

ALL ABOUT CONTEMPT OF COURTS ACT, 1971

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I. Introduction

The true essence of democracy lies in free and independent judiciary, committed to the cause of dispensing justice. The Judiciary is rightly called the guardian of the constitution; therefore it can legitimately be termed as the saviour of rights of the common man. Of all the branches of democracy across the world, Judiciary is the most revered one. Judiciary and Judicial Officers are taken into high regard in the public arena, because they are the ones who are bestowed with the very important and noble duty of providing justice to millions of those who are downtrodden, needy and approach the court with a ray of hope to get their long fought legal battle to a righteous end.

Therefore, in order to maintain the sanctity of Judiciary, the courts are empowered with the jurisdiction to take actions against those who are responsible for 'contempt of court.' India witnessed the genesis of three legal instruments to reach to the final law on Contempt of Court that is applicable today; **The Contempt of Court Act 1971**. The present Act evolved from the Contempt of Court Act 1926 and the Contempt of Court Act 1952.¹

II. The Contempt of Court Act, 1926

As India was a colony of British dominion, therefore prior to this act, the English Common Law principles governed this area of law. In fact, the provisions of this legislation deeply voice these principles. This act was the first piece of legislation in India, governing the act of Contempt of Court. It had 3 sections in total.

¹ *Object of Law of Contempt*, LAW TEACHER,
https://www.google.co.in/search?client=opera&hs=ux6&ei=8UcAW82DDsLlvG50oZ74Dg&q=History+of+Conte+mpt+of+Court+act+in+india&oq=History+of+Contempt+of+Court+act+in+india&gs_l=psy-ab.3..0.6737.11780.0.12247.15.15.0.0.0.0.567.2253.2-5j0j1j1.7.0....0...1.1.64.psy-ab..8.7.2252...0i22i30k1j0i13k1.0.QqKovzvKml4#

This act aimed at fulfilling the following dual objectives:

- 1). of removing the doubts regarding the powers of High Court Division in punishing contempt of court; and
- 2). of defining and limiting the power of the High Court Division in punishing the contempt of court.

Section 2 of this act talked about the power of High Court to exercise the same jurisdiction, powers and authority in respect of contempt of Courts subordinate to it, with the same procedure and practice as it would have used, had the contempt happened with it. But the proviso to this section bars the High Court from exercising the powers given in section 2 in case the contempt is an offence punishable under the Indian Penal Court.

Punishment for Contempt: - Section 3 of this act empowers the High court to award a punishment of imprisonment which may extend to six months, or with fine, which may extend to Rs. 2000/-, or with both. However, the court is barred from awarding punishment that exceeds the one provided for in this section, both for itself and for the subordinate courts. Further, the punishment can be waved off on the service of an apology by the awardees to the satisfaction of the court.

This act was **repealed** by a subsequent act called the **Contempt of Court Act 1952**.²

III. The Contempt of Court Act 1952;

This act sought to remove the shortcomings of the act of 1926 by widening the jurisdiction of the High Court and the scope of contempt law.

The act of 1926 did not contain provisions for contempt of courts subordinate to chief courts and court of judicial commissioner. Also, the High Court was not given power to look into the matter of contempt committed outside the local jurisdiction of it by someone who is not subject to its jurisdiction.

Therefore, this act;

- 1). widened the **definition of ‘High Court’** to include **Judicial Commissioner’s Court**; and

² Bare Act- Contempt of Court Act, 1926.

2). empowered the **High Court** to intervene in the matter of contempt for itself and for the subordinate court whether committed **within or outside its local jurisdiction**, committed even by someone who is **not subject** to the jurisdiction of the courts mentioned.

In spite of these improvements this act did not define the term ‘contempt’ and ‘what constitute’ it. This created uncertainty and gave very wide power to the judicial officers to interpret the in their own ways. Thus, there remained a ‘grey area’ with regard to the field of Contempt of Court.³

IV. **H. N. Sanyal Committee recommendation**

A committee was set up under the chairmanship of H. N. Sanyal in 1961 to address this uncertainty in the law and the report was submitted in 1963. Further, a joint committee considered these recommendations and prepared the draft of the act on Contempt of Court which was accepted 1971.

V. **Frequently Asked Questions**

Q1. What is the scope of the Contempt of the Court Act 1971?

The preamble to this act states that this is an act;

- 1). to define and limit the powers of certain courts;
- 2). in punishing contempt of courts; and
- 3). to regulate the process required to be followed in achieving the purpose of the act.

Q2. What ‘constitute’ Contempt of court under the ambit of this act?

Section 2 (a) to this act defines two categories of Contempt of court, namely, **civil contempt** and **criminal contempt**.

The following instances constitute ‘contempt’-

³ Supra note 1.

1. Civil Contempt- Wilful disobedience to any judgment, decree, direction, order, writ or other process of a court or wilful breach of an undertaking given to a Court by a person in civil proceedings, on the faith of which the Court sanctions a course of action.-*Section 2(b)*
2. Criminal Contempt- The publication of any matter, done whether by spoken or written words, or by signs, or by visible representation or of doing any other act; which; do or have the tendency to;
 - a. scandalise or lower the authority of, any court;
 - b. prejudice, or interfere with the due course of any judicial proceeding; or
 - c. Interfere or obstruct the administration of justice in any other manner.-*Section 2(c)*
3. An act of a judicial officer and a lawyer deliberately acts contrary to any order of a court and publishes libellous allegations against sitting Judges of High Court, respectively.
4. Publication of information relating to proceeding in chambers or in camera is contemptuous if;
 - a. It is contrary to the provisions of any enactment;
 - b. The court expressly prohibits the such publication;
 - c. The court sits in chambers or in camera for reason connected with public order or the security of the State; and
 - d. The information relates to a secret process, discovery or invention which is an issue in the proceedings. *Section 7.*

Q3. Which instances ‘do not’ constitute contempt of court within the ambit of this act?

The following instances don’t constitute Contempt of Court;

1. Publication of any matter in any form which has the tendency to interfere or obstruct the course of justice in any civil or criminal proceeding if; it is published while the case is pending but the person doing so does not have any reasonable ground to believe so, if the publication is made after completion of the case and if the person distributing such publication didn’t have any reason to believe that it contain any matter as aforesaid. *Section-3*

2. Publishing a fair and accurate report of a judicial proceeding or any stage thereof. *Section-4.*
3. Publication of any fair comment on the merits of any case which has been finally decided. *Section-5.*
4. Any statement made by a person in good faith concerning the presiding officer of any subordinate court to any other subordinate court, or the High Court, to which it is subordinate. *Section-6.*
5. Publication of information relating to proceeding in chambers or in camera except in certain cases. *Section-7.*
6. Publication of a fair and accurate report of a judicial proceeding before any court sitting in chambers or in camera. *Section-7.*

Q4. What are the punishments prescribed for Contempt of Court under this act?

1. 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**. *Section-12(1).*
Provided that this punishment is not imposed unless the court is satisfied that the contempt is of such a nature that it **substantially interferes**, or tends substantially to interfere with the due **course of justice**.
2. In case a person is found guilty of **Civil Contempt**, he can be detained in a **civil prison** by a court for such period not exceeding **six months** as it may think fit, **if** imposition of **fine doesn't satisfy** the court to meet the ends of justice. *Section-12(3).*
3. Any disobedience, breach, publication or other act which is punishable under this act for contempt of court may also be punishable under the provision of any other act. *Section-9.*
4. Where the contempt of court has been committed by a company with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such persons shall also be deemed to be guilty of the contempt and the punishment may be enforced, with the leave of the court, by the detention in civil prison of such director, manager, secretary or other officer. *Section-4&5.*
However, lack of knowledge or neglect on part of such persons with regard to contempt, can serve as a valid defence against such punishment.

5. The accused may be discharged or the punishment awarded to him may be remitted on apology being made to the satisfaction of the court. Provided that an apology shall not be rejected merely on the ground that it is qualified or conditional if the accused makes it bona fide. *Section-12(1)- Explanation.*

Q5. What are the powers vested with High Court with regard to awarding punishment for Contempt?

6. Every High Court shall;
 - a. Have and exercise the same jurisdiction, powers and authority, in case of contempt of courts subordinate to it, in accordance with the same procedure and practice, as it has and exercises, in respect of contempt of, itself. But every High Court is barred from taking cognizance of contempt offence committed against court subordinate to it which is punishable under Indian Penal Code, 1860. *Section-10.*
 - b. Have jurisdiction to inquire into or try contempt of, itself or of any court subordinate to it, whether alleged to have been committed within or outside the its jurisdiction, and whether the person alleged of such contempt, is within or outside such limits. *Section-11.*
7. Every court is duty bound to impose a sentence which is **not** in excess of that specified in this act for any contempt either in respect of itself or of a court subordinate to it. *Section-12(2).*

Q6. What is the procedure to be followed in case contempt is committed in the face of the Supreme Court or a High Court? *Section-14.*

In case the Supreme Court or the High Court finds a person guilty of contempt, committed in its presence or hearing, the court may cause;

- a. Such person to be detained in custody, and,
- b. To be informed in writing of the contempt charges against him at any time before the rising of the court, on the same day, or as early as possible;
- c. To have an opportunity to make his defence;

- d. To proceed with the matter determining the charge, by conducting a fair hearing, considering all the evidence;
- e. To make such order for the punishment or discharged of such person as may be just.
- f. To place before the Chief Justice, the application and facts of the matter of the contempt case, for his approval, **if** the person, charged with this offence of contempt, makes an application for his case to be tried by a judge who was not present in the court when the matter took place and the court thinks it fit in the interest of justice to so.
- g. To discharge such person from punishment on his executing a bond without sureties for his attendance as aforesaid, if it thinks it fit to do so.

Q7. What is the procedure to be followed in cases of criminal contempt (other than the ones mentioned in the above question i.e. Q6)?

The Supreme Court or the High Court may take cognizance of the offence by themselves or by any motion passed by the Advocate- General or by any other person with the Advocate-General's consent. In the case of any criminal contempt of a subordinate court, the High Court may take action on a reference made to it by such subordinate court. And, every such motion or reference should mention the charge of contempt. *Section-15.*

The procedure to be followed is as following (Section-17)

1. Every person charged of criminal contempt should be served a notice of every proceeding undertaken in section 15,
2. This notice should be accompanied by;
 - a. A copy of the motion or reference if initiated at the instance of an Advocate General or any Subordinate Court, as the case may be.
3. If the court has the reasons to belief that the person charged under section 15 would abscond or run away from the legal proceedings, then it can attach his property of such value or amount in the manner provided in the Code of Civil Procedure, 1908
4. Any person charged with contempt under Section 15 may file an affidavit in support of his defence, and the court may determine the matter of the charge either on the affidavits filed or after taking evidence as may be necessary, and pass such order as the justice of the case requires.

Hearing of cases of criminal contempt to be by Benches (Section-18)

1. Every case of criminal contempt under Section 15 shall be heard and determined by a Bench of not less than two Judges. However, this shall not apply to the Court of a Judicial Commissioner.

Procedure for Appeals (Section-19)

An appeal shall lie from any order or decision of High Court to punish for contempt

- a. Where the order or decision is that of a single judge, to a Bench of not less than two Judge of the court;
- b. Where the order or decision is that of a Bench, to the Supreme Court.
- c. Where order or decision is that of the Court of the Judicial Commissioner in any Union territory, such appeal shall lie to the Supreme Court. (2)

While taking up the appeal, the appellate court may order that

- a. The execution of the punishment or order appealed against be suspended;
- b. If the appellant is in confinement, he be released on bail; and
- c. The appeal be heard notwithstanding that the appellant has not purged his contempt

An appeal under the above mentioned case shall be filed;

- a. In the case of an appeal to a Bench of the High Court, within thirty days; and
- b. In the case of an appeal to the Supreme Court, within sixty days, from the date of the order appealed against.

Q8. What are the provisions related to Contempt of Court by a Judge, magistrate or other person acting judicially?

A judge, magistrate or other person acting judicially shall also be liable for contempt of his own court or of any other court in the **same manner** as any other **individual is liable** and the provisions of this Act shall, so far as may be, apply accordingly. However, no observations or remarks made by a judge, magistrate or other person acting judicially, regarding a subordinate court in an appeal or revision pending shall be taken as contemptuous. *Section-16.*

Q9. What is the limitation for actions for contempt of court?

The proceedings of contempt shall initiate by the court, either on its own motion or otherwise, **before the expiry of a period of one year** from the date on which the contempt is alleged to have been committed. *Section-20.*

Q10. What are other relevant provisions that need to be looked at?

1. This act shall not apply to contempt of Nyaya Panchayats or other village courts. *Section-21.*
2. This act is to be applied in addition to, and not in derogation of, other laws relating to contempt. *Section-22.*
3. The Supreme Court or, as the case may be, any High Court, may make rules, not inconsistent with the provisions of this Act, providing for any matter relating to its procedure. *Section-23.*

VI. Conclusion

The Contempt of Court Act 1971 is the legislative instrument that governs the law of Contempt of Court in India. Running across 24 sections, this act repealed the Contempt of Court Act 1952 (*Section-24*). On a broader scale it helps in maintaining the sanctity of the most reserved branch of the democracy; the Judiciary.