

# Contempt of Courts & the Judges (Protection) Act, 1985

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# Contempt of Court

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Any act (words spoken or written) curtailing / impairing freedom of judicial proceedings/ administration of justice

Conduct that tends to

- bring the authority and administration of Law into disrespect
- disregard or interfere with administration of justice
- prejudice parties or their witnesses during litigation
- obstruct the administration of justice

Publishing words which tend to bring the administration of Justice into contempt, to prejudice the fair trial of any cause or matter which is subject of Civil/Criminal proceeding or in anyway to obstruct cause of Justice.

# Contempt of Court – Position Under the Constitution

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- Constitution of India -Art. 129 :Supreme Court to be a court of record.—The Supreme Court shall be a court of record and shall have all the powers of such a court including the power to punish for contempt of itself.
- Art.215: High Courts to be courts of record.—Every High Court shall be a court of record and shall have all the powers of such a court including the power to punish for contempt of itself.
- Art.144:Civil and judicial authorities to act in aid of the Supreme Court.—All authorities, civil and judicial, in the territory of India shall act in aid of the Supreme Court.
- Art.141. Law declared by Supreme Court to be binding on all courts.— The law declared by the Supreme Court shall be binding on all courts within the territory of India.

# Contempt of Court – Position Under the Constitution

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- 142. Enforcement of decrees and orders of Supreme Court and orders as to discovery, etc.— (1) The Supreme Court in the exercise of its jurisdiction may pass such decree or make such order as is necessary for doing complete justice in any cause or matter pending before it, and any decree so passed or order so made shall be enforceable throughout the territory of India in such manner as may be prescribed by or under any law made by Parliament and, until provision in that behalf is so made, in such manner as the President may by order prescribe.
- Art.261. (1) Full faith and credit shall be given throughout the territory of India to public acts, records and judicial proceedings of the Union and of every State.

# The Contempt of Courts Act, 1971

- **Objective:** to define and limit the powers of certain courts in punishing contempt of court & to uphold the majesty and dignity of law courts and their image in the minds of the public
- **Scheme:** 24 Sections
- Contempt of Court " means civil contempt or criminal contempt
- **Civil Contempt** - 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 ;
- **Criminal contempt** - publication (whether by words. spoken or written, or by signs, or by visible representations, or otherwise) of any matter or doing of any other act whatsoever which-
  - scandalizes or tends to scandalize, or lowers or tends to lower the authority of, any court ;
  - prejudices, or interferes or tends to interfere with, the due course of any judicial proceeding;
  - interferes or tends to interfere with, or obstructs or tends to obstruct, the administration of justice in any other manner ;

# The Contempt of Courts Act, 1971-Salient Features

- Innocent publication and distribution of matter - not contempt (Sec.3)
- Fair and accurate report of judicial proceeding- not contempt (Sec 4)
- Fair criticism of judicial act - not contempt (Sec.5)
- Complaint against presiding officers of subordinate courts when not contempt- in respect of any statement made by him in good faith (Sec.6)
- Publication of information relating to proceedings in chambers or in camera - not contempt except in certain cases (Sec 7 )
- Act not to imply enlargement of scope of contempt (Sec 9. ) & subject to Constitution

# The Contempt of Courts Act, 1971

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- **Power of High Court to punish contempt of subordinate courts** -Every High Court shall have and exercise the same jurisdiction, powers and authority, in accordance with the same procedure and practice, in respect of contempt of courts subordinate to it as it has and exercises in respect of contempt of itself :
- Provided that no High Court shall take cognizance of a contempt alleged to have been committed in respect of a court subordinate to it where such contempt is an offence punishable under the Indian Penal Code.(45 of 1860)  
[Sec.10]

# The Contempt of Courts Act, 1971

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Power of High Court to try offences committed or offenders found outside jurisdiction (Sec.11)

## Punishment for contempt of court

Simple imprisonment for a term which may extend to **six months**, or with fine which may extend to **two thousand rupees**, or **with both**. :

Provided that **the accused may be discharged or the punishment awarded may be remitted on apology being made to the satisfaction of the court.**

**Explanation.**-An apology shall not be rejected merely on the ground that it is qualified or conditional if the accused makes it bona fide. [Sec 12]

## Essentials of civil contempt of court

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The elements generally needed to establish a contempt are:

- the making of a valid court order,
- knowledge of the order by respondent,
- ability of the respondent to render compliance, and
- willful disobedience of the order.

## Limitation period for initiating contempt proceedings

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The Limitation period for actions of contempt is a period of **one year** from the date on which the contempt is alleged to have been committed [u/S. 20 of the Act ]

# Procedure where contempt is in the face of the Supreme Court or a High Court. [S.14]

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Supreme Court / High Court feels that a person has been guilty of contempt committed in its presence or hearing, the Court may direct his detention till rising of court; and thereafter

- Should inform him in writing of the contempt with which he is charged;
- afford him an opportunity to make his defence to the charge;
- after taking necessary evidence offered by him and after hearing him, proceed, either forthwith or after adjournment, to determine the matter of the charge; and
- make such order for the punishment or discharge of such person as may be just.

Provision for hearing by other judges if referred by CJ

## Cognizance of criminal contempt in other cases (S.15)

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- Supreme Court or the High Court may take action on its own motion or on a motion made by-
  - (a) the Advocate-General, or
  - (b) any other person, with the consent in writing of the Advocate General

In the case of any criminal contempt of a subordinate court, the High Court may take action on a reference made to it by the subordinate court or on a motion made by the Advocate-General or, in relation to a Union territory, by such Law Officer as the Central Government may specify.

# Procedure after cognizance & to decide Contempt of Court

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Procedure after cognizance. (1) Notice of every proceeding under section 15 **shall be served personally on the person charged**, unless the court for reasons to be recorded directs otherwise [Sec.17]

Hearing of cases of criminal contempt to be by Benches.

Every case of criminal contempt under section 15 shall be heard and determined by a **Bench of not less than two Judges.** [Sec. 18 ]

# Appeals.

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**Appeal shall lie as of right from any order or decision of High Court in the exercise of its jurisdiction to punish for contempt-**

**(a) where the order or decision is that of a **single Judge, to a Bench of not less than two Judges of the Court ;****

**(b) where the order or **decision is that of a Bench, to the Supreme Court : [Sec. 19]****

## **Limitation Period for Appeal:**

**(a) in the case of an appeal to a Bench of the High Court, within **thirty days ;****

**(b) in the case of an appeal to the Supreme Court, within **sixty days,****

**from the date of the order appealed against. [Sec 19 (4) ]**

# Contempt of Courts-Some Case studies

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- **M.B. Sanghi, Advocate v. High Court of Punjab and Haryana** [AIR 1991 SC 1834:1991( 3 )SCC 600] - Unable to secure an ad-interim stay in favour of his client, the appellant, a practicing Advocate, uttered certain words imputing motives to the Sub-Judge in refusing to grant the stay
- **Held:** his conduct had effect of scandalizing the Court and impairing confidence of public in Court.hence guilty of contempt Apology in view of contemnor addicted to use of contemptuous language against judges and tendering '**unqualified apology**' in case court finds him guilty
- Tendering of apology -Not to serve as mere defense against rigors of law-should reflect remorse and contrition of
- “It is well-settled that an apology is not a weapon of defence to purge the guilty of their offence; nor is it intended to operate as a universal panacea, but it is intended to be evidence of real contriteness.”

DELHI JUDICIAL SERVICE ASSOCIATION Vs. STATE OF GUJARAT [AIR 1991  
SC 2176 :1991 SCC (4) 406]

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Chief Judicial Magistrate, **Nadiad, Gujarat**--Assaulted, arrested on flimsy grounds, handcuffed, tied with rope, photographs taken and published by Police Officers

**Held:** conduct of police officers constituted clear case of criminal contempt--Contemnors-punishment- Guidelines laid down by Supreme Court in case of arrest and detention of a Judicial Officer-To be followed by State Governments as well as High Courts

Judicial Officer not to visit Police Station—Except in connection with official and judicial duties and with prior intimation to District and Sessions Judge.

## MOHD. ASLAM OBHURE v. UNION OF INDIA & STATE OF UTTAR PRADESH AND ORS. [ AIR 1995 SC 548:1994( 6 )SCC 442]

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- Willful disobedience of order of Court-Babri Masjid Case- Undertaking given by Chief Minister of a State both in his personal capacity and on behalf Of his Government- **Flagrant breach of undertaking- Personal element shown in act of disobedience of order of Courts-** Reasonable steps not taken to prevent violation of order of court
- Chief Minister of the State convicted of an offence: of Contempt of Courts-Sentence of **imprisonment of one day with fine of Rs. 2,000 imposed.**

# DELHI DEVELOPMENT AUTHORITY Vs. SKIPPER CONSTRUCTION<sup>[1995 SCC (3) 507]</sup>

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Respondents violating directions of Court- Also filing suit in High Court in respect of same subject matter regarding which their special leave petition had been dismissed -Suo Motu notice to respondents by Court-Contemnors tendering apology

**Held:** respondents' actions amounted to Contempt of Court- Apology is not a weapon of defense forged to purge guilt of offences - Contemnors sentenced to simple imprisonment-However, sentence deferred subject to conditions &

“Abuse of the process of court calculated to hamper the due course of judicial proceeding or the orderly administration of justice is a contempt of court.”

## IN RE: 1. SHRI SANJIV DATTA, DEPUTY SECRETARY, MINISTRY OF INFORMATION & BROADCASTING [1995 SCC (3) 619]

- Contempt of Courts Act, 1971: Sec 2(c), 12 - *Suo moto contempt notice issued to a public servant and his advocates-Affidavit filed in the Supreme Court containing allegations against the Court-* Allegations made with intention of casting aspersions on the Court and attributing motives to it- Accusing the Court of making mockery of established policy of Government of India by permitting a foreign agency to undertake broadcasting from India against national interest thereby undermining sovereignty of the nation
- Unconditional apology of public servant not accepted- Allegations made by the contemnor were intentional- Made with full knowledge of its grave implications and therefore has potentiality of mischief- If not curbed firmly, may assume proportion grave enough to sabotage the rule of law.
- Unconditional apology of advocates- Accepted for want of knowledge of allegations.

# CITIZENS FOR DEMOCRACY v. STATE OF ASSAM

[AIR 1996 SC 2193:1995(3)SCR 943:1995(3)SCC 743]

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Constitution of India-Arts 14, 19, 21 and 32-Rights of under-trial prisoners- Safe custody- **Use of fetters-Not permissible- Handcuffs not to be forced on a prisoner -No authority with police and jail authorities to direct handcuffing of any inmate-** Magistrate may grant permission to handcuff prisoner

Handcuffing of under-trial prisoners-Directions given by this Court-Mandate to be followed by police, jail authorities and by subordinate judiciary-Binding directions issued.

# DHANANJAY SHARMA v.STATE OF HARYANA AND ORS

[1995 (3) SCR 964]

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- S.2(c)-Criminal contempt-Illegal detention of detenues by police officials in ranks of SP, DSP and SHO-Habeas Corpus petition filed in Supreme Court- Police officials filing false affidavits and giving false statements in Court- Besides, DSP and SHO effectively pressurizing one of detenues to file false affidavit and give false statement in Court-Even after report of C.B.I. establishing factum of illegal detention of detenu by police personnel, latter filing false affidavits in Court denying the facts-
  - Held: swearing of false affidavits in a court of law amounts to criminal contempt as it has not only the tendency of causing obstruction in due course of judicial proceedings, but also to impede, obstruct or interfere with administration of justice- SP, DSP and SHO punished for committing contempt of Court-Their apologies rejected being not apologies of truly repentant persons but made with a view to escape punishment-Conduct of Secretary, Department of Home in not filing affidavit in response to Court's direction disapproved-Director General of Police warned to be careful in future-Apologies tendered by these two, being genuine and bona fide, accepted.

## P.K. GHOSH, I.A.S. v.J.G. RAJPUT [AIR 1996 SC 513 : 1995(6)SCC 744]

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- Lawyer-Representing the case of a litigant-Elevation to High Court Bench- Hearing of contempt petition arising out of the case represented-Propriety of
- **Held:** the Judge should have recused himself from hearing the contempt-Order passed in contempt petition held vitiated.

## Dr.D.C. SAXENA Vs. HON'BLE CJI [1996 SCC (7) 216]

- Article 129-Contempt of Court - Writ petition filed before Supreme Court-Dismissed summarily by the Bench comprising Chief Justice of India as one of the Judges-Petitioner filing a second writ petition against the Chief Justice of India leveling allegations against and imputing motives to the CJI for dismissing his first writ **petition-Writ petition containing intemperate language and scurrilous accusations against the CJI-CJI allocating the petition to a Bench for hearing-Writ petition dismissed**
- Contempt proceedings initiated against the petitioner-Held, allegations made in respect of the CJI in performance of his judicial function intended to lower the authority of and respect for the Court and office of the Judge-The allegations scandalize the Court- **Scurrilous abuse of a judge or court, or attacks on personal character of a Judge are acts of contempt**-It is duty of the Chief Justice of a Court to assign judicial work to his brother Judges-By assigning the second writ petition to a Bench, CJI would not become a judge in his own cause- Petitioner committed contempt of Court- **Sentenced to simple imprisonment for three months.**

INDIAN AIRPORTS EMPLOYEES UNION Vs. RANJAN CHATTERJEE & ANOTHER [AIR 1999 SC 880:1999( 2 )SCC 537]

- **Civil contempt-Willful disobedience**-Disobedience of order of court-Supreme Court directed regularization of workmen upon abolition of contract labour system-However, certain workmen were not regularised on the ground that the said direction did not apply to these workmen
- **Held**, in order to amount to "civil contempt" disobedience must be "willful"-If disobedience is based on interpretation of court's order, notification and other relevant documents it does not amount to willful disobedience-Further, the question of regularization has to be decided in appropriate proceedings-Contract Labour (Regulation and Abolition) Act, 1970, S. 10.
- *“ It is well settled that disobedience of orders of Court, in order to amount to `civil contempt' under Section 2(b) of the Contempt of Courts Act, 1971 must be `willful' and proof of mere disobedience is not sufficient. Where there is no deliberate flouting of the orders of the court but a mere misinterpretation of the executive instructions, it would not be a case of Civil Contempt. ”*

# Midnapore Peoples' Co-op. Bank Ltd. & Ors. V. Chunilal Nanda & Ors. [ 2006 (5) SCC 399]

- **Challenge to Employee Suspension after Enquiry Proceedings** - Single Judge of High Court ordered de novo enquiry- Delay in completion of enquiry-Filing of contempt petition by the employee-Single Judge of the High Court directing the employer- Bank to reinstate the suspended employee and to pay arrears of salary-Division Bench of the High Court dismissed the Letters Patent Appeal and also application for condonation of delay-On appeal
- **Held:** Appeal under Section 19 of the Contempt Act lies only against the order of High Court imposing punishment for **contempt- In a contempt proceeding, it is not appropriate to decide any issue on merits** - Single Judge of the High Court erred in issuing directions for reinstating the employee and payment of arrears in a contempt proceeding-The order of Single Judge was appealable in Terms of Clause 15 of the Letters Patent- Moreover, there was no disobedience/breach/negligence on the part of the employer to provoke the Court to issue such directions- **Hence set aside**

# Bihar Finance Service H.C. Coop. Soc. Ltd v.Gautam Goswami [DATE OF JUDGMENT: 05/03/2008]

- Acquisition of land for construction of houses by a Society for its members - Initiation of land acquisition proceedings - Award - Challenge to - Allowed by High Court quashing Notification for acquisition - Supreme Court remitted the matter to High Court with a direction to dispose it of by following the principles of individualized justice - High Court releasing certain lands in favour of Society - On appeal, Supreme Court further released certain land in favour of Society - Not complied with by the authorities - Contempt Petition
- **Held:** Parameters of Jurisdiction of Supreme Court under 1970 Act are well settled - **While considering contempt application, the Court is primarily concerned with the question as to whether the order passed by the Court attained finality - And if so, whether it was complied with or not** - Supreme Court could neither extend the jurisdiction to reopen the issues nor shall it embark upon other questions which could be raised in original proceedings - When claim of parties adjudicated upon and attained finality, it is not open for any party to go beyond the orders and seek to take away/truncate the effect thereof - In view of undertaking given by the authorities for compliance of the orders, the petitioner had to wait for a long time to get the possession of the land so acquired in terms of order of the High Court as modified by the Supreme Court - However, in the facts and circumstances of the case, the Municipal Corporation is directed to take appropriate action with regard to sanction of construction plans of buildings on the land in question - Directions issued - Land Acquisition Act, 1894 - Ss. 4, 5A, 6 and 40.

# Union of India and others v. Subedar Davassy PV

AIR 2006 SC 909 = (2006) 1 SCC 613

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Court is primarily concerned with contumacious conduct of the party who is alleged to have committed default in complying with the directions in the judgment or order — If the judgment or order is not legally tenable, the party has to approach the higher court — Court, while exercising contempt jurisdiction, cannot take upon itself power to decide the original proceedings in a manner not dealt with by the court passing the judgment or order.

**Held:** While dealing with an application, court is really concerned with the question whether the earlier decision, which has received its finality, had been complied with or not. It would not be permissible for a Court to examine the correctness of the earlier decision, which had not been assailed, and to take a view different from what was taken in the earlier decision. **The Court exercising contempt jurisdiction cannot take upon itself power to decide the original proceedings in a manner not dealt with by the court passing the judgment or order.**

*K.G. Derasari v. Union of India (2001) 10 SCC 496 – Relied on.*

Contempt application — Question of impossibility to carry out the directions in the judgment or order — **If a party is aggrieved by the order, he should take prompt steps to invoke the appellate proceedings and cannot ignore the order and plead about difficulties of implementation of the directions in the judgment or order.** Mohd. Iqbal Khanday v. Abdul Majid Rather (1994) 4 SCC 34 – Relied on.

# THE JUDGES (PROTECTION) ACT, 1985

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**Object:** for securing additional protection for Judges and others acting Judicially

**Judge-** means not only every person who is officially designated as a Judge, but also every person—

(a) empowered by law to give in any legal proceeding a definitive judgment ...or

(b) who is one of a body of persons which body of persons is empowered by law

to give such a judgment

## **Additional protection to Judges.—**

no court shall entertain or continue any civil or criminal proceeding against any person who is or was a Judge for any act, thing or word committed, done or spoken by him when, or in the course of, acting or purporting to act in the discharge of his official or judicial duty or function.

**Subject however to** power of Central Government /State Government /Supreme Court of India /any High Court /any other authority under any law for time being in force to take such action (whether by way of civil, criminal, or departmental proceedings or otherwise) against any person who is or was a Judge.

**Additional Protection:** provisions of this Act - in addition to, and not in derogation of, provisions of any other law for the time being in force providing for protection of Judges.

# Conclusion

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Take care not to commit contempt of court of any kind

**THANK YOU**