

Contempt of Court: A Perversion in Indian Criminal Justice System

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ABSTRACT

Contempt of court is any act that disrespects, obstructs or undermines the authority, dignity or functioning of a court, aiming to uphold the administration of justice. Any conduct that has a tendency to interfere with the administration of justice or the due course of judicial proceedings can be prosecuted as criminal contempt. It generally falls into two types: Civil Contempt involves willful disobedience of court orders or breaches of undertakings and Criminal Contempt involves actions like scandalizing the court, prejudicing proceedings or interfering with justice publication or other acts. Punishments can include fines, imprisonment or both and the goal is to maintain public faith in the judiciary. Contempt of court Act protects the authority, dignity and sovereignty of the judges. While fair criticism is allowed, actions that undermine or obstruct justice are punishable. Balancing expression and judicial integrity will strengthen the criminal justice system in the country and will as a result save people's faith in judiciary, ensuring their independent and fair operation without interference. The judges should care for contempt powers as a weapon of last resort, exercising them with caution and restraint, while ensuring order fulfillment and preventing impediment of justice.

Keywords: Contempt, Court, Judiciary, Justice, Punishment.

Introduction

Contempt of court is any act that disrespects, obstructs or undermines the authority, dignity or functioning of a court, aiming to uphold the administration of justice. Any conduct that has a tendency to interfere with the administration of justice or the due course of judicial proceedings can be prosecuted as criminal contempt.

It is very difficult to define the concept of 'contempt of court'. What amounts to offending the dignity of the court or diminishing its prestige is ultimately for the court itself to decide and cannot be restricted to a precise definition. The Contempt of Courts Act attempted, for the first time, to explain contempt of court. However, the Act does not provide a complete statutory definition; rather, it merely classifies the different forms of contempt. In a broader sense, contempt of court refers to any act that undermines the dignity, authority, or reputation of the court.

According to Oswald, contempt refers to any act or behavior that undermines the authority and administration of law, brings the court into disrepute, or interferes with or influences parties and witnesses involved in legal proceedings.

According to Halsbury's Laws of England, contempt of court includes any act or published statement that is intended to disrespect the court or judge, diminish their authority, or obstruct the proper administration of justice and the lawful functioning of the court.

According to Corpus Juris Secundum, contempt of court refers to disobedience or conduct that goes against the authority, dignity, and justice of the court. It implies a deliberate disregard or violation of a court's order and also includes behavior that undermines the authority of the court and the administration of justice.

It generally falls into two types: Civil Contempt involves willful disobedience of court orders or breaches of undertakings and Criminal Contempt involves actions like scandalizing the court, prejudicing proceedings or interfering with justice publication or other acts. Punishments can include fines, imprisonment or both and the goal is to maintain public faith in the judiciary.

The Purpose of Contempt of Court Act is to uphold the authority and dignity of the judiciary, to ensure the fair administration of justice and to maintain public confidence in the courts.

Classification

Under Section 2(a) of the Contempt of Courts Act, 1971, contempt of court is classified into two categories: civil contempt and criminal contempt. Section 2(b) defines civil contempt as the intentional disobedience of any judgment, decree, direction, order, writ, or other process issued by a court, or the deliberate breach of an undertaking given to the court. Section 2(c) defines criminal contempt as the publication of any matter—whether spoken, written, expressed through signs, visible representations, or in any other form—or the commission of any act that amounts to contempt.

- Brings, or is likely to bring, the authority of any court into disrepute or diminishes, or tends to diminish, its dignity and authority.
- Causes prejudice to, obstructs, or is likely to obstruct the proper conduct of any judicial proceeding.
- Interferes with, obstructs, or is likely to interfere with or obstruct the administration of justice in any other way.

It merely indicates that the contempt may be criminal contempt or civil contempt. It is thus better to leave it to the court to deal with each case as it comes and a right of appeal under Section 19 of Section the Contempt of Court Act, 1971, in all cases of contempt will cure whatever defect there may be in the application of the law.

There are numerous instance of the misconduct such as using insulting language against the judge, suppressing the facts to obtain favorable order, imputation of partiality and unfairness against the judge. A council who advises his client to disobey the order of court is also held responsible for disrespect of court. Aggressive the judges in the Bar Council election is taken as contempt of court. If the council refuses to answer the question of the court is also responsible for disrespect of court.

- **Civil Contempt:** The purpose of the proceeding for the civil contempt is not only to punish the contemner but also to exercise enforcement and obedience to the order of the Court. In *Vidya Sagar v. Third Additional District Judge, Dehradun*¹, it was held that Civil Contempt, actually, serves dual purpose:

- Vindication of the public interest by punishment of contemptuous conduct; and
- Coercion to compel the contemner to do what the Court requires of him.

To constitute 'Civil Contempt' the followings are required to be proved:

- There is disobedience of the order, decree, etc. of the Court or breach of undertaking given to the Court; and
- The disobedience or breach is willful.

These requirements may be discussed as follows:

- **Noncompliance of the order, decree, etc. of the Court or breach of undertaking given to the Court:** For civil contempt it is necessary that order which has been disobeyed must have been passed by the Court having jurisdiction to pass order. If the order has been passed without jurisdiction, it is not obligatory on the party against which it has been passed and, therefore, the disobedience of such order will not amount to dislike of Court². Further, the burden to prove that

¹1991 Cr LJ 2286.

²*Sultan Ali Nanghiara v. Nur Hussain*, AIR 1949 Lah 131.

the Court which has passed the order had no jurisdiction to pass it or the proceeding in which the undertaking was given was without jurisdiction lies on the person who alleges it.

In *Courts on its Own Motion v. N.S. Kumar*¹, It was held that, as a general rule, a court order should be formally served upon the person against whom it is issued. However, if the Court is satisfied that the concerned individual had actual knowledge of the order, they cannot avoid contempt liability merely because a formal copy of the order was not served on them. Once the Court passes an order and a person is accused of disobeying it, that person cannot claim as a defense that they were waiting for instructions before complying. Nor can they argue that they needed approval or directions from their superiors before carrying out the Court's order.

The breach of undertaking given to the Court is also taken as contempt, if it is willful. Where a person is committed for contempt for breach of undertaking, the undertaking must be given to the court. The undertaking given by one revelry to another is not sufficient for this purpose. An undertaking may be given by the party himself or by any other person on his behalf provided in the second case the person giving the undertaking has authority to give such undertaking. Thus, an undertaking may be given by an activist on the behalf of his client provided he had authority on behalf of his client to give such undertaking.²

The basis for taking the breach of undertaking as contempt of Court is that the contemner by making a false representation to the Court obtain an advantage for himself and if he fails to honor the undertaking, he plays a serious deception on the court itself and thereby obstructs the course of justice and brings into disrepute the judicial institution.³

To avoid contempt proceedings, there must be substantial compliance with the court's order. No court, including a contempt court, should consider minor or insignificant deviations while assessing the conduct of the alleged contemnor. If the order has been largely complied with in substance, contempt proceedings will not be maintainable.⁴

- **Willful disobedience or breach:** For Civil Contempt the disobedience of the order, decree, etc. of the Court or breach of undertaking given to the Court must be willful. In India the Supreme Court⁵ has, often, pointed out that in order to punish a person or authority for disrespect of court, the noncompliance to any decision, etc. or breach of undertaking to the Court must be willful. Thus, mere disobedience of the order of Court is not sufficient to constitute civil contempt. The disobedience must be willful. The disobedience must be deliberate and intentional. The contempt power cannot be used unless the court is satisfied beyond doubt that the person has deliberately and intentionally violated the order of the court.⁶

Whether the disobedience has been willful, is an issue to be decided through the court, taking into account the facts and circumstances of the case.⁷In *Ram Narang v. Ramesh Narang*,⁸ the Court has held that the definition of civil contempt given in section 2(b) creates two categories of cases:

- Willful disobedience to a process of Court; and
- Willful breach of responsibility given to a court.

With regard to the first category, the use of the word "any" highlights the broad scope of the power. The statute does not make any distinction between an order passed after adjudication and one passed by consent. This first category is separate from the second category. The legislative intention has been to distinguish between the two and create distinct classes of contumacious behavior. For application of category second the undertaking must have been specified to the court and not to the other party. The Court has made it clear that will full violation of terms of consent decree amounts to disrespect of court. For the enforcement of decree or direction of the court for payment of money, the disrespect command cannot be used.⁹ The Court has made it clear that for the enforcement of such decree or

¹1995 Cr LJ 1261.

²*B.K. Rao v. Prithwish Kor*, (1989) IT CHN 58 (DB).

³*Babu Ram Gupta v. Sudhir Bhasin*, AIR 1979 se 1528 at 1532.

⁴*Sukumar Mukhopadhyay v. T.D. Karamchandani*, 1995 Cr LT 1610 at p. 1612.

⁵*J. Vasudevan v. T.R. Dhananjaya*, AIR 1996 SC 137.

⁶*C. Elumalai v. A.G.L. Arudayaraj*, AIR 2009 SC 2214.

⁷*Niaz Mohammad v. State of Haryana*, (1994) 6 see 332.

⁸AIR 2006 se 1883.

⁹*Food Corporation of India v. Sukh Deo Prasad*, AIR 2009 se 2331.

direction the disrespect authority either below the contempt of court act or under Order 39 Rule 2A of the CPC cannot be used.

- **Criminal Contempt:** In India the explanation of disrespect of court is found in clause (c) of Section 2 of the contempt of courts act, 1971. It states that criminal contempt refers to the publication of any material—whether through spoken or written words, signs, visible representations, or any other means—or the commission of any act that scandalizes or tends to scandalize, or lowers or tends to lower, the authority of any court, or that prejudices, interferes with, or is likely to interfere with the due course of judicial proceedings, or that in any other way interferes with or obstructs, or tends to obstruct, the administration of justice.

In *Delhi Judicial Services Association v. State of Gujarat & others*¹, The Court held that the definition of criminal contempt is broad enough to cover any conduct that tends to interfere with the administration of justice or diminish the authority of the court. The scope of criminal contempt has been deliberately kept wide to enable the court to protect the dignity and authority of law, which is essential for maintaining the rule of law.

In *Hira Lal Dixit v. State of U.P.*², The Court held that, for criminal contempt, it is not necessary that the act or publication must have actually resulted in scandalizing or lowering the authority of the court, or in interfering with judicial proceedings or the administration of justice. The essence of the offence lies in the likelihood that such conduct may produce these effects. The Court further observed that the law of contempt is primarily preventive and deterrent in nature, aimed at preventing scandalization, prejudice, or interference with the due course of justice rather than merely punishing conduct after such consequences have occurred. Therefore, contempt is made out even by an attempt, and it does not depend on whether justice was actually obstructed or influenced.³

In *re P.C. Sen*⁴, The Court held that criminal contempt operates on the principle of strict liability, meaning that intention to obstruct the administration of justice is not a necessary element for establishing the offence. The core of contempt lies in whether the conduct has a tendency to interfere with the due course of justice, and factors such as motive or good faith of the alleged contemnor are irrelevant. It is sufficient if the act is inherently likely to cause such interference. In this sense, men's rea, particularly the intention to undermine the reputation of a judge or court, is not an essential requirement for criminal contempt. What matters is the impact of the act rather than the act itself. As of 2026, contempt of court continues to serve as an important legal tool for safeguarding the authority, dignity, and independence of the judiciary. In India, it is mainly regulated by the Contempt of Courts Act, 1971, along with relevant provisions of the Constitution of India.

Constitutional Validity of Contempt Law

Power to penalize for disrespect is inherent in Court of Records. This was with a outlook to maintain the due administration of justice. It is pertinent to mention that prior to the enactment of the constitution of India, 1950 the statutory recognition of this position has been formulated as early as in 1935 in Section 220(1) of the government of India act, 1935.

The Supreme Court, as the highest judicial authority and a Court of Record, possesses inherent power to punish for contempt under Article 129 of the Constitution. The provision states that the Supreme Court is a Court of Record and is vested with all the powers of such a court, including the authority to punish for contempt of itself.”.

Parliament and State Legislatures are empowered to make laws on subjects listed in the Seventh Schedule of the Constitution. Parliament has exclusive authority over matters in List I (Union List), while State Legislatures have exclusive jurisdiction over matters in List II (State List). Both Parliament and State Legislatures can legislate on subjects in List III (Concurrent List).

Entry 77 of the Union List covers the constitution, organisation, jurisdiction, and powers of the Supreme Court, including contempt of that Court, as well as the fees charged therein and the persons allowed to practise before it. Entry 14 of the State List deals with contempt of court, except contempt of the Supreme Court.

¹(1991) 4 SCC 406.

²AIR 1954 SC 743.

³ In the matter of a letter concerning Suit No. 1947 of 1952, AIR 1959 Oal 17.

⁴1970 SC 1821

On the basis of these provisions, the Sanyal Committee has derived a conclusion that the parliament is entirely capable to legislate with admiration to experienced of court subject only to the prerequisite that the government cannot take away the authority of the highest Court or the High Court to punish for contempt or vest that power in some other court. Besides, the Sanyal Committee has observed that Article 142(2) of the Constitution of India provides that the Apex Court shall have all and every authority to make any order for the use of securing the attendance of any person, the discovery or production of any document, or the investigation or punishment of any contempt of itself. However, an important limitation on the legislative power is that it should not be so exercised as to stultify the status and dignity of the superior Courts.

According to article 372(1) of Constitution of India, all the laws in force in the territory of India immediately before the commencement of this Constitution shall continue in force therein until altered or repealed or amended by a competent legislature or other competent authority. That is why Section 22 of the competent of Courts Act 1971, it makes it clear that the provision of this Act shall be in Addition to and not in derogation of the provision of any other law relating to contempt of courts.

In *Noordeen Mohmmad v. A.K. Gopalan*¹, the Kerala high court held that the law of disrespect of court as understood in India is a valid law. The disrespect of Courts Act is not violation of guarantee of equality and Article 14 as the classification is founded on the intelligible differentia which distinguisher persons or things that are grouped together from other left out of the group and the differentia has a rational relation to the object thought to be achieved by the statute in question is reasonable. On this test the contempt law is reasonable and not violation of Article 14 held in *Harkchand v. Union of India*².

The contempt law is not violative of the freedom of speech and expression guaranteed by Article 19(1)(a) of the Constitution of India. In several cases³ the Apex Court has observed that the liberty of language and appearance including the press is not complete and restriction thereon may be imposed by the State-making law on any of the ground specified under Article 19(2). disrespect of court is one of the grounds specified in Clause (2) of Article 19 and, therefore, the restriction on freedom of speech and expression may be imposed, if it amounts to contempt of Court. Article 19(2) allows not only the enactment of law imposing restriction on the freedom of speech and expression so as to prevent the contempt of court but also protects the existing law in relation to contempt. The Supreme Court in *C.K. Daphtary v. O.P. Gupta*⁴, has made it clear that the existing law relating to contempt of Court imposes reasonable restriction within the meaning of Article 19(2) and, therefore, it is not violative of the Fundamental Right to freedom of speech and expression guaranteed by Article 19(1) (a).

The law of contempt does not violate Article 21, which guarantees that no person shall be deprived of life or personal liberty except in accordance with the procedure established by law. It has been made clear by the court in *State of Bombay v. Mr. P.*⁵, The existing procedure for contempt proceedings has statutory backing. Section 3 of the Contempt of Courts Act, 1952 and Section 10 of the Contempt of Courts Act, 1971 clearly recognise the procedural framework governing contempt. Therefore, it cannot be argued that contempt law violates Article 21, as the expression "procedure established by law" includes procedures that are already recognised by the Constitution and the courts.

Moreover, summary procedures in contempt matters were in practice even before the Constitution came into force and have since been affirmed by judicial recognition. Article 225 of the Constitution also ensures the continuation of such procedures. On this basis, it can be concluded that the Contempt of Courts Act, 1971 does not infringe any constitutional provision and is constitutionally valid.

Legal Framework

- **Courts on record:** Article 129 and Article 215 empower these superior courts to punish for contempt of themselves.
- **Legislative Basis:** The contempt of courts act, 1971, provides the procedure for exercising these powers, following recommendations from the H.N. Sanyal Committee.

¹AIR 1886 Ker 301.

²AIR 1970 SC 1453.

³*M.S.M. Sharma v. Sri Krishna Sinha*, AIR 1959 SC 395; In *re Keshav Singh*, AIR 1965 SC 745; *E.M.S. Namboodripad v. T.N. Nambiar*, AIR 1970 se 2015.

⁴AIR 1971 SC 1132.

⁵AIR 1959 Bom 182.

- **Suo Motu Power:** High Courts and the Supreme Court can initiate proceedings on their own action (suo motu) or through a third-party petition (which requires consent from the notary general or Advocate General).

Penalty and Punishment

- **Standard Penalty:** Guilty individuals may face up to six months of simple imprisonment, a fine of up to Rs.2,000 or both
- **Apology:** A court may remit the punishment if the accused offers an unconditional and bona fide apology that satisfies the court.
- **Purging Contempt:** In civil cases, an individual can often “purge” the contempt by complying with the court’s original order and demonstrating good behavior.

Resent Activity (2026)

On January 24th, 2026, the Orissa High Court dropped proceedings against a senior IAS officer following an unconditional apology for delaying compliance with court direction.

On January 24th, 2026, the Supreme Court rebuked former Union Minister Maneka Gandhi for comments against judges, though it declines to take formal action.

The delhi high court issued notices on January 24th, 2026, regarding contempt pleas alleging government inaction against unlawful online health aggregators.

Key Exceptions (what is not Contempt)

- **Fair Criticism:** Reporting on or criticizing the merits of a case after it has been finally decided is generally permitted.
- **Accurate Reporting:** Publishing a pale and precise report of official proceedings is protected.
- **True Defense:** Following the 2006 amendment, truth is a valid defense if it is in the public interest and the request is made in good faith.

Conclusion

From the above discussion, it can be concluded that law of contempt of court remains a creature of judge made law. Contempt of court Act protects the authority, dignity and sovereignty of the judges. While fair criticism is allowed, actions that undermine or obstruct justice are punishable. Balancing expression and judicial integrity will strengthen the criminal justice system in the country and will as a result save people’s faith in judiciary, ensuring their independent and fair operation without interference. The judges should care for contempt powers as a weapon of last resort, exercising them with caution and restraint, while ensuring order fulfillment and preventing impediment of justice.

