

CONTEMPT OF COURT

CGM GROUP EIGHT

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INTRODUCTION

- **“Contemner”** and **“tempter”** are two words which are synthesized to make **“contempt”** and it means to **“value little”**.
- **Why do Court need to have Contempt of Court powers?**
 - Possibility of wilful disobedience of courts’ orders.
 - Tendency to lower image of judiciary.
 - 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.

CONSTITUTIONAL PROVISIONS

- **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.

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** can be of two types - 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)]

CRIMINAL CONTEMPT OF COURT



CASE LAWS:

Brahma Prakash Sharma v State of Uttar Pradesh	<p><i>The object of the Contempt jurisdiction was not the protection of the judges from any criticism they may be subjected to as individuals.</i></p> <p>The Courts should weigh in two considerations in such cases</p> <ul style="list-style-type: none">(i) whether the consideration on the conduct or character of the judges is within the contours of fair and reasonable criticism and,(ii) whether it is merely defamation of the judge or contempt of the Court
P. N. Duda v P Shiv Shankar	<p><i>The notorious portions of the speech delivered at the seminar were that the “Supreme Court was constituted by Elite class and had sympathy for the Zamindars.”</i></p> <p>Justice Mukherji observed that the speech read in its proper perspective did not interfere or obstruct the administration of justice but the use of the language employed in the speech could have been mild.</p>

CASE LAWS:

<p>S. Mulgaonkar v Unknown</p>	<p><i>This watershed ruling gave the critical Mulgaonkar principles which inherently imposed a caution in exercising the contempt proceedings.</i></p> <p>The Court must not be prompted to act as the result of easy irritability and must only act when justice is jeopardized by a gross attack on the judges, where the attack is meant to obstruct the judicial process</p>
<p>The case of Arundhati Roy</p>	<p><i>The Court held her guilty of criminal contempt of itself by imputing motives to the Court in her affidavit.</i></p> <p>Ms. Roy said that the court had ample time to issue a notice in an absurd and unsubstantiated petition but showed reluctance to entertain a scandal case that concerned national security and was manifest of corruption in the highest places.</p>

CASE LAWS:

Prashant Bhushan Case	<p><i>The Court said his tweets has “undermined the dignity and authority of the institution of the Supreme Court of India and the Chief Justice of India”.</i></p> <p>He has categorically contended that his tweets constitute free speech and every form of criticism “however outspoken, disagreeable or however unpalatable, cannot constitute contempt of court”.</p>
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Comparative Analysis of Criminal Contempt across different Jurisdictions

- In the **United Kingdom**, the offence of scandalizing the courts was abolished in 2013 after a Law Commission report. This is interesting to note since the Indian law of Contempt of Court is derived from the Common Law.
- In the famous [Spycatcher case](#), an English newspaper published a caricature of three judges and captioned it, “ You Old Fools”. Lord Templeman denied initiation of contempt proceedings and wittingly replied that he was indeed an old man but whether he was a fool was a matter of public perception, although he did not think so.
- The **United States of America** currently has watered down the contempt law by numerous judgements which affirm that the dignity of the courts cannot be established by silencing public opinion or by restricting the free discussions about the Court.

CIVIL CONTEMPT OF COURT



CASE LAWS:

<p>MOHD. ASLAM OBHURE v. UNION OF INDIA & STATE OF UTTAR PRADESH AND ORS.</p>	<p>Undertaking given by Chief Minister of a State both in his personal capacity and on behalf Of his Government- Flagrant breach of undertaking. Sentence of imprisonment of one day with fine of Rs. 2,000 imposed.</p>
<p>INDIAN AIRPORTS EMPLOYEES UNION Vs. RANJAN CHATTERJEE & ANOTHER</p>	<p>Court directed regularization of workmen upon abolition of contract labour system- Certain workmen were not regularized on the ground that the said direction did not apply to these workmen. There must be 'willful' and not mere disobedience, misinterpretation of the executive instructions, would not be a case of Civil Contempt.</p>

DEFENSES IN CIVIL CONTEMPT

- 1. No knowledge of order:** The general principle is that a person cannot be held guilty of contempt in respect of an order of which he claims to be unaware
- 2. Disobedience or breach was not wilful:** It can be pleaded it was due to accidental, administrative or other reasons beyond the control of the party concerned.
- 3. Order disobeyed is vague or ambiguous:** Contemnor can raise a plea in defense that the order whose contempt is alleged cannot be complied with as the same is impossible.
- 4. Order involves more than one reasonable interpretation:** Respondent adopts one of them and acts in accordance with one such interpretation, he cannot be held liable for contempt of court.
- 5. The order has been passed without jurisdiction:** The disobedience or violation would not amount to contempt of court as the order passed without jurisdiction is a void order and binds nobody.

STRATEGIES TO AVOID CIVIL CONTEMPT

- **Do what you are ordered to do:** First and foremost, you should periodically read through any orders or judgments to ensure that you are doing what you are supposed to be doing and to be mindful of any upcoming deadlines.
- **Seek a modification:** If you cannot comply with the terms of an order or judgment, you should seek a modification to change the terms before a Complaint for Contempt is filed.
- **Show up for all court appearances:** If a Complaint for Contempt is filed against you, then you are required to appear in court for a hearing.
- **Call your attorney:** If you believe that you may be in violation of an order or judgment, you should contact an experienced attorney.

PROCEDURE, APPEAL LIMITATION & PUNISHMENT

- **Procedure:** Suo moto/on reference cognizance -> notice-> hearing-> order

- **Appeal:** Shall be filed

(a) where the order or decision is that of a single Judge, to a Bench of not less than two Judges of the Court within 30 days

(b) where the order or decision is that of a Bench, to the Supreme Court within 60 days

from the date of the order appealed against [u/s.19 of the Act].

- **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]

- **Punishment:** 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.

CONCLUSION

- We must realize that a judge is fallible like anyone else. This fact shall instill a sense of sobriety in their judicial conduct. Therefore, it is pertinent that the Courts have a system of checks so that the Courts exercise restraint and approach the contempt cases subjectively and not stifle the legitimate criticism of the Judiciary.
- The legislators have knowingly or unknowingly left the onus to fill the gaps of what constitutes scandalizing the Court and what interferes or obstructs the administration of justice on the Judiciary itself.
- This uncertainty and elasticity in the text of the law has led to an abuse of the authority by the Courts as Contempt of Court has become a mercurial jurisdiction over time giving sweeping discretionary powers to the courts as evidenced by a plethora of judgements.
- This certainly is not a positive development especially in the backdrop of several cases of alleged corruption, partisanship and nepotism in the Judiciary.