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CONFIDENTIAL

To ,

The Registrar-General

High Court of Judicature at

Allahabad

Sub- An appeal to Hon'ble Court for an appropriate disciplinary action against Shri Anil Kumar Verma- I , the present incumbent in the office of the District Judge , Auraiya and for sanitizing the vitiating atmospherics in this Judgeship

Sir ,

Regarding the captioned subject , I , the under-signed have to , most respectfully draw your kind attention to the most illegal , unethical , and appalling actions of Shri Anil Kumar Verma-I , which are being enumerated by me para-wise , as here-under :

- (1) Sir , at the outset I need to inform you that even though I was due to retire on **31.05.2018** , I took VRS in the month of **Feb, 2014** when I was posted as Principal Judge (Family Court) (**Officer ID UP5117**) Deoria . I started legal practice in Delhi and remained there till year 2018 and since then I am practicing in District Etawah and Auraiya , the latter being my home-town as part of the undivided district Etawah .
- (2) That , I am to add further that having taken the oath of allegiance to the Constitution and served as a judicial officer for about 28 years, I have always relentlessly devoted myself to the cause of justice through utmost professional and personal integrity. Therefore, any instance of deliberate wrongdoing by a judicial officer, especially as atrociously flagrant as the one in the present case, leaves me quite disturbed and unsettled.
- (3) The facts prompting me to write this complaint are as under :
That in the month of **Nov 2021** , I was engaged as a defence counsel in S.T. no. 71/2019 State Vs Jitendra kumar Yadav and 2 ors under sections 498-A, 304-B IPC & ¼ Dowry Prohibition act which was then being heard by the District and Sessions' Judge , Auraiya . Later on , the Ld. District Judge transferred this case to the court of **Ld. ASJ FTC no. 2 .**
- (4) That , as the court of **Ld. ASJ FTC no. 2** , fell vacant on account of the notification of transfers by Hon'ble High Court and the consequent re-shuffling of officers , the Ld.

District Judge recalled the file of S.T. no. 71/ 2019 to his own court during which he recorded the Statement of accused under section 313 Cr.P.C and passed an order on an application 150 Ka of defence under section 311 Cr.P.C on 14.10.2022

(5) That thereafter on 20.10.2022 , Ld. District Judge again passed an Administrative order and transferred the file of S.T. no. 71/2019 to the court of Ld. **ASJ I** when the file was going on at the stage of defence evidence. . Ld. **ASJ I** proceeded to record the entire defence evidence (DW1 –DW6) and fixed the date for final arguments . He heard arguments on two dates with full participation of both the private counsel for Complainant and state on one hand and the defence , on the other hand . Then at the request of Counsel for both the parties , he took memorandum of written arguments from both parties and after once again hearing oral arguments submitted by both the prosecution and the defence , fixed **09.01.2023** for pronouncement of judgment.

(6) That on **07.01.2023** , the Ld. District Judge recalled the case from the court of **ASJ I to his own court .**

(a) For reasons of brevity , I am mentioning below in tabular form , the period when this case , after it's commitment under section 209 of Cr.P.C on 01-03-2019 , was heard from time to time by several courts .

Court	Period	File when transferred or recalled by sessions' judge	Work done by each PO
Sessions' judge Auraiya Shri Sushil Tyagi	From 01.03.2019 to 22.07.2019	To A.S.J II on 30.07.2019	Stat. of PW1-5 recorded . Session judge Shri Sushil Tyagi transferred
Addl .Sessions' J II Shri Rajat Sinha	From 01.08.2019 to 19.10.2021	Recalled by Sessions' Judge Shri Anil Kr Verma I to his court on 13.10.2021	Stat. of PW6 to 9 recorded . ASJ II Shri Rajat Sinha transferred
Sessions' Judge	From 13.10.2021 to 10.02.2022	File transferred vide order dt. 05.02.2022 of Sessions' judge Shri Anil Kr Verma I to ASJ FTC no.2 Shri Sunil Kr Singh	No work done mainly on account of disruption of work due to covid 19
ASJ F.T.C no. 2 Shri Sunil kumar singh	From 05.02.2022 to 30.08.2022	Recalled by Sessions' Judge Shri Anil Kr Verma I to his court on 30.08.2022	PW 1 , 7 and 9 re-examined ,after recall under section 311 Cr.P.C
Sessions' Judge, Auraiya Shri Anil Kumar Verma I	From 03.09.2022 to 20.10.2022	Transferred vide order dt. 30.08.22 from the court of ASJ/ F.T. no.2 to the court of Sessions' Judge , Auriya and transferred	Statement of accused under section 313 recorded and passed order on an application 150 Ka under section 311 Cr.P.C on

		again to the court of ASJ I on 20.10.2022 vide an Administrative order dt. 20.10.2023 .	14.10.2022
ASJ -1 Shri P.N. Shrivastav	From 20.10.2022 to 07.01.2023	Recalled by Sessions' Judge to his own court on 07.01.2023 by administrative order as Misc order no. 06/2023 , two days before the date fixed for judgment	Entire DE from DW1-6 recorded . Args heard . prosecution and defence filed written args. Oral args heard again after submission of written args. 09.01.2023 fixed for judgment.
ASJ II Shri Sanjai Kumar Singh	From 18.01.2023 to till date	File again transferred to the court of ASJ II	Nothing so far

- (7) Sir , from the above-noted table , it is self evident that the **Ld. Sessions' Judge Shri Sushil Tyagi** and **Ld. ASJ , court no II Shri Rajat Sinha** who recorded the prosecution evidence in part , were transferred years ago and are no more the part of the session division of District Auraiya.
- (8) That only the **Ld. ASJ F.T.C no.2 Shri Sunil Kr Singh** who briefly recorded the cross examination of PW 1 , 7 and 9 after recall of these witnesses under section 311 Cr.P.C , **Ld. ASJ , court no. 1 Shri P.N. Srivastav** who recorded the entire defence evidence , heard oral arguments on 3 dates and reserved the file for judgment , to be pronounced on Jan 9 , 2023 and the **present Ld. District judge Shri Anil Kr Verma I** who merely recorded the statement of accused under section 313 Cr.P.C , remain currently posted in the session division of district Auraiya.
- (9) That on 09.01.2023 , no work was transacted in the court of the district judge and case was adjourned on an application moved by DGC (Cri) and 12.01.2023 was fixed for arguments.
- (10) That on 12.01.2023 , I appeared in the court of District Judge and expressed my shock and surprise as how and under what circumstances , the file has been recalled from the court of **ASJ I** to the court of District judge because no reasons were recorded in the Administrative order as required by the provision of section **412 of Cr.P.C.**

- (11) That the Hon'ble court may kindly note that on **12.01.2023** itself , the complainant of this case namely Lakhpati singh moved an application numbered as (**247 kha/1 to 247 Kha/2**) in the court of Ld. District judge , Auraiya in which he stated that he has come to know through one of his common relative that accused Amit kumar has fixed a deal for acquittal of the case with the orderly and stenographer of DJ' court , namely **Anil Sharma and Brijpal** respectively for an amount of 25 ,00,000 /- (**twenty five lacs**) and , therefore, **he** does not want his case to be decided by the court of the District Judge .
- (12) That on the same date ie 12.01.2023 , during the course of expressing my shock and surprise , I made it known to DGC (Cri) that I will agitate this matter on both administrative and Judicial side.
- (13) That on 12.01.2023 , the Ld. District Judge fixed 18.01.2023 for arguments , but in the intervening period , he again passed an Administrative order , without stating any reasons and transferred the case State vs Jitendra Kumar to the court of Ld. **ASJ II Shri Sanjai kumar Singh**.
- (14) That on 18.01.2023 , I appeared in the transferee court of **ASJ II Shri Sanjai Kr Singh** and prayed for an adjournment and time to move an application , seeking to raise some legal and ethical issues revolving around the recall of this case from the court of Ld. **ASJ I Shri P.N .Srivastav** to the court of Ld. **D J** and it's subsequent transfer to his court.
- (15) That it is well established law that while the District Judge , in exercise of powers under section 408 of Cr.P.C , can transfer or recall a part heard case from one court to another court , he can not , in exercise of his powers sub-clause (2) of section 409 , transfer or recall a case from one court to another in which hearing has already commenced.
- (16) That in the instant matter , the action of the Ld. District Judge , in recalling the file of session trial on 07.01.2023 which was already fixed for pronouncement of judgment on 09.01.2023 , to his own court by an Administrative order is clearly a mala fide and illegal order passed in transgression of both statutory law and a full bench decision of this Hon'ble Court as laid down in the case of **Radhe Shyam & Ors Vs. state of UP MANU/UP/0604/ 1984.**
- (17) **Sir** , in the aftermath of this episode , I have had an extensive conversation with a select few practicing advocates in the judgeship of Auraiya who told me that ever since the Ld. District judge **Shri Anil kumar Verma I** has taken over reins of

the judgeship of Auraiya , transfer of part heard cases by way of recall or transfer from one court to another even at the stage when file was pending at the stage of defence evidence , final argument & even judgment , is a matter of routine in this judgeship . The most unfortunate part is that most of the advocates I talked to , seemed ignorant of the correct law of the land on this issue.

(18) Sir , the law is well settled on this point and has been reiterated in the case of **Sunitha Venkatram and Ors. vs. Divya Rayapati (30.03.2015 - MADHC) : MANU/TN/1069/2015**. It is this : that a Sessions Judge in exercise of his administrative power under Section 409, may recall a case for the purpose of trying/hearing it himself or for being made over to another Additional Sessions Judge, **only if such Judge before whom it became part-heard has retired, resigned, died or is transferred outside the Session Division.**

(19) That on making a deeper enquiry about this issue , I have come to know that Ld. District judge has evolved a communication network of the sort which disseminates to him the information about part-heard contested cases pending in different courts which are either recalled straightaway by an administrative order or got transferred by some other means . A questionnaire in the following format , seeking information from every court of an Addl. Sessions' judge & F.T.Cs will be desirable for this purpose :

1	2	3	4	5
Number of part-heard cases recalled or transferred to other courts by an administrative order of DJ in the last 1 ½ years where <u>no reasons were assigned in the body of Administrative order</u>	Number of part heard cases either recalled to his own court or transferred to other courts by DJ in the last 1 ½ years to other courts <u>in exercise of powers under sec. 408 Cr.P.C</u> ,after hearing both the parties.	Number of cases recalled or transferred to other courts in the last 1 ½ years in exercise of Administrative powers by DJ under section 409 Cr.P.C where <u>reasons for recall or transfer were assigned in the body of administrative order</u>	Number of cases either recalled to his own court or transferred to other courts in the last 1 ½ years on the <u>report of the lower court</u> in terms of sub-section 2 of section 408 Cr.P.C	<u>Stage of proceeding</u> when case either recalled or transferred to other court

Sir , I am reproducing verbatim as here-under the para 5 (Vi) and (Vii) of the complaint being submitted separately by my client namely Amit Kumar in respect of the same subject matter .

¼vi½ egksn; tc i=koyh jhdkWy gksdj Jheku ftyk tt egksn; ds U;k;ky; esa izklr gks xbZ rks U;k;ky; esa HksaV gksus ij Jh "kekZ th uss eq>s crk;k vkSj dgk fd] ^^HkkbZ eq>s ekQ djuk eq>s LVsuks ckcw us eksgjk cuk;k gS fnukad 06-01-2023 dks eSaus vijUg 04-05 P.M. ij tks dkWy dh Fkh og mlus LVsuksa ckcw }kjk rqEgkjk uEcj fn;s tkus vkSj ftyk tt lkgc ds funsZ"k ij mudh mifLFkfr esa Lihdj eksM ij Qksu dks yxkdj rgels ckr djokbZ Fkh vkSj vkxs Hkh ckrphr djus dk funsZ"k fn;k Fkka

¼vii½ ;g fd rdudh tkudkj j[kus okys esjs ,d LFkkuh; fe= us eq>s crk;k gS fd fdlh Hkh dkWy djus ds LFkku dh oSKkfud :lk ls iqf'V dh tk ldrh gS ;fn vnZyh Jh vfuy dqekj "kekZ ds mijksDr dFku dh oSKkfud tkWp dh tk;s rks bl ckr dh iqf'V dh tk ldrh gS fd fnukad 06-01-2023 dks "kekZ th ds Qksu la0&8445307939 ls eq>s dkWy djus dk LFkku Jheku ftyk tt vkSjS;k dk foJke d{k Fkk vFkok ughA

(20) That it is clearly stated in these paragraphs that Orderly Anil Kumar Sharma called my client Amit Kumar from his mobile no. **8445307939** to his mobile no. **9219296560** and his mobile was in speakers' mode so that the Ld. DJ and his steno Brijpal might hear the conversation . It requires plain common sense to assume that both the Ld. District Judge and his Stenographer Brijpal , were holding their mobile phones with them at the time when the orderly Anil Kumar sharma made this call at about **04.05 p.m on 06.01.2023** . This part of the complaint made by my client is fully verifiable by technical investigation .

(21) That it well known that the geo-location of each mobile tele-communication device is recorded thru the Global positioning system (GPS) . Under the open sky , the GPS provides accurate locations upto 4.9 m and upto 10 m in closed spaces like rooms and buildings . In order to conclusively prove the presence of two or any number of devices in one closed location , the GPS coordinates of two or any number of devices can be compared . If the difference in the coordinates ie (latitude and longitude) of the devices is less than the dimension of closed space , within a confidence interval of +10/-10 metres , the evidence may be considered to prove that the

two devices were within 10 meters of each other at the given point of time. In the instant case , the given point of time is 04.05 p.m on 06.01.2023 .

- (22) That though this information is based on hearsay , the mob. Numbers of Ld. District Judge are (Pvt. No. **7017938532**) (off. No. **9412771201**) . The mobile no. of DJ's steno Mr Brijpal is **9639489081** .
- (23) The hard copy of the complaint , duly supported with an affidavit , by my client namely Amit kumar @ Cheeku s/o Padam singh r/o Block Chauraha , Achhalda , District Auraiya is also being enclosed along with this representation.

I therefore , request you to kindly place this matter before the Honourable Court for information and necessary action .

Your kind and distinguished favour is solicited in the matter.

31..01.2023

A P P L I C A N T

Arun Kumar Tripathi , Advocate
Ex- Principal Judge (Family Court) Deoria
(Having taken VRS in Feb. 2014)

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