

29th June, 2026**PUCL deplors the deployment of Criminal Contempt Proceedings Against fair and legitimate criticism of the functioning of Justice Swarana Kanta Sharma**

Contempt Proceedings against Kejriwal, AAP Leaders, and Journalist Saurav Das must be dropped!

The Contempt of Courts Act, 1971, must be repealed as it relies on the colonial logic of punishing "scandalizing the court" thereby stifling fair criticism

PUCL deplors the criminal contempt proceedings initiated against former Delhi Chief Minister Arvind Kejriwal, senior AAP leaders, and journalist Saurav Das. These proceedings strike directly at the right to raise legitimate questions of conflict of interest in the judiciary as well as the appearance of impropriety in the judicial conduct of Justice Swarana Kanta Sharma.

The potential for the abuse of the contempt jurisdiction of the Court came to the fore in the criminal proceedings against Kejriwal and other AAP leaders in the so called 'liquor scam'. After Rouse Avenue Court discharged AAP leaders in the liquor excise policy case on 26th February, 2026, the CBI filed a Criminal Revision Petition (CRP) challenging the discharge, which was being heard by Justice Swarana Kanta Sharma in the Delhi High Court. Despite none of the discharged accused being represented, she then went on stay the trial court's order, which found that the Investigating Officer had "abused his official position to conduct an unfair investigation". Justice Sharma's order raised legitimate concerns around whether she has been fairly discharging her judicial functions in accordance with her oath.

These concerns were first raised by investigative journalist, Saurav Das in an article titled "Speed, Bias, and the Liquor Gate" in Frontline magazine published on March 19, 2026. Das raised concerns around what appeared to be a disquieting pattern of bias in the way Justice Sharma was discharging her judicial functions. On 9th April, 2026, Das posted on X(<https://x.com/SauravDassss/status/2042148747568898432>), reporting that Justice Sharma's son and daughter, Ishaan Sharma and Shambhavi Sharma, both lawyers, have been empanelled by the Union government before the Delhi High Court and the Supreme Court, holding at least six government panels between them. Das asked whether such an arrangement is consistent with the appearance of judicial independence.

On 14th May, 2026, Justice Sharma initiated suo motu criminal contempt proceedings against Kejriwal, former Deputy Chief Minister Manish Sisodia, and 21 others, including former minister Saurabh Bharadwaj and Rajya Sabha MP Sanjay Singh. This followed Kejriwal's formal application seeking Justice Sharma's recusal from the CBI case and a transfer of the matter to another judge, both of which Justice Sharma rejects herself. Kejriwal, citing irretrievable loss of confidence, refused to participate further in the proceedings. Justice Sharma maintains that vilifying and defamatory remarks have been made against her, and that a social media campaign has been orchestrated against her.

Another contempt petition was filed by advocate Ashok Chaitanya, (a former Indian Air Force sergeant who identifies as an RSS member) against Kejriwal and other AAP members as well as investigative journalist Saurav Das on similar grounds of maligning the integrity of Justice Sharma and hence 'eroding public confidence in the administration of justice'. On 22nd May, 2026, Delhi High Court Judges Navin Chawla and Ravinder Dudeja issue notices to Saurav Das and Gopal Rai.

It is PUCL's position that Kejriwal's recusal application rested on two concrete, documented grounds, not political grievance. First, Justice Sharma's open and public association with the Akhil Bharatiya Adhivakta Parishad (ABAP), the legal front of the RSS. The ABAP is unambiguously an organisation belonging to the ideological ecosystem of the ruling dispensation, the very political force his organisation, AAP, opposes. A cursory examination of ABAP's own website establishes its ideological moorings quite clearly. Founded by Dattopant Thengadi, the organisation explicitly aims to work for a "resurgent Bharat" and a legal system rooted in "Indian tradition and philosophy of life," on the premise that post-independence India merely carried over a colonial constitution without genuine transformation. The CBI's defence of Justice Sharma's attendance at an ABAP event as participation in a "non-political legal seminar" strains credulity against this backdrop.

Second, a direct conflict of interest: Justice Sharma's two children, both practising lawyers, have been directly assigned cases by Solicitor General Tushar Mehta, holding at least six government panels between them. That a judge hearing a high-stakes government prosecution should have children working under the very Solicitor General prosecuting that case is a matter of serious and legitimate concern. These are stated facts, not insinuations, and they go to the heart of the appearance of judicial independence. As Kejriwal's letter noted, the rejection of the recusal application itself illustrated how such a plea is "judicially understood as a personal and institutional affront."

It is an ethical imperative that judges to take seriously and address legitimate concerns around bias through recusal. This would also be in alignment with the Bangalore Principles of Judicial Conduct wherein it was noted that 'it is essential that judges, individually and collectively, respect and honour judicial office as a public trust and strive to enhance and maintain confidence in the judicial system'. Principle 4.1 states that, 'A judge shall avoid impropriety and the appearance of impropriety in all of the judge's activities.'

There have been judges who have been exemplars of propriety in the past and adhered to the Bangalore Principles of Judicial Conduct, thereby enhancing the public's faith in the judicial system. For instance while hearing Teesta Setalvad's bail, Justice UU Lalit voluntarily disclosed that he appeared for an accused in the Sohrabuddin Shaikh encounter which had only an indirect bearing upon the case. During the hearing of the Salwa Judum case, when the SG started making allegations against the PUCL, Justice Sudarshan Reddy asked him whether he would like him to recuse himself as he had been a member of PUCL in his days of advocacy. Justice Ravindra Bhatt recused himself from hearing the bail of Gautam Navlakha since he had once belonged to the democratic rights group PUDR of which Mr. Navlakha was a member. However Justice Sharma instead of addressing the concerns raised, thereby enhancing the public credibility of the judiciary, instead shockingly choose to file contempt proceedings and thereby muzzle the concerns.

While Justice Sharma's suo motu petition targeted Kejriwal and other AAP members, the contempt petition by Ashok Chaitanya also made Saurav Das a contemnor. The proceedings against Saurav Das are of deep concern as the target of contempt proceedings is expanded to include investigative journalism which is the life breath of a democracy. His Frontline article and

subsequent post on X placed documented, verifiable information about a sitting judge's professional associations and potential conflicts of interest before the public. Invoking the contempt jurisdiction on this basis is, plainly, an instrument of intimidation designed to silence legitimate expression and chill journalist freedoms.

PUCL holds that these contempt proceedings are wholly unwarranted. We firmly assert that no matter which political party one is affiliated to, raising questions and concerns about conflict of interest in the judiciary must not be criminalised. Instead, the courts must be willing to confront and openly address such concerns. It is only through transparency and accountability that public trust in the fairness of the judiciary can be sustained.

The present proceedings are not an aberration, they are part of a long and troubling pattern in which the criminal contempt power has been used to silence voices that raise uncomfortable questions. Criminal contempt has previously been deployed against advocate Prashant Bhushan, comedian Kunal Kamra, cartoonist Rachita Taneja, and sitting Calcutta High Court judge C.S. Karnan, who was sentenced to six months' imprisonment by the Supreme Court in 2017. In April 2026, just weeks before the present contempt proceedings were initiated against Kejriwal and Saurav Das a division bench of the Delhi High Court comprising Justices Navin Chawla and Ravinder Dubeja sentenced YouTuber Gulshan Pahuja to six months imprisonment for videos in which he criticised judicial officers and, during the sentencing hearing itself, described courts as becoming "tanashahi" (dictatorial). The same bench that has now issued notices in the present case imposed the sentence reasoning that failure to impose adequate punishment would embolden repetition of such acts. That a citizen could be imprisoned for six months for using the word "dictatorial" about a court, represents precisely the chilling effect that critics of the "scandalising" doctrine have long warned against.

The cases on contempt resurrect the discredited colonial doctrine of "scandalising the court" which is unfortunately codified in the Contempt of Courts Act, 1971. This provision should have been consigned to history in 1947. However it has survived repeated attempts at abolition most recently endorsed, regrettably, by the Law Commission's 274th Report (2018) and continues to function as a tool of judicial intimidation. Notably, the UK abolished the equivalent common law offence in 2013. India has lagged behind.

However the judiciary has sought to discipline the contempt jurisdiction so that it does not become a shield for judicial sensitivity, but rather serves as an instrument for clear and calculated attacks that obstruct the administration of justice. The power to punish for contempt must be exercised with restraint, and fair criticism of the judiciary, even sharp, uncomfortable criticism, occupies a protected space in a democracy. As far back as 1953, in *Brahma Prakash Sharma v. State of Uttar Pradesh* (1953), the Supreme Court laid down that reflection on the conduct or character of a judge, made in the exercise of fair and reasonable criticism, does not constitute contempt of court: *"It would be only repeating what has been said so often by various Judges that the object of contempt proceedings is not to afford protection to Judges personally from imputations to which they may be exposed as individuals; it is intended to be a protection to the public whose interests would be very much affected if by the act or conduct of any party, the authority of the court is lowered and the sense of confidence which people have in the administration of justice by it is weakened... the reflection on the conduct or character of a judge in reference to the discharge of his judicial duties, would not be contempt if such reflection is made in the exercise of the right of fair and reasonable criticism which every citizen possesses in respect of public acts done in the seat of justice. It is not by stifling criticism that confidence in courts can be created."*

The power to punish for contempt is granted to courts not because judges need protection, but because citizens need an impartial and strong judiciary. As the Supreme Court observed in the Prashant Bhushan sentencing order of August 2020, the contempt power must be used sparingly and with great care. The Court held , “ *The threat of action on vague grounds of dissatisfaction would create a dragnet that would inevitably sweep into its grasp the maverick, the dissenter, the innovator, the reformer — in one word the unpopular.*”

It is precisely this dragnet that the present proceedings against Kejriwal, AAP leaders, and journalist Saurav Das threaten to become. Questions of conflict of interest and reasonable apprehension of bias, documented, specific, and grounded in verifiable fact, fall squarely within the space of legitimate public interest that Indian constitutional jurisprudence has consistently protected. The law of contempt should be used to impose only such restrictions as are needed to sustain the legitimacy of judicial institutions. Surely the questions raised by Kejriwal as well as Saurav Das, should have been taken by Justice Sharma in the spirit of the Bangalore Principles as concerns around propriety and she should have recused herself in accordance with Principle 4.1 of the Bangalore Principles which states that, ‘A judge shall avoid impropriety and the appearance of impropriety in all of the judge’s activities.’

The freedom to criticise every institution of government, including the judiciary, is not a threat to democracy. It is its hallmark. Any attempt to suppress it will only deepen the erosion of public trust in the institutions it purports to protect.

PUCL demands:

1. That all criminal contempt proceedings seeking to suppress valid criticism of the judiciary including the proceedings against Kejriwal and Saurav Das be dropped forthwith.
2. That the provision of "scandalising the court" be repealed from the Contempt of Courts Act, 1971, a colonial relic that stifles fair criticism and curtails freedom of speech

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