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CONTEMPT OF COURT



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CIVIL CONTEMPT

Civil contempt appears to have originated in the seventeenth century from the practice of the Court of Chancery. Civil contempt of court provides for punishment of a person who refused to comply with the orders of a court. Consequential sanction will be committal to prison or fine.

Under Section 2(b) of the Contempt of Courts Act of 1971, civil contempt has been defined as 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.



The following conditions are necessary to constitute civil contempt:

- There must be a judgment or order or decree or direction or writ or other process of a Court.
- The respondent must know of such order.
- The respondent should be capable of complying with the order.
- The disobedience or breach, as the case may be, must be willful.



EXAMPLES OF CIVIL CONTEMPT

- **MOHD. ASLAM OBHURE v. UNION OF INDIA & STATE OF UTTAR PRADESH**
- **SAHARA GROUP CHIEF SUBRATRA ROY'S FAILURE TO OBEY AN ORDER BY THE SUPREME COURT TO REFUND INVESTORS.**



CRIMINAL CONTEMPT OF COURT

Contempt of Courts Act, 1971 defines Criminal Contempt as :

“Criminal contempt” means the publication (whether by words, spoken or written, or by signs, or by visible representation, 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.”

CASE STUDIES: CRIMINAL CONTEMPT OF COURT

- Sanjeev Nanda BMW Case
- Arundhati Roy Case
- Farooq Abdullah Case
- Mohammad Yunus National Anthem Case



SANJEEV NANDA BMW CASE

- The criminal trial in a case of reckless driving by Sanjeev Nanda, a young person of a very wealthy business family which crashed to death six people in Delhi meandered endlessly for eight years.
- NDTV, a news channel telecast a programme on 30 May 2007 in which the Special Public Prosecutor IU Khan and R.K. Anand, the Senior Defence Counsel, were seen negotiating sell out of a prosecution witness for a very high price
- Shocked by the programme the Delhi High Court suo moto initiated a proceeding. It called for from the news channel all the materials on which the telecast was based and after examining those materials issued show cause notices to RK Anand and IU Khan



LAWS LAID DOWN BY APEX COURT

- Delhi High Court suo motu initiated a proceeding for criminal contempt and issued notice to R.K. Anand and IU Khan under Section 2(c) of the Contempt of Courts Act, 1971
- The High Court held that the evidence and circumstances fully established that both IU Khan and R.K. Anand were guilty of the charges framed against them
- Suo motu cognizance taken by High Court on basis of telecast alone. The court examined the audio and video recordings of sting operation. The findings of High Court were sustained
- Telecast of sting operation exposing collusion between defence counsel and prosecutor did not amount to contempt of court



ARUNDHATI ROY CONTEMPT CASE

The Supreme Court issued notices to Arundhati Roy, Medha Patkar and Prashant Bhushan for criminal contempt following a dharna organised by the Narmada Bachao Andolan outside the Supreme Court on December 13, 2000.

She had raised improper slogans against the Court. When issued a show cause notice, she denied having raised such slogans. Such allegations, if made and substantiated, could have constituted criminal contempt under sub-sections 2 (c)(ii) and (iii) of the Act

She further stated that the Supreme Court could not spare a sitting Judge to hold inquiry into Tehelka Scandal

She added that the Contempt provisions indicated a disquieting inclination to silence criticism and muzzle dissent



- 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
- In their judgment, Justices Pattanaik and Sethi said that they had no option but to convict her because she had committed the offence of criminal contempt of the Court by "scandalising its authority with mala fide intentions" and, further, had not shown "any repentance or remorse."



FAROOQ ABDULLAH CASE

- Chief Minister, while addressing the annual general meeting of the Institute of Engineers, said that the engineers should occupy a certain building forcibly as it would not be possible for them to evict the Amar Singh Club through the normal legal process
- Chief Minister, allegedly, said that he will never accept courts' stay orders. He denounced and ridiculed the judiciary by saying that "justice is being bought in the judicial courts"
- Chief Minister was served notice of contempt of court. However, Chief Minister denied that he had made the kind of statements attributed to him. Also, HC gave him benefit of doubt



MOHAMMAD YUNUS AND NATIONAL ANTHEM CASE

- Mr Mohammed Yunus, Chairman, Trade Fair Authority of India said here that the Supreme Court Judge who held that the singing of the National Anthem was not compulsory had no right to be called either an Indian or a Judge.
- The contempt proceedings were later withdrawn as Solicitor General didn't give permission to initiate the proceedings.



IMPACT OF CONTEMPT OF COURT ON EXECUTIVE FUNCTION

- Fear of Contempt will make misallocation of resources of administration like using of force, logistics, etc..
- The content of Judicial orders is very unpleasant and offensive creating fear among executives.
- Inconsistent treatment of contempt cases.
- Harassment of executive through insistence on personal appearance and rude behavior.
- It creates avoidable animosity between judiciary and executives.



EXAMPLES

- Removal of encroachment of structures of different religions – maintaining communal harmony in Jabalpur, M.P and Cuttack, Orissa
- Maharashtra Transport minister & Additional Chief secretary were awarded 1 month jail term for COC – for giving licenses to sawmills in 2004 despite of a ban on the same.



6 PRINCIPLES LAID DOWN BY KRISHNA IYER FOR CONTEMPT OF COURT

- Justice Krishna Iyer who wrote a separate judgment, laid down six broad guidelines in the matter. The first rule, according to the learned Judge, is "wise economy of use of the contempt power".
- The second is the necessity to harmonise the constitutional values of free criticism with the need for a fearless judiciary.
- The third principle laid down is to "avoid confusion between personal protection of a libeled Judge and prevention of obstruction of public justice and the community's confidence in that great process".



- The fourth principle laid down emphasizes the realization of the role of the Fourth Estate in a democratic process
- The fifth principle laid down a reminder was issued to Judges not to be hypersensitive even where distortions and criticisms are erroneous.
- It is only upon an evaluation of the totality of the circumstances, if the Court considers the attack offensive, intimidatory and malicious beyond condonable limits that the contempt power must come in to maintain the supremacy of the Rule of Law. This is the sixth and the last principle laid down.



CONCLUSION

- “Everyone, whether individually or collectively, is unquestionably under the supremacy of law. Whoever he may be, however high he is, he is under the law. No matter how powerful he is, how rich may be.”



○ THANK YOU

