

CONTEMPT OF COURTS ACT, 1971: AN OVERVIEW

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ABSTRACT

As we all know that contempt of court denotes any conduct that stoops to bring the authority and administration of law into disregard or disrespect, infringe or interfere, prejudice parties' litigation or their witness during the litigation, and that conduct or misbehavior which confronts or challenges to the courts on their authority, superiority and integrity. It may include neglect to acknowledge the petitions, withdrawing evidence, disobeying the court's orders, or witness tampering. In-Law Commission, 274th report stated that this act has no power to punish however, has a procedural statute. Articles 129 and 215 of the Indian Constitution give the power to the Hon'ble Supreme Court and Hon'ble High Courts in the court of records to punish for their contempt. On the other side, Sections 2(b) and 2(c) of this Act talk about contempt of court can either be criminal contempt or civil contempt. This paper tries to elaborate a comprehensive overview of the contempt of courts act and its important provisions.

Keywords: Court, Contempt, Act.

INTRODUCTION

It has become a most discussed and cogitated issue in India wherein we have seen many cases regarding contempt of court in the last few years. In senior advocate Prashant Bhushan's case,¹ the Hon'ble Supreme Court was conferred in its judgment by passing a sentence in the contempt of court initiated. Thereafter, the Hon'ble Supreme Court imposed a fine on him as punishment for occurring criminal contempt by posting tweets on his Twitter handle that scandalized the authority of the court. Another issue that is the Andhra Pradesh High Court had taken the cognizance of appeals filed by people from various districts of Andhra Pradesh asserting that the government was constructing buildings within school premises in 2020 and the Court has found that its orders are not followed to resist the construction of buildings for a non-

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¹ Available at: <https://www.thehindu.com/news/national/contempt-case-prashant-bhushan-pays-1-fine-says-review-petition-being-filed/article32598787.ece> (Last visited on 25.05.2022).

educational purpose within school premises.² Thereafter, the Court issued an order against eight IAS (Indian Administrative Service) officers that they are guilty of contempt of court and they were initially punished with two weeks imprisonment, however, after they tendered an apology the court limited the duration.

CIVIL CONTEMPT

Section 2(b)³ of this Act has defined civil contempt as -

1. Intentionally disobedience of any decree, judgment, writ, order, direction, or any other process of a court or intentionally breach of an undertaking conferred to a court means there must be willful disobedience of a valid order of the court to comprise the contempt of court and order contains all types of judgments, decree, final order, preliminary, contempt orders, etc. Intentional disobedience of a judgment, decree, writ, direction, or any other process of a court or an undertaking conferred to the court, would also be liable to contempt of court.

In two ways an undertaking would be provided to the court :

- By filing an affidavit or moving an application before the court fully declaring the periods of the undertaking.
 - By providing express and precise oral undertaking which is comprised in the order by the court.
2. The breach or disobedience must be willful, intentional, and deliberate which means only breach or disobedience of the order of the judiciary by an individual is not adequate to commit a civil contempt. There must be willful, deliberate, and intentional disobedience or breach by the contemnor. So that, the judiciary may use its authority to punish the contemnor and to be satisfied with adequate doubt that the contemnor was committed by willfully, intentionally, and deliberately infringing an order of the court, and no court including the contempt court is allowed to bring technicalities and trivialities into account while discovering fault with the behavior of the individual against whom contempt proceeding is brought.

² Available at : <https://indianexpress.com/article/cities/hyderabad/andhra-8-ias-officers-found-guilty-of-contempt-of-court-7847016/> (Last visited on 26.05.2022).

³ The Contempt of Courts Act, 1971 (Act 70 of 1971).

CRIMINAL CONTEMPT

Section 2(c)⁴ of this Act has defined criminal contempt as the publication whether by written, spoken or words or by visible representation, signs, or otherwise of any matter or committing any activity if it is satisfied that –

Lowering tends to lower, or scandalizing tends to scandalize the authority of any court which means attacking or defaming a court as a whole or a judge with or without reference to any litigation. In Vijay Kurle's case,⁵ the Hon'ble Supreme Court laid down that no one has a right to attribute intentions to a judge or question the ability, dignity, and integrity of a judge if these are committed or Judges are questioned then it is deemed to be an attack or defame on the institution and they would be liable for criminal contempt of the court.

Interference or tends to interfere or prejudice with the due course of any proceedings of the judiciary which denotes any kind of publication that interferes or prejudices with the due course of any proceeding of the judiciary shall be liable to commit a criminal contempt of court such as trial by the newspapers, magazines or media trial these are not examined properly because it influences the integrity or fairness of the court proceedings and it is likely to provoke an interference or prejudice with the administration of justice.

Obstruction tends to obstruct, Interference or tends to interfere with the administration of justice in any other way. This is a residuary clause and it is covering those litigations of criminal contempt which are not expressly defined in section 2(c) of the Contempt of Courts Act, 1971. The term “due course of judicial proceedings” is not much wider than the term “administration of justice”. However, every individual has a right to move toward the court to ensure justice and for the redressal of his/her objections and the court would resolve the conflicts between the parties according to law and equity in India. It occurs whether spoken or writing a threatening letter to litigate parties or his/her counsel prohibiting them from participating in the court, approaching a judge, or writing a letter to the judge to impact his/her dignity, integrity, or conscience, to approach a counsel for the undue influence, these all are illustrations of criminal contempt of court and interference with the administration of justice.

⁴ *Ibid.*

⁵ Available at: <https://indiankanoon.org/doc/114185871/> (Last visited on 25.05.2022).

PUNISHMENT FOR CONTEMPT OF COURT

Section 12 of this Act confers the punishment for contempt of court. It includes the kind and duration of punishment that a court either the Supreme Court or the High Court may impose for the contempt. According to this section, contempt would be punished with simple imprisonment which extends to six months or a fine of two thousand rupees or both and the punishment for contempt of a court would not exceed six months imprisonment and a fine of two thousand rupees. Therefore, it is the ultimate punishment that a court may impose for its contempt. Section 10 of this Act provides that High courts have the authority and jurisdiction to punish for the contempt of courts subordinate to it. Section 20 of this Act provides that contempt action would not be taken after the expiry of one year period of limitation.

DEFENCES IN CIVIL CONTEMPT

- If the breach or disobedience has occurred without intention or willful.
- An order that contemnor does not know about the same.
- If the court order passed that is ambiguous or vague, or this is not complete or specific, or it involves more than one logical interpretation.
- If compliance with the order is impossible then it may be a valid defense for the same.
- If an order has been passed by a court whose contempt is alleged and the court has no sufficient jurisdiction to pass it.

DEFENCES IN CRIMINAL CONTEMPT

- If the publication is innocent in nature and distribution of matter.
- If the publication is a valid and fair report of any judicial proceedings or any site thereof.
- If the publication is concerning any fair criticism upon the merits of any trial which has been determined by the court.
- If any statement is created by a person and the bona fide complaint relating to the presiding officer of any subordinate court to the High Court or the Court to where he is subordinate.
- If there is no substantial interference with the due course of justice.

REMEDY AGAINST THE ORDER OF PUNISHMENT

Apology - Under Section 12 of this Act, a contemnor can tender an apology to the court, and the court either approves it or remit the penalty granted for contempt if the court is satisfied that the contemnor tendered the apology which has been created with a true sense of repentance.

Appeals - Under section 19(1) of this Act, an appeal would confide as of right against any order of the High Court passed in the exercise of its jurisdiction to punish for the contempt of the court where the decision or order is that a single judge to a bench of not less than two judges of the court and where the decision or order is that of a division bench, to the Supreme Court.

CONCLUSION

In the case of Brahma Prakash Sharma vs State Of Uttar Pradesh⁶ wherein the Hon'ble Supreme Court had not found any contempt in a statement that indicated the incompetency of two judicial officers. On the other side, In the case of Vijay Kurle,⁷ where the Hon'ble Supreme Court adopted a strict approach and the court has taken varying stands over the issue. Thus, we have to revisit the law in the recent past and make it more balanced and objective then the actual solution would arrive.

⁶ AIR 1953, SCR 1169.

⁷ *Supra* Note 5.