

ISSN 0975-6795 (Print)  
2321-5828 (Online)

DOI:

Vol. 12 | Issue-02 |  
April - June | 2021

Available online at  
[www.anvpublication.org](http://www.anvpublication.org)

*Research Journal of  
Humanities and Social Sciences*  
Home page [www.rjhssonline.com](http://www.rjhssonline.com)



## **REVIEW ARTICLE**

# **Laws Relating to Contempt of Court**

**Dr. Priya Rao<sup>1</sup>, Abhay Kumar Tiwari<sup>2</sup>**

<sup>1</sup>Assistant Professor, SOS in Law, Pt. Ravishankar Shukla University Raipur (C.G.)

<sup>2</sup>Research Scholar, SOS in Law, Pt. Ravishankar Shukla University Raipur (C.G.)

\*Corresponding Author Email: [rida.bashir556@gmail.com](mailto:rida.bashir556@gmail.com)

### **ABSTRACT:**

This paper deals with the various provisions relating to contempt in shrine under constitution and the statute. Also in this paper author elaborated development of Contempt Law in India, explaining the present situation. The paper includes various judgments of Hon'ble Supreme Court and high court and their observation on the contempt law.

**KEYWORDS:** Constitution, Contempt, Civil, Criminal, Judge, Freedom of Speech.

### **1. HISTORICAL BACKGROUND**

The evolution of Contempt law can be traced back to pre-independence period. When the presidency town has been established and in the charter of 1726 first time English law introduced in India. With this Charter Mayor Court were constituted in the presidency towns and were given the power to decide all the Civil cases and made their court of record. Thereafter in year 1774 Supreme Court of judicature at Fort William at Calcutta was established by replacing the mayor court and Supreme Courts at Madras and Bombay were came into existence in year 1801 and 1824 respectively. These Supreme Courts were again replaced by High Court under the Indian High Court Act 1861. Thereafter, High Court at Madras, Bombay, Calcutta and Allahabad came into existence and they all were have the power to punish for contempt and was constituted as a court of record. In<sup>1</sup>Re; AbdoolandMahtab case Chief Justice Peacock laid down rule regarding the power to punish for contempt in following words:

There can be no doubt that every court of record has the power of summarily punishing for contempt.” There was a conflict of opinion regarding power to punish for contempt of subordinate court, among the different High Courts prior to coming into force of the Contempt of Court Act, 1926. In 1927, Lahore High Court examines the contempt jurisdiction in matter of Muslim Outlook Lahore<sup>2</sup> and observed that every high court was having inherent power of contempt jurisdiction and not only in three Chartered High Courts. The Act of 1926 was applicable to whole of India but some of the princely states like Hyderabad, Madhya Pradesh, Mysore, Rajasthan, Trankore-Cochin, Swarashtra and Pepsu had there own state enactment on contempt. Thereafter, Act of 1926 along with aforementioned state enactment was replaced by Contempt of Court Act, 1952. Again in 1960, a bill was introduced to amend law relating to contempt of court and after proper legislative procedure and deliberations Contempt of Court Act, 1971 came into force and replaced the Act of 1952.

### **2. CONTEMPT OF COURT:**

In 1742 Lord Hardwick L.C., suggested the meaning or kind of contempt in three different ways; “One kind of contempt is scandalising the court itself. There may be likewise contempt of this court in abusing parties who are concerned in causes here. There may also be contempt of this court in prejudicing mankind against

persons before the cause is heard.”<sup>3</sup>In case of *A. Ramalingam v. V. V. Mahalinga Nadar*, Madras High Court observed that a contempt of court is a matter which concerns the administration of justice and the dignity and authority of judicial tribunal<sup>4</sup>. Halsbury’s Law of England defining “contempt of court” states: “Any act done or writing published which is calculated to bring a court or a Judge into contempt, or to lower his authority, or to interfere with the due course of justice or the lawful process of the court, is a contempt of court. Any episode in the administration of justice may, however be publicly or privately criticised, provided that the criticism is fair and temperate and made in good faith. The absence of any intention to refer to a court is a material point in favour of a person alleged to be in contempt<sup>5</sup>.”

### 3. Contempt Provisions under Constitution of India:

In case of *Re : Vinay Chandra Misra* Hon’ble Supreme Court observed that The law for contempt, with power of imposing punishment, ensures respect for the courts in the eyes of the public by guaranteeing sanction against conduct which might assail the honour of the courts. Indeed, the courts must be able to discharge their functions without fear or favour<sup>6</sup>. The intention of contempt proceeding ensure proper compliance of the order of court and to ensure the rule of law. Under Indian Constitution Supreme Court and High Court designates as Court of record and has given power to punish for his contempt of itself under Article 129 and 215 respectively. Once a court has been declared to be a court of record by a statute the power to punish for its contempt automatically ensues<sup>7</sup>. In addition to this court of record has the power to determine question of its own jurisdiction<sup>8</sup>.

#### a. Law of contempt and freedom of speech and expression

In *Aswini Kumar Ghose and Anr. v. Arabinda Bose and Anr.*, AIR 1953 SC 75, the Supreme Court held that while fair and reasonable criticism of a judicial act in the interest of public good would not amount to contempt, it would be gross contempt to impute that Judges of the Court acted on extraneous considerations in deciding a case.

#### b. Other constitutional provisions:

Provisions relating to contempt enshrine under Article 129 and 215 which gives power to Supreme Court and High Court relating to contempt of court. In addition to this Supreme Court also have power under Article 142 (2) to investigate or punish any contempt of it. This power of Supreme Court is outside the confines of Act, 1971 and also not effected by the limitation of the Act.

#### c. Contempt of Court Act, 1971

(1) Under Section 2 of the Act Contempt of Court has been defined and distinguish between Civil and Criminal Contempt.

(a) “Contempt of court” means civil contempt or criminal contempt;

(b) “Civil contempt” means willful disobedience to any judgment, decree, direction, order, writ or other process of a court or wilful breach of an undertaking given to a court;

(c) “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.

(2) Under Section 10, High court exercise jurisdiction powers in authority to deal with the contempt of the subordinate court.

(3) In Section 12, of the Act empowers the court to punish for its contempt and limits thereto.

(4) In Section 14 and 15 – Section 14 of the Act related with the procedure for contempt in presence or hearing of Supreme Court or High Court. Section 15 deals with the procedure for criminal contempt of higher court and subordinate court.

(5) Section 16 deals with the contempt by a Judge, Magistrate or Other person acting judicially.

(6) Section 22 deals with the provision of the act 1971 which are supplemental to the provision of any other existing law related to contempt of court.

#### d. Code of conduct procedure:

Section 345 of CRPC empowers in civil, criminal and revenue court to punish summarily a person who is found guilty of committing any offence under section 175, 178, 179, 180 or section 228 of Indian Penal Code, 1860 in the view or presence of the court.

#### 4. Relevant Judgment on Contempt:

The Constitution of India vested power in the High Court as well as Supreme Court to punish for its contempt is a drastic power which, if misdirected could resulted in curbing the liberty of individual charge with commission of an act amounting to contempt. The Supreme Court, considering punishment for established contempt of Court, in *Supreme Court Bar Association (supra)*, held as under:

The power that courts of record enjoy to punish for contempt is a part of their inherent jurisdiction and is essential to enable the courts to administer justice according to law in a regular, orderly and effective manner.... The purpose of contempt jurisdiction is to uphold the majesty and dignity of the Courts of law.

In *Vishram Singh Raghubanshiv. State of U.P.*, AIR 2011 SC 2275, the Supreme Court reiterated that the contempt jurisdiction is to uphold the majesty and dignity of the courts as majesty and image of the courts cannot be allowed to be disdained. The Court observed: "The superior courts have a duty to protect the reputation of judicial officers of subordinate courts, taking note of the growing tendency of maligning the reputation of judicial officers by unscrupulous practicing advocates who either fail to secure desired orders or do not succeed in browbeating for achieving ulterior purpose. Such an issue touches upon the independence of not only the judicial officers but brings the question of protecting the reputation of the Institution as a whole."

In *Chandra Shashiv. Anil Kumar Verma*, (1995) 1 SCC 421 the Supreme Court observed that "if recourse to falsehood is taken with oblique motive, the same would definitely hinder, hamper or impede even flow of justice and would prevent the courts from performing their legal duties as they are supposed to do."

In re : *Bineet Kumar Singh* (supra), a forged/fabricated order of Supreme Court was used for the purpose of conferring some benefits on a group of persons. Supreme Court took a strict view of the matter and observed that "the law of contempt of court is essentially meant for keeping the administration of justice pure and undefiled".

In the case of *HussainandAnr. v. Union of India andOrs.*, AIR 2017 SC 1362, looking into the issue of interference with justice, the Supreme Court directed the high courts to take stringent measures against the erring advocates who violate the directions issued by the Courts to the lawyers, from time to time, not to proceed on strike, as "...denial of speedy justice is a threat to public confidence in the administration of justice."

In *Shri Baradakanta Mishra v. The Registrar of Orissa High Court and Anr.*, AIR 1974 SC 710, the Court observed:  
70

"...the key word is "justice", not "judge"; the key-note thought is unobstructed public justice, not the self-defense of a judge; the corner-stone of the contempt law is the accommodation of two Constitutional values-the right of free speech and the right to independent justice. The ignition of contempt action should be substantial

and mala fide interference with fearless judicial action, not fair comment or trivial reflections on the judicial process and personnel."

Even internationally, the distinction between libel / defamation of a Judge and a contempt of court has been well recognized. For instance, in the United States, the Supreme Court in *Craig v. Harney*, 331 US 367 (1947), observed that "the law of contempt is not made for the protection of Judges who may be sensitive to the winds of public opinion. Judges are supposed to be men of fortitude, able to thrive in a hardy climate."

## 5. CONCLUSION:

With respect to the power of contempt under the Constitution, Articles 129 and 215 vest the Superior Courts with the power to punish for their contempt. Additionally, Article 142(2) also enables the Supreme Court to investigate and punish any person for its contempt. The Act 1971 is, therefore, not the source of 'power to punish for contempt' but a procedural statute that guides the enforcement and regulation of such power. The reason being that even prior to the commencement of Act 1926 these inherent powers were being exercised by the Superior Courts. Thus, the powers of contempt of the Supreme Court and High Courts are independent of the Act 1971, and, therefore, by making any such amendment, the power of the superior courts to punish for contempt under Articles 129 and 215 of the Constitution cannot be tinkered or abrogated.

It is also noteworthy that the definition of 'contempt' under consideration here was first introduced in the Act 1971, with no such definitions in the earlier Acts. It was only in 1971 that legislation not only defined 'contempt', but also categorized it under 'civil' and 'criminal' contempt, providing succinct definitions for the same. Further, viewed from the angle of the frequent indulgence of unscrupulous litigants and lawyers alike with administration of justice, it would not be in the interest of litigants and the public at large to minimize the effect of the exercise of powers of contempt as and when the need arises.

## 6. REFERENCE:

1. (1867) 8W.R.(CR.)32
2. AIR 1927 LAH.610
3. *In re : Read v. Huggonson*, (1742) 2 Atk. 469.
4. AIR 1966 Mad. 21
5. *Halsbury's Laws of England* (3rd Edn., Vol. 8) at p. 7
6. AIR 1995 SC 2348
7. *Delhi Development Authority v. Skipper Construction Co. (Pvt.) Ltd. andAnr.*, AIR 1996 SC 2005
8. *Ravi S. Naikv. Union of India andOrs.*, AIR 1994 SC 1558