



Review Document
Contempt of Court Act, 1971
LAW FORUM
Author- Ms. Pooja Mandotar

CONTEMPT OF COURT ACT, 1971

Introduction:

The source of the law of Contempt in India can be traced from the English law. In England Superior Courts of record have framed early occasions, practicing the ability to commit contempt for people who scandalized the Court or the Judges. The privilege of the Indian High Courts to punish for contempt was primarily recognised by the Judicial Committee of the Privy Council which saw that the offense of the contempt of court and the power of the High Courts to punish it are the equivalent in such courts as in the Supreme Court in England. The first Indian statute on the law of contempt i.e., the Contempt of Courts Act was passed in 1926. It was sanctioned to characterize and restrict the powers of specific courts in punishing contempt of courts. At the point when the Contempt of Courts Act, 1926 (XII of 1926) was in existence in British India, different Indian States likewise had their own enactment. These States were Hyderabad, Madhya Bharat, Mysore, Pepsu, Rajastha, Travancore-Cochin and Saurashtra. The Indian States and the Contempt of Courts Act, 1926 were replaced by the Contempt of Courts Act, 1952 (32 of 1952).

An attempt was made in April, 1960 to present in the Lok Sabha a Bill to unite and revise the law identifying with Contempt of Courts. On an assessment of the Bill, government seems to have felt that the law relating with Contempt of Courts is questionable, vague and unsatisfactory and that in the light of the constitutional changes which have occurred in the nation, it was advisable to have the whole law regarding the matter scrutinized by a Special Committee set up for the reason. In compatibility to that decision a Committee was set up on 29th July, 1961 and it presented its report on 28th February, 1963 to define and restrict the powers of specific courts in punishing contempt of courts and to manage their system in relation thereto.

The Joint Select Committee of Parliament on Contempt of Courts went in detail and another Bill, The Contempt of Courts Bill, 1968 was set up by the Joint Select Committee and the act came into force in 1971¹.

¹<https://www.indiacode.nic.in/bitstream/123456789/1514/1/197170.pdf>

Significances of the act:

1. The jurisdiction to punish for contempt addresses two significant fundamentals of the rights of the citizens namely, the rights to individual freedom and the right to freedom of expression. It was, accordingly, considered to be fitting to have the whole law regarding the matter scrutinized by a special committee.
2. The Committee made an extensive examination of the law and issues identifying it with contempt of Court in the light of the position acquired in our own nation and various foreign countries.
3. This Act extended to the whole of India, this Act defines the Contempt of Court which has not been given by the previous Act of Contempt of Court.
4. This Act under Section 2(a) defines Contempt of Court as 'Civil Contempt' and 'Criminal Contempt'. There is a case of *Noorali Babul Thanewala v. K.M.M. Shetty*² in which an endeavour was given to a Court in civil proceedings by an individual, on the confidence that endeavour was right. The Court sanctions a course of action in regard to that endeavour but the endeavour is by all accounts mistaken. Henceforth, this was considered as misconduct and added up to Contempt of Court.
5. In this act, the High Court has been enabled to settle on decisions on the issue which is outside its jurisdiction. Punishment for Contempt of Court has been given in this Act and furthermore what kind of misconduct not add up to Contempt of Court has been given.
6. The Judge, Magistrate or any other individual who is acting judicially can likewise be contempt for their activities. Likewise, this Act gives certain limitations where this Act does not apply.
7. This Act doesn't apply to the Courts of Nyaya Panchayat and different Courts of the town. This Act repealed the old existing Act of Contempt of Court which came into force in 1952.

²1990 AIR 464, 1989 SCR Supl. (2) 561

Object of the Act:

1. The object of contempt procedures isn't to shield judges personally from criticism but to ensure people in general by safeguarding the authority of the court and the administration of justice from unjustifiable assault; however, judges can't utilize it to wreck individual vengeance.
2. To sustain the confidence of the public in administration of justice.
3. In the case of contempt which isn't committed notwithstanding the court, which might be described as constructive contempt, and which relies on the interference of an aim to obstruct the course of justice, guidelines for the activity of the jurisdiction to commit for contempt have been set down as follows:
 - a) Economical use of jurisdiction is attractive.
 - b) Harmonisation between free criticism and the legal executive ought to be the objective.
 - c) Disarray between the individual security of a criticized judge and the prevention of obstruction of public justice should be avoided.
 - d) The press ought to give free play within responsible limits, in any event, even when the focus of its critical attention is the court.
 - e) Judges ought not to be easily affected, even where mutilations and criticism overstep the limits.
4. Not to protect individual judges or magistrate nor to vindicate his or her personal prestige.
5. The term Contempt of Court implies Civil Contempt or Criminal Contempt. The thought is to see and observe whether mens rea as such is available. Mens rea isn't a basic element of the offense of contempt, the courts are hesitant to punish a contemnor, if the act or omission complained of, was not wilful.
6. The aim with which this law was passed was to guarantee that the stream of justice has been kept clear and that nobody is at freedom to despoil its purity.
7. Any one intending to do as such, must be dealt sternly so the message percolates loud and clear that nobody can be permitted to undermine the dignity of the court and meddle with the proper way of legal procedures or the administration of justice.
8. Contempt of court implies wilful act or omission which is done deliberately and with specific thought to accomplish something that law forbids or with specific goal

neglect to accomplish something the law requires to be done with wrong purpose either to disobey or to disregard the law.

9. To uphold the dignity of law courts and their majesty.
10. For ensuring his personal reputation and esteem the remedy lies in the action for libel and defamation under Section 499 of IPC.

Important provision:

1. **Section 2-** civil and criminal contempt -

Civil contempt means 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;

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:

- a) scandalises or tends to scandalise, or
- b) lowers or tends to lower the authority of, any court; or
- c) prejudices, or interferes or tends to interfere with, the due course of any judicial proceeding; or
- d) interferes or tends to interfere with, or obstructs or tends to obstruct, the administration of justice in any other manner;

2. **Section 12-** Punishment for contempt of court. 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.

3. **Section 13** - has been added in the Contempt of Court Act, 1971 after amendment in 2006. The new Act may be called The Contempt of Court (Amendment) Act, 2006. This Section says that contempt of court cannot be punished under certain circumstances or certain cases.

4. **Section 14** - of the Contempt of Court deals with the procedure of contempt proceeding in the face of the court of record whereas Section 15 of this Act deals with the procedure of the contempt proceeding outside the court of records.

5. **Section 20** of the Contempt of Court Act, 1971 deals with the limitation for the action of Contempt. It states that no court shall initiate any proceedings of contempt in two conditions:

- a) Either the proceedings are on his own motion, or,

- b) After the period of one year from the date on which the contempt is alleged to have been committed.

Landmark Contempt Judgments:

1. *Supreme Court Bar Association vs Union of India &Anr*³: In this case, the Judge held that the procedural angle for Contempt of Court may even now be recommended by the Parliament so it could be applicable in the Supreme Court and the High Court. This implies Section 12(1) of the Contempt of Court Act, 1971 which recommended a most extreme fine of Rs. 5000 and imprisonment for a term of a half year shall be applicable in this case.
2. *ZahiraHabibullah Sheikh&Anr vs State of Gujarat &Ors*⁴: It was held for this situation that the punishment that is given for Contempt of Court Act, 1971 was applicable to the High Court however for the Supreme Court, it acts as a guide. The judgment that was given was not accompanied by discernment, this was troubling on the grounds that the Supreme Court has been given incredible powers that the drafters of the Indian Constitution has additionally not given.
3. *Sudhakar Prasad vs. Govt. of A.P. and Ors*⁵: This case is likewise like the Supreme Court Bar Association Case. In this case also once again the Supreme Court declared that the powers to punish for contempt are inherent in nature and the provision of the Constitution only recognised the said pre-existing situation. The provision of the Contempt of Court can't be utilized to restrict the activity of locale given in Article 129 and Article 215 of the Constitution.
4. *P.N. Duda vs V. P. Shiv Shankar & Others*⁶: In this case, the Supreme Court saw that the judges can't utilize the contempt jurisdiction for maintaining their own dignity. Our nation is the free commercial centre of thoughts and nobody could be limited to criticise the judicial system unless this criticism hampers the 'administration of justice'.
5. *R. Rajagopal vs State of T.N*⁷: This case is otherwise called the Auto Shankar case; in this case, Justice Jeevan Reddy invoked the renowned doctrine of John Sullivan. This

³In Re: Vinay Chandra Mishra (1995) 2 SCC 584.

⁴cr1.446-449 of 2004.

⁵AP, (2001) 1 SCC 516.

⁶1988 AIR 1208, 1988 SCR (3) 547

⁷1995 AIR 264, 1994 SCC (6) 632

doctrine expresses that the open must be available to severe remarks and allegations as long as made with bona fide ingenuity, regardless of whether it is false.

Recent Amendment:

1. In 1991, the Supreme Court ruled that it has the power to punish for contempt not only of itself but also of high courts, subordinate courts and tribunals functioning in the entire country.
2. Defences allowed in a Contempt proceeding - Under Contempt of Court Act, 1971 that was introduced recently by 2006 amendment, it allows the accused to raise the defence of justification by truth of such contempt, if the court is satisfied that it is in public interest and the request for invoking the said defence is bona fide.
3. Short title.-This Act may be called the Contempt of Courts (Amendment) Act, 2006.
4. Substitution of new section for section 13. 2. Substitution of new section for section 13.-In the Contempt of Courts Act, 1971 (70 of 1971), for section 13.
 - (a) No court shall impose a sentence under this Act for a contempt of court unless it 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;
 - (b) The court may permit, in any proceeding for contempt of court, justification by truth as a valid defence if it is satisfied that it is in public interest and the request for invoking the said defence is bona fide.

Loopholes:



1. The watchfulness that a judge has in deciding contempt and its punishment has been a questionable issue according to certain researchers on the grounds that the contempt power has given a lot of power to the Judges.
2. The due process or absence of limitation in the punishment for contempt of court. Critics have argued that the judges in the Criminal contempt might be too brutal while giving the Judgment.

Conclusion:

The Act 1971 isn't the source of 'power to punish for contempt' however a procedural statute that manages the requirement and guideline of such power, since, preceding the commencement of Act 1926 these powers were practiced by the Superior Courts. The powers of the Supreme Court and High Courts are independent of the Act 1971, and by making any amendments, the ability to punish for contempt under the Constitution can't be repealed.



LEGALEAGLE
LAW FORUM

About the Author



My name is Pooja Mandotar and I am studying Bishop Cotton Women's Christian Law College, Bengaluru. My experience at LEGALEAGLE LAW FORUM, internship was for 4 weeks, which started with a zoom call to explain us regarding the research to be accomplished. After which I was given a set of 6 Bare Acts Title which was supposed to be completed by me. It was a great learning opportunity for me. The research work has made me to accept more in my composing aptitudes and has acquired a lot of certainty in me concerning my capacities to think and efficiently put it down in writing. I would like to thank the Organization for giving out an opportunity like this, especially during a pandemic situation, and a special thanks to the mentors for being so cooperative with me and clearing the doubts in a short span of time.

LEGALEAGLE
LAW FORUM