeship was the Incharge of the Court of District Judge, Shamli. In that period I was staying in Judges Colony, Kairana, Distt Shamli. My residence was situated in the same campus where the District Courts of the Shamli Judgeship were functioning at Kairana. Shri Subodh Singh was residing in a private accomodation situated in Shamli which was about 14 Kilometers away from the District Court Campus. Even though I was on recess on 30.06.2020 I did not leave the Headquarter & I was staying in my residence.

In the said period Covid-19 pandemic was prevalent and only urgent work was being conducted in the courts. Hon'ble High Court had advised that the Judicial Officers should leave the court premises after completion of their work. On 30/6/20, the written complaint of the employee was received in late hours when Shri Subodh Singh had already left the court premises. Since there was no other officer of the rank of Additional District Judge, the said application was brought before me at my residence in the evening of 30/6/20, by the staff of the court on which I made an endorsement to call for comments of the concerned employee whose complaint was made by a Judicial Officer. It is also pertinent to mention here that my recess period was ending on the said date and I was due to join my duties on the following day, which I eventually did. It is also humbly submitted that as per section 10 of The Bengal, Agra & Assam Civil Courts Act, 1887.

"Temporary charge of District Court-(1) In the event of the death, resignation or removal of the District Judge, or of his being incapacitated by illness or otherwise for the performance of his duties, or his absence from the place at which his Court is held, the Additional Judge, or if an Additional Judge is not present at that place, the senior Subordinate Judge present thereal, shall, without relinquishing his ordinary duties, assume charge of the office of the District Judge, and shall continue in

charge thereof until the office is resumed by the District Judge or assumed by an officer appointed thereto.

(2) While in the charge of the Office of the District Judge, the Additional Judge or Subordinate Judge, as the case may be, may, subject to any rules which the High Court may make in this behalf, exercise any of the powers of the District Judge."

In view of the section 10 as aforesaid it is clear that I being Incharge District Judge had the power to call for comments of the employee of the court of CJM, Shamli.

Respected District Judge, Shamli has also remarked that I intentionally delayed the disposal of two preliminary enquiries bearing numbers 12/2020 & 5/2020 instituted against Shri Kailash Chand, a class-III employee for loss of original file of Special Sessions Trial No. 2857/2018 & loss of original document in file of Special Session trial No 2857/2018 and loss of original judgment in file of Session Trial No. 402/2016.

Regarding the above remark I respectfully submit that Shri Kailash Chand, Group -C employee was transferred from Shamli Judgeship to Muzaffarnagar Judgeship in November 2019. When I took the charge in the court of Additional District & Sessions Judge (Rape & POCSO), in July 2020, Shamli, preliminary enquiries of loss of record were pending in the court. At that time due to the pandemic Covid-19, normal functioning of the courts was disrupted and witnesses were not permitted to be examined except in exceptional circumstances until 01/01/21. From 02/01/21 onwards Hon'ble Allahabad High Court permitted normal functioning of courts. Since Shri Kailash Chand was posted in Muzaffarnagar, he did not appear before me for his statement due to the prevailing scenario on account of the pandemic. Vide my letter dated 01/01/21, I sought some more time from the Respected District Judge, Shamli to conclude the said enquiries as the normal functioning was due to begin. It is most respectfully submitted that I had no knowledge of the date of retirement of Shri Kailash Chand. Service Record of all the employees wherein date of birth is mentioned is maintained by the office of the District Judge. Since Shri Kailash Chand had been transferred to Muzaffarnagar Judgeship in November 2019, I was completely unaware of his date of retirement. It is further submitted that both the said preliminary enquiries were instituted due to loss of record from the court. There were 6 employees (One reader, 2 office clerks, one stenographer, 2 class-IV employee) posted in the court. It is only after the conclusion of the preliminary enquiry, it could be ascertained as to prima facie who is responsible for loss of records. Hence it was not clear at that moment as to who will be held liable for the loss of records. As per rule 351-A of Civil Service Regulation, departmental proceedings can be initiated against an employee who has retired after the sanction of the Governor.

I respectfully submit that I could not conclude the said preliminary enquiries on time due to the spread of Covid-19 resulting in hampering of normal functioning of courts. I was completely ignorant about the date of retirement of Shri Kailash Chand and departmental enquiry can be initiated against the employee even after his retirement. Hence the allegation of the Respected District Judge as aforesaid is baseless.

Respected District Judge, Shamli has remarked that "The officer has annexed a statement showing only the pendency of cases in his Court, that too as on 28.2.2021, whereas he was expected to annex statement of yearwise breakup of the pendency, institution and disposal of all type of cases starting from 01.4.2020 to 31.03.2021. The officer has not intentionally annexed the required statement for the reason best

Shri Kailash Chand

known to himself. The officer has not reported any disposal of old cases. The officer has also not annexed any separate list of old cases decided. The officer has also not annexed any statements showing any yearwise disposal, therefore, there is no occasion for the reporting officer to assess the performance of disposal of old cases. Although, the officer has annexed copy of judgement passed in Session Trial No. 1440/2014, which can be termed as the only oldest case decided by the officer during the relevant year."

With respect to the aforesaid remark I humbly reiterate that the normal functioning of the courts remained disturbed from 01/04/20 to 01/01/21 and only urgent matters were being taken up. When the normal functioning began from 02/01/21, there was only one ripe pending case in my court which was disposed off in January 2021. Summons, warrants, notices started to be issued from January 2, 2021 onwards to the witnesses, accuseds and others. As a result by the end of January 2021, pending cases started to make progress. In the month of February 2021, I was able to dispose of 2 cases triable by the Court of Sessions and one case of special Act (POCSO). In the month of March 2021, I disposed off 3 sessions triable cases and 2 Criminal Revisions till 22/3/21. From 23/3/21 onwards I remained on leave being infected with Covid-19 virus and joined on 12/4/21. In the last week of March 2021, 4 Sessions triable cases, one Criminal Appeal and one Criminal Revision were lined up to be disposed off. However, due to illness and consequent absence from Court I could not do so. I admit that desired results regarding disposal of old cases could not be achieved. I tried my best to dispose of the old cases but due to normal functioning being disrupted and also being infected by Covid-19 Virus, I could not dispose of enough old cases. The reason that the statement annexed by me with self assessment shows pendency till 28.2.21 is that the statement for March 2021, which was to be prepared in April 2021 could not be prepared by me since I remained on leave from 22.3.21 to 12.4.21 due to being infected with Covid-19 virus. On 12.4.21 I joined my duty and on the same day I handed over the charge from the court being transferred to Varanasi. After handing over the charge, I was completely dependent on the staff of the court which was earlier under my administrative control and also the staff of the administrative office of the District Judge who did not cooperate. Non reporting of the disposal of old cases is not intentional. Yearwise pendency of the pending cases of my court was, however, annexed with my self assessment.

Respected District Judge has in Para 1(e)(iv) rightly observed that no execution case was disposed off by me in the year. However, I humbly submit that no execution case was pending in my court due to which I could not dispose of execution cases.

Respected District Judge Shamli has observed that judgement in ST No. 1440/2014 is not sound on law & facts, detailed reasons being given in Annexure. A-2 He has further added that "the application of law is not upto the mark, as section 228 A IPC and directions of Hon'ble Apex Court regarding non disclosure of name and identity of the rape victim has been clearly violated by the officer, detailed reasons are enclosed as Annexure A-2."

In respect of the above, I respectfully submit that in the judgment delivered by me in the case of ST No. 1440 of 2014, State vs Sandeep and others, except in the quoted version of FIR and also the quoted oral statement of PW1 and PW2, nowhere else in the judgment the name of the victim is mentioned and she has been addressed in the judgment as 'पीडिता'. However, I admit that I have committed the said error and the name of the victim should not have been mentioned even while quoting the version of FIR or the statement of the witnesses. I humbly apologize

for the same and promise that such kind of mistake (which was committed due to inadvertence and being unintentional) will never be repeated again.

While passing the judgment I relied on the statement of victim u/s 164 Cr.P.C. as it was found to be admissible as secondary evidence u/s 65 Indian Evidence Act. The said statement in original was summoned by Hon'ble Allahabad High Court in Writ No. 06935/2007 Sandeep and others vs State of U.P. and despite repeated requests being made by my predecessors the same could not be received back. The statement of the victim was verbatim copied by the Investigating Officer in the Case Diary and it was relied upon as secondary evidence in view of Section 65 Indian Evidence Act. The school leaving certificate of the victim was also not on record in original form. Only a photocopy of the said document was on record. No explanation or reason was adduced by the prosecution for not producing the original document on record. Hence as a result it was not possible to accept the same in evidence as secondary evidence. All the aforesaid reasons are mentioned in the said judgment delivered by me. Hence it is not true that I have taken a contradictory stand in relying on the statement of victim u/s 164 crpc & not relying on her school leaving certificate as remarked by the Respected District Judge. In the said judgment I have given detailed reasons on the basis of which I have concluded in the last paragraph stating that "अतएव उपरोक्त अन्वय के आधार पर न्यायालय इस निष्कर्ष पर पहुंचता है कि अभियुक्तगण के विरुद्ध कोई भी आरोप युक्तियुक्त संदेह से परे सिद्ध नहीं होता है व तदनुसार सभी अभियुक्तगण दोषमुक्त किए जाने योग्य हैं।" Hence the remark of the Respected District Judge Shamli regarding not giving any finding regarding accused Surendra in the judgement is also not true.

Respected District Judge Shamli has remarked that "Prima facie the officer has not claimed correct outturn. Therefore a committee of two senior most judicial Officers was constituted to have a fair assessment of the outturn of the officer, whose report is annexed as annexure A3.

The report of the Respected Committee Annexure A-3 has stated in para No. 4 that "अधिकारी द्वारा अपने द्वारा किए गए निरीक्षण में अनुभागों के निरीक्षण को 10 यूनिट प्रति निरीक्षण क्लेम किया गया है जबकि यह 4 यूनिट प्रति निरीक्षण निर्धारित है। इस कारण में प्रतिलिपि विभाग के निरीक्षण के लिए क्लेम किए गए यूनिट 30 न होकर 12 होंगे। कंप्यूटर अनुभाग के निरीक्षण के 20 न होकर 8 यूनिट होंगे तथा अभिलेखागार एवं पुस्तकालय के भी 10-10 न होकर 4-4 यूनिट होंगे। इस प्रकार कुल 42 यूनिट अतिरिक्त एक्सेस किए गए हैं, जिन्हें कम करने पर कुल अर्जित कार्य 319.95 यूनिट रह जाता है और प्रतिशत 48.28 रह जाएगा।"

With regard to the above I respectfully submit that in Sl. No. 3 under the head of Administrative/ Miscellaneous work for District and Sessions Judge/A.D.J., of the enclosure of General letter No. II/IV-h-14/2019, dated: Allahabad; March 05, 2019 issued by Hon'ble High Court, 10 units per quarter are provided for inspection of office. As per the Sl. No. 12 of the same, 4 units per inspection are given for inspection of the other offices i.e. jail juvenile home, office of the executive magistrate, etc.. From the said circular it is obvious that '10 units per quarter' are provided for quarterly inspection of the offices of District Courts and 4 units are provided for inspection for inspecting the "other offices" which are not a part of District Courts such as "jail authorities, juvenile home, office of the executive magistrate etc. Hence I have rightly claimed 10 units each for quarterly inspection of copying section, computer section, record room and library section. The Respected Committee has, therefore, not made a correct interpretation of the aforesaid circular.

The Respected Committee has in the report also mentioned that "अधिकारी द्वारा नोडल आफिसर कंप्यूटर के रूप में 24 यूनिट अर्जित किया गया

होना उल्लिखित किया गया है जबकि नोडल आफिस कंप्यूटर के लिए अपर जिला जज स्तर के न्यायिक अधिकारी के संबंध में प्रशासनिक यूनिट अनुमन्य नहीं है।"

With respect to the above observation of the Respected Committee I humbly submit that in Sl. No. 28, relating to Administrative work of the enclosure of General Letter No. II/IV-H-14/2019m dt: Allahabad: March 5, 2019 of Hon'ble High Court, 4 units per month are provided as incentive to the Nodal officer, Computer. Respected Committee of the Senior A.D.J.s of Shamli Judgeship has wrongly interpreted that those 4 units per month as incentive are not meant for the cadre of officer of Additional District Judges. On closer scrutiny of the said circular it transpires that as per the said Annexure, Sl.No.1 to 15 are applicable for Sessions Judges/Additional District Judges exclusively as is clear, from the Heading of the same which reads as under "Administrative/Miscellaneous Work for District & Sessions Judge." In the said annexure Sl.No. 16 to 22 are under the head Administrative/Miscellaneous work for Magistrate (CJM/ACJM/JM/MM)CJM/ACJM/JM/MM. Serial No. 23 to 26 of the same are under the head Administrative/Miscellaneous Work for Civil Judge/JSCC. Serial No. 27 to 33 of the said Annexure are meant for all the officers. Even though no heading has been given for the Sl. Nos. 27 to 33, it can be assumed that these are applicable to all officers due to the following reasons:-

As per Sl. No., 29,"Additional credit to the Judicial Officers for reasons:- ensuring accurate and complete data entry and also for uploading the updated data on National Judicial Data Grid database. In case, The Judicial Officers fails to do so, 0.25 unit per day will be deducted from their Units achieved from disposal of cases."

The Officers of subordinate Judiciary all over the State are being subjected to the said guideline mentioned in Sl.No.29, irrespective of their cadre. The incentive mentioned in Sl.No. 28 will also be, therefore, applicable to all the officers, irrespective of their cadre since it precedes the Sl.No.29 and no separate heading is given after Sl.NO.28 and before Sl.NO.29. Providing incentive to the officers of the cadre of Civil Judge(S.D.) or Civil Judge(J.D.) and not giving any incentive to the officers of the cadre of Additional District Judges for the same work also defies logic and commonsense. Hence it is obvious that 4 units incentive given to the Computer Nodal Officer is meant for Officers of all cadres including the cadre of Additional District Judges. In view of the above the report of the Respected Committee on the said point too is based on wrong interpretation of the circular and I have in fact claimed the incentive of 4 units per month in accordance with the said circular.

Respected Committee has also pointed that "सी.आई.एस./जी.डी.जी. पर डाटा एक्यूरेसी फीडिंग को 4 यूनिट प्रतिमास क्लेम किया गया है जबकि यह 0.25 यूनिट प्रति वास्तविक कार्य दिवस है।"

With respect to the aforesaid remark I humbly submit that in every month there are more than 20 working days at an average. If 20 is multiplied by 0.25 (0.25 unit per day is given for ensuring accurate and complete data entry and also for uploading the upload data on NJDG base) the result will be 5.00 If I multiply 0.25 with the number of days I attended the court each month then the result will be certainly more than the 4 units per month incentive which I have claimed. It is, therefore, quite clear that the miscalculation regarding the total number of units at the rate of 0.25 units per day is on the lower side and I have not benefitted from the same. In fact I have claimed lesser incentive than what I deserved.

The Respected Committee has also stated that "अधिकारी द्वारा अपने कार्य दिवसों में से रविवार, द्वितीय/चतुर्थ शनिवार को कुल 65 दिनों के रूप में पृथक किया गया है अर्थात इन दिनों को यूनिट कोटा नहीं देने वाली धेणी में रखा है, परंतु इनका यूनिट कोटा किए गए कार्य में 3.28 यूनिट प्रतिदिन की दर से अर्जित किया गया

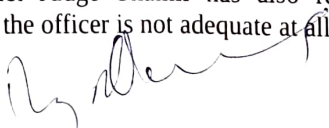
है। यह दोहरे लाभ के लिए पाने को इंगित करता है, इस प्रकार अधिकारी द्वारा इस मद में 127.92 यूनिट अतिरिक्त दर्शायी गई है। अधिकारी द्वारा दर्शाया गये 202 वास्तविक कार्य दिवसों में कुल मानक कोटा 662.56 यूनिट होता है जबकि दर्शित किए गए कार्य 489.27 यूनिट में से रविवार एवं द्वितीय/चतुर्थ शनिवार के लिए अतिरिक्त कोटा 127.92 को एक्सक्लूड करने पर वास्तविक यूनिट गेन 361.95 रह जाते हैं, जो 54.63 प्रतिशत होता है।"

With respect to the said observation of the Respected Committee I respectfully submit that in the statement showing my outturn from 1/4/2020 to 29/7/20 which is annexed with my self assesment besides mentioning Sunday 14.00 days and II and IV Saturday 6.00 days under the Head "Details of working days" 9 Sundays & Holidays @3.28 unit per day i.e. 29.52 units are mentioned under the "Criminal Head Work Done & Units." In the said statement the period on which I was on recess i.e., 21.6.20 to 30.6.20 has not been mentioned anywhere. From 21.06.2020 to 30.6.20, there were 8 working days and May 25,2020 was a holiday on account of Id-ul- Fitr which is also not mentioned under the head of "Details of Working Days." Hence I did not come to court on the said 8 days of recess as well as on Id-ul-Fitr(total 9 days) which is not mentioned anywhere in the said statement. It is these 9 days which are shown in row 3 under the Head of "Administrative work Done" quoted in the statement as "9 Sunday and Holidays @ 3.28 unit per day, total 29.52 units. As per the para no. 12 of Annexure F to circular of Hon'ble High Court General Letter No. II/IV-h-14 2019, date: Allahabad: March 05,2019, under the Head "General Instructions" computation of outturn of the officer shall exclude leaves, holidays and training period at the rate of 3.28 units per day.

Hence in the statement showing the outturn from 01/04/20 to 29/7/2020 29.52 units have been rightly claimed for my absence from court for 9 days @ 3.28 per day, on the basis of the said circular.

Statement showing workdone by me, for the period 30.7.20 to 31.3.21 was prepared after 12.4.21. Statement showing work done by me for the period from 01/04/20 to 31.3.21 was also prepared after the said date after consolidating the figures mentioned in the statement for the period 01/04/20 to 29.7.20 and statement for the period 30.7.20 to 31.3.21. In the statement for the period 30.7.20 to 31.3.21, I have claimed a total of 98.4 units for 30 Sundays & Holidays @ 3.28 units per day. I admit that this is a mistake in the said statement. As has been mentioned earlier in this representation, I was on continous leave from 23.3.21 to 11.4.21 being infected with Covid19. I joined on 12.4.21 only to hand over the charge on the said date itself since I was transferred to Varanasi. The said statements were prepared by the staff of Shamli Judgeship. After handing over the charge from Shamli Judgeship, I had no administrative control over the staff of the Judgeship and it was very difficult to monitor the accuracy of the statements after going through the records of my court which was now being presided by another Judicial Officer. In the said statement I have not claimed 3 units, for disposing of the preliminary enquiry of Shri Sunny Taraar, Class IV employee of the Judgeship which was concluded by me on 01/01/21. In the said statement number of Sundays & Holiday are shown to be 30 which is also not correct. Actually from 30.7.20 to 31.3.21, there were 40 Sundays and Holidays. By showing 30 Sundays & Holidays I have claimed less incentive than what I deserved. This only goes to show that I did not take extra incentive intentionally for Sundays & Holidays. It was done inadvertently under such circumstances where it was difficult for me to go through the records on the basis of which the said statement was prepared, due to the reasons already mentioned.

Respected District Judge Shamli has also remarked that the disposal of the work by the officer is not adequate at all.



Regarding the above remark of the Respected District Judge, Shamli, I respectfully submit that in my self assesment itself I explained the reasons for the shortfall in outturn for the year. I humbly submit even at the cost of repetition that the normal functioning of the courts remained disrupted from 01/04/20 to 01/01/21 and only urgent matters were being taken up. When the normal functioning began from 02/01/21 onwards, there was only one ripe case pending in my court which was disposed of in January 2021. Summons, warrants, notices started to be issued from 02/01/21 onwards to the accused, witnesses and others. As a result, by the end of January 2021, pending cases started to make progress. In the month of February 2021, I was able to dispose of 2 cases triable by the court of Sessions & one case of Special Act (POCSO). In the month of March 2021, I disposed of 3 Sessions triable cases and 2 Criminal Revisions till 22.3.21. From 23.3.21 to 11.4.2021, I remained on leave being infected with Covid19. In the last week of March 2021, 4 Sessions Triable Cases, 1 Criminal Appeal & 1 Criminal Revision were lined up for disposal. It is also pertinent to mention here that I made oral requests to the Respected District Judge, Shamli to transfer some ripe files to my court. Only by the end of January 2021, he transferred 4 Criminal Appeals and 13 Criminal Revisions to my court. Two of the said Criminal Revisions were disposed off by me in March 2021 and a few others were ready for disposal when I stopped coming to courts due to illness. It is also worth mentioning that even if I had disposed off all the said transferred Criminal Revisions and Criminal Appeals, I would have obtained 12 units for Criminal Appeals@ 3 per case and 19.5 units for Criminal Revisions@ 1.5 per Criminal Revision,(total 31.5 units.) It also needs mention that Hon'ble High Court has vide letter bearing No.C-671/CF(B)/2021,Dated Allahabad. July 17,2021 relaxed the norms for giving outturn for the year due to the extraordinary situation of the pandemic prevailing in the country. It is also pertinent to mention that except for the assessment year 2020-2021 in the entire service period so far my outturn has always exceeded the prescribed standards.

It is not true that the Respected District Judge motivated me to complete my outturn. In fact he orally advised that witnesses should only be summoned (till 01/01/21) if one of the party to the case moves an application for urgent hearing of the case and the court feels that the case is of urgency after taking permission from the District Judge. In compliance of the said oral instructions, I did not summon any witness in my court since no such application was moved by any party showing urgency.

Regarding non submission of statement showing disposal of cases decided in Lok Adalat it is respectfully submitted again that statements are prepared by the staff of the court. Since I had handed over the charge of my court on 12.4.21, the staff of the court did not cooperate with me.

Respected District Judge, Shamli has remarked that I have continous problems with my health. With respect to the above I humbly submit that in the said remark nothing has been mentioned on what basis the remark has been made. The only instance I remember was on 05/07/2020, when I visited the Guest House, where the Respected District Judge was temporarily staying after taking charge on 04/07/2020. While having informal conversation, he showed his concern for his kidney ailment and I also informed him that I am suffering from Irritable Bowel Syndrome (IBS). It is respectfully submitted that I am suffering from IBS, which is not even considered a disease by some health experts, rather it is termed as an irregularity. It does not affect my day to day working at all. Earlier I used to take medicines to combat the same but now I have stopped doing the same and changed my life style to sucessfully neutralise its effect.



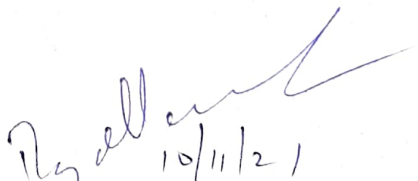
Respected District Judge has also advised me to not form any informal coterie against the judicial discipline in the Judgeship, even though no instance has been given to show that I indulged in informal coterie. However, I assume that the Respected District Judge did not like my association with some brother and sister Judicial Officers posted in Shamli who were comparatively less experienced in service. Sushri Ruchi Tiwari the then Civil Judge Senior Division Kairana, Shamli, (date of joining of service 16.02.2015), Sushri Mukta Tyagi, the then Civil Judge (J.D.), Shamli(date of joining of service 13.01.2017), Sushri Sudha Sharma, the then Civil Judge(J.D.), FTC, Shamli(date of joining service 16/12/2019) and Shri Arun Singh, the then Judicial Magistrate, Shamli(date of joining 15.11.2019), used to discuss legal problems pertaining to their Judicial work with me. Sushri Mukta Tyagi, in the month of March 2021 sent an email to the then Hon'ble Administrative Judge, Shamli wherein she appraised the Lordship of the problems faced by some officers in the Judgeship. In the said email she mentioned some instances regarding the working of Respected District Judge and the then Chief Judicial Magistrate, Shamli, Shri Raj Mangal Yadav, which was causing problems. Sushri Mukta Tyagi, Since Sushri Sudha Sharma and Sushri Ruchi Tiwari being comparatively lesser experienced used to consult me regarding their judicial work. Respected District Judge would have felt that we have conspired together so that Sushri Mukta Tyagi could send the email. This is one of the reasons that Respected District Judge, Dr. Ajay Kumar-II has given adverse remarks in my ACR. I humbly submit that it is absolutely false and baseless that I indulged in any kind of conspiracy or formed informal coterie against the judicial discipline. There are some other reasons also for recording adverse remarks, which I do not find expedient to mention unless the Hon'ble Court directs me to do so.

In view of the above it is clear that the adverse remarks given to me are baseless and unfounded and are, therefore, liable to be quashed.

I therefore, very humbly request you to kindly place my representation before the then Hon'ble Administrative Judge, Shamli for the kind consideration of his Lordship for expunging the adverse remarks of the Respected District Judge, Shamli recorded against me in the ACR for the assessment year 2020-2021.

With profound regards,

Date:- 10/11/2021


10/11/21
(Rajat Verma)

Additional District & Sessions Judge,
Varanasi.

Enclosures:-

1. General Letter No.11/IV-n-14/2019,dt: Allahabad, March05,2019
2. Circular No. C-671/CF(B)/2021: Dated Allahabad: July17,2021.
3. Section 10, The Bengal Agra and Assam Civil Courts Act, 1887.