# Contempt of Courts in India

Dr.G.B.Reddy
Department of Law
Osmania University
Hyderabad.

# 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 disobeyance 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 Supreme Court shall be binding on all courts within the territory of India.**

# Contempt of Court – Position Under the Constitution

- **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

- 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 ]

# Appeals.

**Appeals**.

(1) An 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 for Appeal

An appeal under sub-section (1) shall be filed-

(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

- **1) 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.- Had the effect of scandalizing the Court and impairing confidence of public in Court--Hence guilty of contempt Apology-Tendering of--Not to serve as mere defense against rigors of law- Should reflect remorse and contrition of contemnor- Tendering 'unqualified apology' in case Court finds him guilty--Not sincere-Contemnor addicted to use of contemptuous language against Judges and tendering apology--Apology used merely a device to escape--Not to be accepted--Use of contempt jurisdiction against erring members of legal profession- Courts are slow in the hope that Bar Councils will take care to maintain ethical norms- Decline in ethical values in the profession-Arrest of- Timely action by Bar Councils- Need for -held- *"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."***

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

Chief Judicial Magistrate, Nadiad, Gujarat--Assaulted, arrested on flimsy grounds, handcuffed, tied with rope, photographs taken and published by Police Officers--**Held** constituted clear case of criminal contempt--Contemnors-punishment--Quantum of punishment determined according to degree and extent of part played by each contemnor--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.

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

- 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.

## 4) **DELHI DEVELOPMENT AUTHORITY Vs. SKIPPER CONSTRUCTION** [1995 SCC (3) 507]

- 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.
- HELD –" 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."

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

- *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. **( Officers-let your mind and not the heart speak)**

6) **CITIZENS FOR DEMOCRACY v. STATE OF ASSAM**

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

- 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 -Public Interest Litigation. Contempt of Courts **Act-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.

## 7) **DHANANJAY SHARMA v.STATE OF HARYANA AND ORS** [1995 (3) SCR 964]

- **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 pressurising 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.

8) **P.K. GHOSH, I.A.S. v.J.G. RAJPUT**

[AIR 1996 SC 513 : 1995(6)SCC 744]

- 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.

## 9) Dr.D.C. SAXENA Vs. HON'BLE THE CHIEF JUSTICE OF INDIA

[1996 SCC (7) 216]

- **Article 129-Contempt of Court - Writ petition filed before Supreme Court- Dismissed summarily by the Bench comprising CJ 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-Scandali [Sec.15] sing judge or court tends to bring authority and administration of justice into disrespect and disregard and tantamount to contempt-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.**

# 10) **THE COMMISSIONER, AGRA & Ors.Vs.ROHTAS SINGH & ORS** [AIR 1998 SC 685]

- Contempt of court- Commission of- By Government officials-Appearance of Law Officers to defend Government officials against whom notices for contempt of court were issued for disobedience of order of Court-Authorisation of
- **Held** : State Government can authorise any of its Law Officers to appear and defend such Government Officials-High Court not justified in striking down Government Order which provided for a panel of Advocates for defending Government Officials in contempt petitions-High Court cannot also give general directions that the litigation expenses in contempt proceedings would be borne not by the Government but by the Government Officials- However, in certain situations Advocate General may decline to appear for an alleged contemnor who is a Government Official-Where the conduct of the Government official is contumacious, the court can direct him to pay costs personally

# 11) M/S. CHETAK CONSTRUCTION LTD. Vs. OM PRAKASH & ORS. [AIR 1998 SC 1855 ]

- **Articles 215 and 129-Contempt of court-Jurisdiction-Exercise of-Appellant filed an affidavit before the Single Judge of the High Court that he had learnt that the Single Judge purchased a flat from the respondent and let it out- Appellant requested the single Judge to decide whether or not to hear the appeal-Respondent did not deny the said allegation in his counter affidavit- Appellant filed a further application making the same allegation supported by documentary evidence requesting the Judge to recuse or relieve himself from hearing the appeal and transfer the same to any other Judge of the High Court- Single Judge discontinued hearing the appeal but made certain remarks reflecting his feelings against the appellant and his lawyers- Single Judge also suggested initiating of contempt proceedings by Supreme Court on reference to it against the appellant and certain lawyers**
- **Held: in the circumstances of the case, although the Single Judge rightly discontinued hearing the appeal, his remarks which are not based on objective considerations and contain general observations and irrelevant matters are conjectural in nature and were disapproved- No case for contempt made out by Single Judge-Hence, suggestion for initiating contempt proceedings by Supreme Court on reference to it by Single Judge, rejected**

12**) 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."*

13) **Midnapore Peoples' Co-op. Bank Ltd. & Ors. V. Chunilal Nanda & Ors**.

[ 2006 (5) SCC 399]

- Employee-Suspension-Enquiry Proceedings-Challenge to-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-Constitution of India, 1950, Article 136

## 14 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 natural 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.**

# Conclusion

- Take care not to commit contempt of court of any kind
- THANK YOU