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LEGISLATION REVIEW ON CONTEMPT OF COURT ACT, 1971 (ACT NO. 70 OF 1971)

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ABSTRACT

The Contempt of Court Act, 1971 is a law in India that defines and punishes acts that amount to contempt of court. The act provides for the punishment of both civil and criminal contempt of court. Civil contempt refers to willful disobedience of any judgment, decree, direction, order, writ, or other processes of a court or willful breach of an undertaking given to a court. Criminal contempt refers to any act that scandalizes or lowers the authority of the court, interferes with the administration of justice, or obstructs the process of the court. The act defines the powers of the court to punish contempt and lays down the procedure for initiating and conducting contempt proceedings. It also sets out the defenses that can be raised in a contempt proceeding and the limitations on the power of the court to punish contempt.

The Contempt of Court Act, 1971 aims to protect the authority and dignity of the courts and ensure the proper functioning of the judicial system. It serves as a deterrent to those who may otherwise attempt to interfere with the administration of justice or undermine the authority of the courts. The Contempt of Courts Act, 1971 originally did not recognize truth as a defense against charges of contempt of court. However, in 2006, an amendment was brought in to Section 13 of the Act, which now allows truth as one of the defense, subject to the condition that it is in the public interest and bona-fide in nature.

Keywords: Contempt of court, willful disobedience, civil contempt of court, Criminal contempt of court, contempt proceedings, Courts.

II. INTRODUCTION

The Contempt of Courts Act, 1971 is a legislation enacted by the Parliament of India to define and punish contempt of court. Contempt of court refers to any action that tends to undermine the authority, dignity or efficiency of the court, or to obstruct the administration of justice.⁸ The act lays down the procedures to be followed in cases of contempt of court, and the penalties that can be imposed for such offences. It recognizes two types of contempt: civil contempt and criminal contempt. Civil contempt refers to 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. Criminal contempt, on the other hand, includes any publication (whether by words, spoken or written, or by signs, or by visible representations, or otherwise) which scandalizes or lowers the authority of the court, or prejudices or interferes with the due course of any judicial proceeding, or interferes with or obstructs the administration of justice in any other manner.⁹ The act also lays down certain defenses that may be raised in cases of contempt, such as fair criticism of judicial acts, or a bona fide complaint made against a judge. Overall, the Contempt of Courts Act, 1971 plays a crucial role in upholding the authority and independence of the judiciary in India.

III. BACKGROUND OF THE LEGISLATION

The history of the Contempt of Courts Act in India can be traced back to the British era, where contempt of court was considered a

⁸ Contempt of Courts Act, 1971 (India).

⁹ Contempt of Courts Act, 1971, § 2, No. 70, Acts of Parliament, 1971 (India).

common law offence. In 1926, the Indian Legislature enacted the Contempt of Courts Act, 1926, which was based on the English law of contempt. However, this act was found to be inadequate in dealing with the issue of contempt of court, and a need was felt to enact a comprehensive legislation on the subject. In 1952, the Law Commission of India submitted a report recommending the enactment of a new Contempt of Courts Act. The Commission suggested that the law of contempt should be codified to ensure that it is not used to stifle legitimate criticism of the judiciary or to curtail the freedom of speech and expression.

Subsequently, in 1961, the Government of India appointed a committee under the chairmanship of H.N. Sanyal to examine the recommendations of the Law Commission and suggest amendments to the Contempt of Courts Act, 1926. Based on the recommendations of the Sanyal Committee, the Contempt of Courts Act, 1971 was enacted, which replaced the 1926 Act. Today, the Contempt of Courts Act, 1971 is the primary law governing Indian legislation that regulates the law of contempt of court. The Act was enacted to define and limit the powers of courts in punishing contempt of court and to safeguard the right of freedom of speech and expression guaranteed under Article 19(1)(a) of the Constitution of India, 1950.¹⁰

A. Types of Contempt of Court:

The Contempt of Courts Act, 1971 provides for two types of contempt - civil and criminal contempt. Civil contempt is when a person willfully disobeys a court order or fails to comply with a court's direction, whereas criminal contempt is when a person publishes any material that scandalizes or lowers the authority of the court or interferes with the administration of justice. There are two main types of contempt of court.¹¹

1. Civil contempt: This type of contempt of court is committed when someone fails to obey a

court order or judgment.¹² Civil contempt can also occur if someone obstructs the court's proceedings, disrupts court decorum, or interferes with the administration of justice. The primary goal of civil contempt is to coerce the contemnor to comply with the court's order or judgment.

2. Criminal contempt: This type of contempt of court is committed when someone intentionally or willfully disobeys a court order, judgment, or decree. Criminal contempt can also occur if someone insults or shows disrespect to the judge, attorneys, or court personnel. The primary goal of criminal contempt is to punish the contemnor for their misconduct and to uphold the authority and dignity of the court.¹³

B. Important Sections Under Contempt of Court Act, 1971, An Analysis:

The Contempt of Court Act, 1971 is an important legislation in India that deals with the offense of contempt of court. The act is divided into various sections which outline the different aspects of the offense. Here is a brief analysis of the different sections of the Contempt of Court Act, 1971:

- 1. Section 1:** Short title and extent, the act extends to the whole of India, with the exception of the state of Jammu and Kashmir, where it applies only to the extent that its provisions relate to contempt of the Supreme Court.
- 2. Section 7:** Publication of information relating to proceedings in chambers or in camera not contempt except in certain cases, according to this Section, publishing a fair and truthful account of legal proceedings before any court, whether it be sitting in chambers or in camera, is not considered contempt of court.

The following exceptions apply to this:

- i. Public Policy

¹² Contempt of Courts Act, 1971, § 2, No. 70, Acts of Parliament, 1971 (India).

¹³ Contempt of Courts Act, 1971, § 2, No. 70, Acts of Parliament, 1971 (India).

¹⁰ INDIA CONST. art. 19, under The Constitution of India, 1950.

¹¹ Contempt of Courts Act, 1971 (India).

- ii. Public Order
- iii. Security of the State
- iv. Information related to a Secret Process, Discovery or Invention, or, in exercise of the power vested in it.

3. Section 10: Punishment for contempt of court, this section outlines the punishment for contempt of court. A person found guilty of civil contempt may be punished with simple imprisonment for a term not exceeding six months, while a person found guilty of criminal contempt may be punished with simple imprisonment for a term up to six months or a fine of up to Rs. 2,000 or both.

C. Procedure For Punishment:

Contempt of court is a serious offense that can result in various forms of punishment. The punishment for contempt of court can vary depending on the jurisdiction, the severity of the offense, and the discretion of the presiding judge. Here are some of the common forms of punishment for contempt of court¹⁴:

1. Fines: The most common form of punishment for contempt of court is a fine. The amount of the fine can vary depending on the seriousness of the offense and the financial situation of the offender.

2. Imprisonment: In some cases, a judge may order imprisonment for the offender as punishment for contempt of court. The duration of the imprisonment can vary depending on the severity of the offense and the discretion of the judge.

3. Community service: Another possible punishment for contempt of court is community service. The offender may be required to perform a certain number of hours of community service as a way of making amends for their offense.

4. Other sanctions: A judge may also impose other sanctions as punishment for contempt of court. These could include probation, a restraining order, or a requirement to attend counseling or therapy.

The punishment for contempt of court can be more severe if the offender is a lawyer or officer of the court, as they are held to a higher standard of conduct. Additionally, if the contempt of court involves disrupting court proceedings or threatening judge or other court personnel, the punishment can be especially severe.¹⁵

IV. CONSTITUTIONALITY OF THE ACT

There are several judicial decisions which state that proceedings related to contempt of court are of strict in nature. Certain landmark judgments related to the contempt of court are:

D. K. Basu v. State of West Bengal¹⁶

In this case, A set of guidelines that must be followed when a person is arrested was established by the Supreme Court of India. If the regulations are broken, the offender will be held in contempt of court. The Court stated, "Failure to comply with the requirements herein above mentioned shall render the concerned official, in addition to being subject to departmental action, also subject to punishment for contempt of court, and the proceedings for contempt of courts may be instituted in any High Court of the country, having territorial jurisdiction over the matter."

Aligarh Municipality v. E.T. Majdoor Union¹⁷

The Supreme Court of India has ruled that a corporate body can be penalised for contempt of court, speaking through Mr. Justice I.D.Dua. The Court has ruled that a corporation (in this case, the Municipal Board) is subject to punishment for contempt by way of a fine and sequestration if they defy a court order that is

¹⁴ Contempt of Courts Act, 1971, § 12, No. 70, Acts of Parliament, 1971 (India).

¹⁵ Contempt of Courts Act, 1971 (India).

¹⁶ D. K. Basu v. State of West Bengal, A.I.R. 1997 S.C. 610.

¹⁷ Aligarh Municipality v. E.T. Majdoor Union, AIR 1970 SC 1767, 1970 CriLJ 1520, (1970) 3 SCC 98.

directed against them. It is an order to people who are formally in charge of running its fairs.

Supreme Court Bar Association Vs. Union of India & Anr¹⁸

It was decided that the procedural aspects of the contempt crime will still be specified by Parliament, ensuring that both the Supreme Court and the High Courts will continue to be able to use them. This situation falls within the provisions of Section 12(1) of the 1971 Contempt of Courts Act, which stipulates a maximum punishment of Rs. 5000 and a maximum term of imprisonment of 6 months.

M.V Jayarajan vs. High Court of Kerala & Anr¹⁹

In a public speech given in 2010, Mr. Jayarajan, an ex-Member of the Legislative Assembly for Kerala, had criticised a Kerala High Court decision regarding prohibiting meetings along public roads in order to maintain a smooth flow of traffic, stating that the judges were "idiots," "should resign from office," and that their judgement had "the value of grass." He was sentenced to six months in prison after the High Court found him guilty of contempt. After an appeal to the Supreme Court, which reduced the penalty from six months to four weeks.

Hari Singh Nagra Vs. Kapil Sibal²⁰

In this case, According to Article 19(1)(a) of the Constitution,²¹ the press is entitled to freedom of expression, even if it is exercised aggressively. This is a fundamental right. It would not be considered contempt to voice a fair and reasonable objection to a ruling that is available to the public or to a judge's public action related to the administration of justice. Since no one, much less judges, can claim infallibility, such fair and reasonable criticism must be welcomed.

However, the Indian Supreme Court has held that the right to freedom of speech and

expression is not absolute and must be balanced against other rights, such as the right to a fair trial and the need to maintain the dignity and authority of the courts. The Supreme Court has also held that the Contempt of Courts Act, 1971²² is a reasonable restriction on the right to freedom of speech and expression, as it is necessary to protect the judiciary from unwarranted attacks that can undermine public confidence in the institution.

V. CONCLUSION

In conclusion, the Contempt of Court Act, 1971 is an essential legislation that helps maintain the dignity and authority of the judiciary. It enables courts to take action against those who indulge in contemptuous behavior towards the court, thereby ensuring that the administration of justice remains impartial and effective. The Act also provides for various defences and safeguards to protect the right to freedom of speech and expression. However, the Act has been criticised by some for being used by the judiciary to curb criticism and dissent, and calls have been made for its reform. In 2006, the Indian government proposed a bill to amend the Contempt of Courts Act, 1971 to make it more specific and to provide for a clearer definition of what constitutes contempt of court. However, the bill did not pass and the original act remains in force.

¹⁸ Supreme Court Bar Association Vs. Union of India & Anr, 17 April, 1998.

¹⁹ M.V Jayarajan vs. High Court of Kerala & Anr, 30 January, 2015.

²⁰ Hari Singh Nagra Vs. Kapil Sibal, Transferred Case (Crl.) No. 2 of 1997.

²¹ The Constitution of India, 1950.

²² Contempt of Courts Act, 1971, No. 70, Acts of Parliament, 1971 (India).