

CONTEMPT OF COURT

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UNIQUE POSITION OF JUDICIARY IN ADMINISTRATION OF JUSTICE

- ◉ Role of courts and judges in modern times
- ◉ Need for maintaining independence of judiciary
- ◉ Need to respect status and decisions of judiciary
- ◉ Duty of all authorities in India to assist the courts in executing their orders
- ◉ Full faith and credit clause in the Constitution
- ◉ Possibility of willful disobedience of courts' orders
- ◉ Tendency to lower image of judiciary

CONTEMPT OF COURT - MEANING

- ◉ Anything that curtails or impairs the freedom of limits of the judicial proceedings
- ◉ Any conduct that tends to bring the authority and administration of Law into disrespect or disregard or to interfere with or prejudice parties or their witnesses during litigation.
- ◉ Consisting of words spoken or written which obstruct or tend to 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 the subject of Civil or Criminal proceeding or in anyway to obstruct the cause of Justice.

CONTEMPT OF COURT - POSITION UNDER THE CONSTITUTION

- ◉ **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

CONTEMPT OF COURT - POSITION UNDER THE CONSTITUTION

- ◉ Art.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 & limit powers of certain courts in punishing contempt of courts & to uphold the majesty and dignity of law courts and their image in the minds of the public is no way whittled down.
- ◉ **Contempt of court "** - 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 ; [Sec. 2 (b)]
- ◉ **Criminal contempt "** - 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-
 - (i) scandalizes or tends to scandalize, or lowers or tends to lower the authority of, any court ; or
 - (ii) prejudices, or interferes or tends to interfere with, the due course of any judicial proceeding; or
 - (iii) interferes or tends to interfere with, or obstructs or tends to obstruct, the administration of justice in any other manner ; [Sec. 2 (c)]

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.)- Due regard to Constitutional Provisions

THE CONTEMPT OF COURTS ACT, 1971

- ◉ **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]

PUNISHMENT FOR CONTEMPT OF COURTS

- ◉ Power of High Court to try offences committed or offenders found outside jurisdiction (Sec.11)
- ◉ Punishment for contempt of court
- ◉ (1) Save as otherwise expressly provided in this Act or in any other law, a contempt of court may be punished with **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

- ⦿ 1. the making of a valid court order,
- ⦿ 2. knowledge of the order by respondent,
- ⦿ 3. ability of the respondent to render compliance, and
- ⦿ 4. willful disobedience of the order.

LIMITATION PERIOD FOR INITIATING CONTEMPT PROCEEDINGS

- 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]

COGNIZANCE OF CRIMINAL CONTEMPT IN OTHER CASES

(1) In the case of a criminal contempt, other than a contempt referred to in section 14, the 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

(2) 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, by notification in the Official Gazette, specify in this behalf. [Sec.15]

PROCEDURE AFTER COGNIZANCE

- ◉ 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]

PROCEDURE TO DECIDE CONTEMPT OF COURT

- ◉ Hearing of cases of criminal contempt to be by Benches.
- ◉ (1) Every case of criminal contempt under section 15 shall be heard and determined by a Bench of not less than two Judges. [Sec 18]

CASE LAWS

Video

Once a British newspaper ran a banner headline calling the majority judges of the House of Lords who decided the Spycatcher case (Attorney General vs. Guardian Newspaper, 1987 3 ALL.E.R.316) “YOU FOOLS”. Fali Nariman, who was present in England at that time, asked Lord Templeman, who was one of the majority, why the Judges did not take contempt action. Lord Templeman smiled, and said that judges in England took no notice of personal insults. Although he did not regard himself as a fool, others were entitled to their opinion.

In *Balogh vs Crown Court at Albon* (1975) AC 373, the defendant told the Judge “You are a humourless automaton. Why don’t you self destruct?”. The judge smiled, but took no action.

Now coming to the law of contempt in India, we can find that it is uncertain.

In Duda's case AIR 1988 SC 1208, a Union Cabinet minister said that the Supreme Court sympathized with zamindars and bank magnates. He further said, "FERA violators, bride burners, and a whole horde of reactionaries have found their haven in the Supreme Court" and that Supreme Court judges have "unconcealed sympathy for the haves". No action was taken against him.

However, in an earlier decision, in the case of Namboodiripad (former CM of Kerala), who accused Supreme Court judges of being biased in favour of the rich, (an allegation similar to that of the Union minister in Duda's case) the court convicted Namboodiripad for contempt (AIR 1970 SC 2015).

Recent case of Kerala Ex-MLA .

There is no certainty or consistency in the application of the law

ARUNDHATI ROY JAILED FOR CONTEMPT OF COURT

- ◉ The Booker prize winner, Arundhati Roy, being taken to the Tihar jail from the Supreme Court in New Delhi in Re (2002) 3 SCC 343



Facts of the case

Arundhati Roy, a writer, was interested in the result of a litigation pending before the Supreme Court. It was alleged that at a dharna organised in front of Supreme Court she had raised improper slogans against the Court. When issued a show cause notice, she denied having raised such slogans. She further stated that the Supreme Court could not spare a sitting Judge to hold inquiry into Tehelka Scandal. However, when it came to an absurd, despicable and entirely unsubstantiated petition, it displayed a disturbing willingness to issue notice. She added that the same indicated a disquieting inclination to silence criticism and muzzle dissent, to harass and intimidate those who disagreed with the Supreme Court.

The court sentenced her to simple imprisonment for one day and to pay a fine of Rs. 2000/-. In case of default of payment of fine, she was to undergo simple imprisonment for three months.

KALYAN SINGH, CM ,UP SENTENCED AND JAILED FOR A DAY FOR CONTEMPT OF COURT FOR NOT KEEPING THE PROMISE OF PROTECTING THE MONUMENT.

- 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-Convicted of Contempt of Courts- Sentence of imprisonment of one day with fine of Rs. 2,000 imposed.



REGARDING PROMOTION OF AN ENGINEER OF BANGALORE CITY CORPORATION

- Karnataka state Urban Development Secretary J. Vasudevan was given a one-month jail term for contempt thus becoming the first IAS officer in the country to be so punished, his incarceration rocked the bureaucracy and the Government like rarely before.
- **T. R. Dhananjaya vs J. Vasudevan on 25 August, 1995**

Citations: 1996 AIR 302, 1995 SCC (5) 619

<http://indiatoday.intoday.in/story/sc-glosses-over-vital-facts-in-holding-senior-karnataka-bureaucrat-j.-vasudevan-guilty/1/289461.html>

THANK YOU