



CONTEMPT OF COURT LAWS IN INDIA

Rubijit Saha*

ABSTRACT

Contempt of court is a criminal issue involving the fair administration of justice. The Indian Constitution contains provisions relating to courts' power to punish for contempt, the purpose of which is to maintain the dignity of courts while also asserting impartial and unobstructed administration of justice. The Indian Constitution also includes a provision for judicial independence to enforce fundamental rights. The contempt laws protect public faith and confidence in the judicial process by providing a sanction for any conduct that is likely to undermine such faith and confidence. The courts uphold the rule of law and carry out their mandate to administer justice properly.

Keywords: Contempt of Court, Administration of Justice.

INTRODUCTION

Contempt of Court is derived from the Latin words "contemptuous curiae",¹ means "Contempt of Court". "The phrase 'Contempt of Court' is a general term used to describe actions related to specific court proceedings that tend to undermine that system or prevent citizens from using it to settle their disputes." This definition came from Lord Diplock's ruling in the Attorney-General v. Times Newspapers Ltd. case. The term "contempt of court" refers to acting disrespectfully or disobediently to willfully disobey a court order or legal authorities. The judge may then award fines or a set period of jail time to the defendant if they are found guilty of contempt of court.²

The Contempt of Court Act, 1971, was established in India on December 24, 1971. In India, this offence is governed by the Contempt of Court Act of 1971, which has penalties that can

* BA LLB, SECOND YEAR, GITARATTAN INTERNATIONAL BUSINESS SCHOOL.

¹ Manupatracademy.com "Contempt Proceedings – What? When? How? Why?"

² Amanat Raza, Contempt of Court (blog.ipleaders.in)

include fines, imprisonment, or both. Contempt of court in general means *“To offend the dignity of the court and lower the prestige of the court.”*³ It is described as follows in Halsbury’s Law of England: *“Any act done or writing published which is calculated to bring a court or judge into contempt or lower his authority or to interfere with the due course of justice or the lawful process of the court is contempt of court.”*⁴

The Contempt of Court Act of 1971 states in Section 2(a) that "contempt of court means civil contempt or criminal contempt."⁵

According to Section 2(b), "civil contempt" refers to willful disregard for any court order, judgment, decree, writ, or other process, as well as willful violation of a court-issued undertaking.⁶ For Example, in family Law, when someone disregards a court and fails to pay child alimony or support as directed by the court, then it’s a Civil Contempt.

Section 2(c) “criminal contempt” means the publication (whether by words, spoken or written, or by signs, or by visible representations, or otherwise) of any matter or the doing of any other act.⁷ For Example, criminal contempt means, when someone insults the judge or interferes with the court proceedings.

In *Ashok Paper Kamgar Union v. Dharam Godha and Ors.*, the definition of “willful” was given as “an act or omission which is done voluntarily or intentionally and with the specific intent to do that act which is forbidden by law or with specific intent to fail to do that which the law requires to be done, with wrong purpose, either to disobey or disrespect the law”. Therefore, Mens Rea is an important component for the establishment of contempt of court, and its most important defences for civil contempt of court are that the act was unintentional or that the person was not aware of that direction.⁸

BACKGROUND

The concept of “contempt of court” is not a modern one, but it has its roots in history. Previously, the theories that *“the king can do no wrong”*, *“the king is the supreme authority”*,

³ Unit 5 Law, University of Kashmir

⁴ Unit 5 Law, University of Kashmir

⁵ Contempt of Court Act, 1971

⁶ Contempt of Court Act, 1971

⁷ Contempt of Court Act, 1971

⁸ manupatracademy.com “Contempt Proceedings – What? When? How? Why?”

and “one must respect the king” were contested; anyone who questioned or contradicted the king was punished.

As a result, India's contempt laws date back to when the country gained its independence, and the first statute to address the problem was the Contempt of Court Act of 1926. This act gave all high courts the authority to punish offenders and also take cognisance of contempt of both themselves and subordinate courts. This act was repealed after independence, which also empowered the courts of judicial commissioners with the authority to investigate or try any cases involving contempt of court or subordinate courts. A bill to amend and consolidate India's current contempt laws was introduced on 1st April 1960. This law was introduced by Shri. B.B. Das Gupta on 1st April 1960. A special committee led by Mr H.N. Sanyal was established and submitted its report on 28th February 1963. Thereafter, the Act of 1952 was repealed by the Act of 1971. Therefore, the Contempt of Court Act, 1971, was established.⁹

INDIAN CONSTITUTION

In the Indian Constitution, Article 129 and Article 142(2) are the two articles that provide information about the contempt of court.

Article 129: According to Article 129, the Supreme Court of India must be a court of record and possess full authority, including the power to punish contempt of court.¹⁰ A "court of record" is a court whose actions and proceedings are recorded for proof or evidence, as well as for eternal memory, or that memory that never dies. These documents are considered authoritative, and their veracity is indisputable.¹¹

Article 142(2): According to Article 142(2), the Supreme Court of India must have full authority to issue orders for the presence of any individual, structure, or document, as well as for the examination or punishment of any disobedience of the Parliament.¹² According to this article, if the Parliament passes legislation about the provision stated in clause 1 of this article, the Supreme Court has the authority to order someone to appear in person, produce any documents, or punish someone for contempt. Furthermore, even though the Supreme Court has the authority to punish contempt of court, this does not mean that it can take any action that

⁹ manupatracademy.com “Contempt Proceedings – What? When? How? Why?”

¹⁰ The Constitution of India 1950, (Article 129)

¹¹ Amanat Raza, Contempt of Court (blog.ipleaders.in)

¹² The Constitution of India 1950, Article 142(2)

would violate an individual's right to personal liberty. Since it is the protector of all the rights granted to us by the Indian Constitution, it must protect them and refrain from infringing upon them.

ESSENTIALS

If Vikram must demonstrate in a court of law that Shree is guilty of committing an offence, then Vikram must prove it. He must then demonstrate to the court whether Sonia's offence satisfies the necessary conditions to be considered an act. He will be held accountable for that act if all of the requirements are met. Similar to this, each offence has requirements that must be met before the perpetrator is held accountable. Additionally, contempt of court has some prerequisites, which are as follows:

1. To be found in civil contempt, one must "willfully" disobey any court proceedings, including its orders, judgment, decree, etc.
2. The most crucial element in criminal contempt is "publication," which can be expressed verbally, in writing, by signs, or by visible representation.
3. The court should issue a "valid order," which the respondent should be "aware" of that such act.
4. The contemnor's action should be intentional and a blatant defiance of the court's ruling.

WHEN DOES CONTEMPT OF COURT APPLY?

When there is a deliberate disregard for a court order, decree, or undertaking, or when someone attempts to undermine the court's authority during court proceedings or the administration of justice, the court has the authority to consider it contempt of court. The term "Administration of Justice" is not defined in this act and may vary depending on the case. However, the central principle is that the court must do everything within its power to maintain public trust in the legal system. Nonetheless, the courts must exercise the broad authority granted by the act with caution.

TYPES OF CONTEMPT OF COURTS

In India, there are two types of Contempt of Courts that is Civil Contempt and Criminal Contempt.

Civil Contempt

Section 2(a) of the Contempt of Court Act, 1971 states that a willful disobedience to any judgment, decree, direction, order, writ, or other process of a court or willful breach of an undertaking given to a court.

Case Law Under Civil Contempt

Kapildeo Prasad Sah & Ors. Vs. State of Bihar & Ors. on 25 August 1999:¹³

Facts: The appellants were appointed on October 4, 1994, by an order of the District Superintendent of Education, Godda, in compliance with the orders of the High Court. On October 4, 1994, appellants received their first salary payments. Since they were hired to cover vacancies that existed before January 1, 1992, they claimed that it was a case of reappointment in compliance with court orders and that they were entitled to compensation from July 1, 1992, to October 3, 1994. Since the state government did not respond to their claim regarding the salary arrears, they filed a petition to start contempt proceedings against the state and its employees, including the Director of Primary Education, the Deputy Commissioner-cum-Chairman of the District Establishment Committee, Godda, and the District Superintendent of Education, Godda district. By the contested order dated July 8, 1998, the High Court dismissed the contempt proceedings because the respondents claimed that there was no vacancy in the Godda District as of January 1, 1992. According to the High Court, there was no breach of the order it had issued, and if the appellants claimed that any Supreme Court order had been broken, the High Court had no right to file a contempt case. The appellants have come to this court because they are angry.

Conclusion: No one can disobey the court's ruling. "Willful" would not include instances of casual, unintentional, bona fide, or accidental behaviour, nor would it include a sincere inability to follow the order's requirements. When a petitioner claims that the court's order has been broken, they must claim willful or egregious disregard for the order.

¹³ indiankanoon.org

Criminal Contempt

According to Section 2(c) of the Contempt of Court Act, 1971 states that the publication (whether by words, spoken or written, or by signs, or by visible representations, or otherwise) of any matter or the doing of any other act whatsoever which:

1. scandalises or tends to scandalise, or lowers or tends to lower the authority of, any court; or
2. prejudices, or interferes or tends to interfere with, the due course of any judicial proceeding; or
3. interferes or tends to interfere with, or obstructs or tends to obstruct, the administration of justice in any other manner.¹⁴

Case Law Under Criminal Contempt Of Court

E. M. Sankaran Namboodiripad vs T. Narayanan Nambiar on 31 Jul, 1970:¹⁵

Facts: Mr E.M.S. Namboodiripad's conviction is based on certain utterances of the Appellant, when he was Chief Minister, at a Press Conference held by him at Trivandrum, on November 9, 1967. It was reported as follows: According to Mr Nambudiripad, who spoke at a press conference this morning, Marx and Engels viewed the judiciary as an instrument of oppression, and this view has not changed since the state established itself. Additionally, he asserted that judges are guided and controlled by class prejudices, class hatred, and class interests. The Chief Minister claimed that when the evidence is balanced between a wealthy, well-dressed, pot-bellied man and a poor, sick, and illiterate person, the judge will automatically favour the former.

The Chief Minister claimed that while electing judges would be a better solution, it would not be able to address the issue unless the fundamental structure of the state was altered. The Chief Minister cited the Constitution and stated that the sole purpose of the oath he had taken was to ensure that the provisions of the Constitution were followed. Since "every word and every clause in the Constitution is sacred," I have not taken an oath. The High Court's proceedings

¹⁴ Contempt of Court Act, 1971

¹⁵ legalserviceindia.com (Case Analysis: E. M. Sankaran Namboodiripad vs T. Narayanan Nambiar)

then began, and the appellant was asked to explain why he shouldn't be found guilty of contempt.

Judge elections, according to the chief minister, would be a better solution, but they couldn't address the issue unless the fundamental structure of the state was altered. The Chief Minister cited the Constitution and stated that the sole purpose of the oath he had taken was to ensure that the provisions of the Constitution were followed. Since "every word and every clause in the Constitution is sacred," I have not taken an oath.

He asserted that his observations merely expressed the Marxist ideology and the elements found in the Communist Party of India's platform. A majority ruling found the appellant guilty of contempt of court and sentenced him to either a one-month simple jail sentence or a fine of Rs. 1000.

ISSUES RAISED

Issue I: Whether the Appellant has said anything which brings him out of the protection of Article 19(1)(a).

Issue II: Whether the appellant has said anything that exposes him to the charge of contempt of court.

Judgment: Appellant is held liable for contempt of court, and the conviction was upheld by sentencing him to a nominal fine. They accordingly reduce the sentence of fine to Rs. 50/-. In default of payment of the fine, he will (sic) mint for one week.

DEFENCES UNDER CONTEMPT OF COURT

Civil Contempt: The defences for contempt of court are covered in Section 8 of the Contempt of Court Act of 1971.

- No knowledge of order.
- Disobedience or breach was not willful.
- The order disobeyed is vague or ambiguous.
- Order involves more than a reasonable interpretation.
- Compliance with the order is impossible.
- The order has been passed without jurisdiction.

Criminal Contempt:

- Innocent publication and distribution of matter (Section 3)
- Fair and accurate report of judicial proceedings (Section 4)
- Fair criticism of judicial act (Section 5)
- Bonafide complaint against the presiding officer of a subordinate court. (Section 6)
- No substantial interference with the due course of justice (Section 13)
- Justification by truth (Section 13).

PUNISHMENTS FOR CONTEMPT OF COURT

The penalty for contempt of court is covered in Section 12 of the Contempt of Court Act of 1971. It is within the authority of the Supreme Court and the High Court to punish someone for contempt of court. A person who is found guilty of contempt of court may be punished with a fine of up to two thousand rupees, pces, or other forms of punishment, according to Section 12(1) of this Act. Alternatively, they may be sentenced to six months in prison. Nonetheless, an accused person may be released from custody or have the punishment he was given remitted, with the stipulation that he must apologise and the court must accept it before he can be released from the penalty of contempt of court. This sentence explains that an apology made by the accused in good faith cannot be rejected because it is qualified or conditional.

The court, either for itself or a court beneath it, cannot impose a sentence for contempt of court that is greater than what is specified in the relevant section of this Act.¹⁶ Section 13, which lists the exceptions to contempt of court, is introduced by the Contempt of Court (Amendment) Act, 2006.

REMEDIES AGAINST AN ORDER OF PUNISHMENT

The Contempt of Court Act of 1971 was amended in 2006, adding Section 13. One possible name for the new law is the Contempt of Court (Amendment) Act of 2006. This section specifies that, in some situations, contempt of court cannot result in punishment.

According to clause (a) of Section 13 of the Contempt of Court (Amendment) Act, 2006, no court may be punished for contempt of court under this act unless it is determined that the

¹⁶ Amanat Raza, Contempt of Court (blog.ipleaders.in)

contempt is of a kind that significantly impedes or is likely to significantly impede the proper administration of justice.

CONTEMPT OF COURT PROCEEDINGS

The process of contempt proceedings is covered in two sections of the Contempt of Court Act, 1971. One discusses the court of records proceedings, while the other discusses proceedings outside of the court of records.

While Section 15 of this Act addresses the process of a contempt proceeding outside of a court of record, Section 14 of the Contempt of Court Act deals with the process of a contempt proceeding in front of a court of record.

These courts of record possess the inherent authority to punish contempt. As a result, these record courts can handle the contentious issue by developing their own process. The only rule that must be followed when the courts of record exercise their contempt jurisdiction is that the process used must be reasonable and fair, and the accused contempt or must be given a full chance to defend himself. Only the person who is punished for contempt will be held accountable for contempt of court, and the court case will proceed against him if the specific charge against him is clearly stated and he is given a reasonable chance to respond and defend himself. If the accused person requests, either verbally or in writing, that the charge against him be tried by a judge other than the judge or judges in whose presence or hearing the alleged contempt occurred and the court determines that it is necessary for the sake of justice that the application be granted, the matter will be transferred to the judge the Chief Justice deems appropriate given the facts of the case, or it will be brought before the Chief Justice with the facts of the case stated.¹⁷

According to clause (b) of Section 13 of this Act, if the court determines that the act was carried out in the public interest and that the request to invoke that defence is legitimate, it may grant the defence the justification of truth.¹⁸

¹⁷ Amanat Raza, Contempt of Court (blog.ipleaders.in)

¹⁸ Amanat Raza, Contempt of Court (blog.ipleaders.in)

IF IT IS COMMITTED OUTSIDE THE COURT

According to Section 15(1) of the Contempt of Court Act, 1971, a court of record, such as the Supreme Court or the High Court, may issue a notice of criminal contempt rather than civil contempt committed outside the court.

The Supreme Court and the High Court may take the following actions to take notice of criminal contempt:

1. The court of records on the motion.
2. In response to the Supreme Court and High Court Advocate General's motion
3. Proceeds with the motion, if any, with the Advocate General's written approval.
4. The motion is carried out if the Central Government notifies the law officer who is associated with the Delhi High Court. Then, it might be regarded as extrajudicial contempt.

According to Section 15(2) of this Act, the high court may take specific actions in the ways specified by this Act in cases involving criminal contempt of the subordinate court.

HEARING OF CASES OF CRIMINAL CONTEMPT TO BE BY BENCHES

Section 18(1) of the Contempt of Court Act, 1971, states that every case of criminal contempt under section 15 shall be heard and determined by a bench of not less than two judges.

Section 18(2) of the Contempt of Court Act, 1971, states that it shall not apply to the court of a Judicial Commissioner.

APPEALS UNDER CONTEMPT OF COURT ACT, 1971

Section 19 of the Contempt of Court Act, 1971, provides the appeal-related provision as

Section 19 (1) states that any order or decision made by the High Court in the course of exercising its authority to punish for contempt is subject to an appeal.

Where the court's bench consists of at least two judges, even if the order or decision is that of a single judge.

Where the order or decision is that of a Bench, to the Supreme Court: Provided that where the order or decision is that of the Court of the Judicial Commissioner in any Union territory, such appeal shall lie to the Supreme Court.

Section 19 (2) states that, pending any appeal, the appellate court may order that—

- The penalty or order that is being appealed against will not be carried out.
- The appellant will be released on bail if he is confined.
- Even though the appellant hasn't cleared his contempt, the appeal will still be heard.

Section 19 (3) states that the High Court may also use all or any of the authority granted by sub-section (2) if the person who feels wronged by an order against which an appeal may be filed satisfies the court that he intends to file an appeal.

Section 19(4) states that an appeal under subsection (1) must be submitted—

- Within 30 days in the event of an appeal to a High Court bench.
- Within sixty days of the date of the order being appealed, in the event of a Supreme Court appeal.

LIMITATION UNDER CONTEMPT OF COURT

The Contempt of Court Act of 1971, Section 20, addresses the statute of limitations for the contempt action. It specifies that under two circumstances, no court shall initiate any proceeding of a contempt case:

1. He initiated the proceedings on his own initiative,
2. One year following the date on which the alleged contempt was committed.

CRITICISM

The Contempt of Court Act has drawn criticism from a number of well-known figures. Fundamental rights guaranteed by the Indian Constitution are unalienable. The freedoms of speech and expression, life, and personal liberty are covered in Articles 19 and 21, respectively. However, this freedom is restricted by the Contempt of Court Act, which is incompatible with India's democratic system. The definition of criminal contempt in India is too broad, making it easy to invoke; consequently, the punishment meted out is occasionally a bit too severe. The Law Commission of India recommended in March 2018 that contempt of court be restricted to

civil contempt cases only. The demand to repeal the act has gained support because India borrowed it from the UK, but the UK also outlawed the crime of scandalising the court.¹⁹

LANDMARK JUDGEMENT ON CONTEMPT OF COURT

M.V. Jayarajan v. High Court of Kerala, 30th January 2015:²⁰ In the case of M.V. Jayarajan v. High Court of Kerala (2015), the appellant misused the Kerala High Court's ruling prohibiting meetings on public roads and used unparliamentary language when speaking at a public event in Kannur in June 2010. Due to the appellant's use of derogatory language, the Kerala High Court filed a contempt case against him. He was later found guilty of contempt of court and given a six-month jail sentence. The appellant appealed this order to the Apex Court. The Court noted that any derogatory remarks directed at the court or interfering with the administration of justice ought to be opposed and avoided. Any obstacle that the judiciary encounters when rendering a decision is considered to impede the administration of justice and needs to be rejected. The Court ruled that no one could threaten judges with resigning from their positions or use derogatory language against them. The Court further noted that the appellant did not express regret or guilt and did not express regret for his comments disparaging the judges. As a result, the Court maintained the Kerala High Court's ruling, with the exception of lowering the sentence from six months to four months.

In Re Prashant Bhushan v. Court Thata, a notice was issued on 14th AUGUST 2020:²¹

The facts of this case are, Prashant Bhushan tweeted two tweets on the administration of justice by the courts on former Chief Justice of India Sharad Arvind Bobde on June 27 and June 29, 2020. First, he posted a tweet that attributed responsibility to the Supreme Court for destroying India's democracy for the past 6 years on 27th June 2020. Secondly, on 29th June 2020, a negative picture of former CJI S.A. Bobde while he tweeted this statement on his Twitter account: "CJI rides a 50 lakh motorcycle belonging to a BJP leader at Raj Bhavan Nagpur, without a mask or helmet, at a time when he keeps the SC in lockdown mode denying citizens their fundamental rights to access justice" Therefore, the court found him guilty of criminal contempt and imposed a fine of Rupees 1 to be paid by him; in failure of which which he would

¹⁹ Amanat Raza, Contempt of Court (blog.iplayers.in)

²⁰ Ms. Somya Jain Important Supreme Court judgements of contempt of court from 2010 to 2020 (blog.iplayers.in)

²¹ Ms. Somya Jain Important Supreme Court judgements of contempt of court from 2010 to 2020 (blog.iplayers.in)

be punished with 3 months of imprisonment and be declared from practicing law for about 3 years.

Re Vijay Kurle Vs. Ors. on 27th APRIL, 2020:²² Advocate Vijay Kurle, along with Rashid Khan Pathan and Nilesh Ojha, sent two letters dated 20.03.2019 and 19.03.2019 to the former Chief Justice of India Ranjan Gogoi. The above letters levelled scandalous allegations against Justice Rohinton Fali Nariman (former Solicitor General of India) and Justice Vineet Saran. The Court noted that the accusations made in the aforementioned letters are extremely scandalous and scurrilous, and they cannot be directed at judges or the legal system. Additionally, the Court declared that the contemnors did not even express regret or offer an apology. Therefore, this behaviour should not be tolerated or allowed to continue. The Court further noted that to comment on or critique the court's ruling, people must first be able to question the authority and integrity of a judge. As a result, the court found them guilty of contempt of court and fined the three advocates Rs. 2000 in addition to three months of simple imprisonment.

CONCLUSION

The current contempt of court framework in India is complicated by the overlap between the Indian Penal Code, the Contempt of Courts Act, and the constitutional authority of higher courts. The Supreme Court and the High Courts' divergent interpretations have complicated the issue. Although higher courts currently have the authority to punish contempt, some argue that lower courts ought to have the same authority. Contempt of Court was brought to light by some landmark cases, such as the Prashant Bhushan case, E.M.S. Namboodiripad case, Vijay Kurle case, etc. These cases also sparked discussion about finding a balance between judicial authority and freedom of speech and expression. The act must be changed to add safeguards against incorrect deductions and shift the burden of proof to the accusing judges.

²² Ms. Somya Jain Important Supreme Court judgements of contempt of court from 2010 to 2020 (blog.ipleaders.in)