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## PROVISIONS RELATING TO APPEAL IN CONTEMPT OF COURTS ACT, 1971

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### INTRODUCTION

The judiciary cannot itself claim immunity to criticism. Healthy criticism, after all, is quite necessary for its own functioning. However, when such criticism cuts into the meaning of clear distortions or serious misrepresentations, more so if the criticism seems designed to demean the dignity of the judiciary and reduce public trust in it, steps must be taken. Even though action for contempt of court is a discretionary measure, it should not be pressed too frequently or too lightly.

Simultaneously, there is a strong need to abstain even from the use of this tool when it seems necessary to redress improper practice in the courts. Contempt should be used with trepidation and at all times with careful and thoughtful consideration in matters touching the integrity of the authority of the court. Instead of punitive cures, perhaps more beneficial would be to instill in the judiciary standards of accountability and ethics such that criticisms are constructive and at the behest of promoting respect rather than eroding it. Justice Krishna Iyer concluded with a similar opinion with regard to contempt of courts in the well-known case of *S. Mulgaokar*.<sup>148</sup>

It is much difficult to properly define the concept of 'contempt of court'. What publishment would offend the dignity of the court, something that cannot be separated from the prestige of the court, something that must be determined by the court for itself, is keeping to the four walls of a definition. In Indian jurisprudence of contempt, the definition in four walls was first provided in The Contempt of Court Act, 1971.<sup>149</sup> But the definition under §2<sup>150</sup> is more like a classification or set of words which

are inclusive in nature, divided by the nature of contempt.<sup>151</sup>

In other words, any action taken or publication made with a view to bringing a court to disrespect or to lower a judge's or a court's dignity or authority or with the intent to obstruct or impair the due administration of justice or to impair or obstruct the proper functioning of judicial procedures of the court is held to be contempt of court.<sup>152</sup> Time and again, courts have become very inclusive with reference to the definition.<sup>153</sup> For instance, The use of this language against the esteemed Court of law and officers of court, improper motives attributed to them, while they are performing their judicial functions can also lead to a conclusion that there is contempt of Court.<sup>154</sup> Further, But if one refuses or fails to comply with an order, decree, or direction issued by the Court, it may amount to civil contempt.<sup>155</sup>

### CONTEMPT AND ITS CONSTITUTIONAL VALIDITY

The authority to punish for contempt lies within the inherent powers of Courts of Records to secure the effective functioning of the

<sup>148</sup> Re. S. Mulgaokar (1978) 3SCC 339

<sup>149</sup> CONTEMPT OF COURT ACT, § 2, of 1971, Acts of Parliament, 1971 (India)

<sup>150</sup> CONTEMPT OF COURT ACT, of 1971, Acts of Parliament, 1971 (India)

<sup>151</sup> Contempt of Court : A Global Comparison, Tanvi Ojha, SCC 1.4 JCLJ (2021) 1300

<sup>152</sup> Halsbury's Laws of England, 2022, 47A, 16

<sup>153</sup> Vidya Sagar v. Third Additional District Judge, Dehradun, 1991 Cr LJ 2286

<sup>154</sup> Re. Ajay Kumar Pandey 1996 Supp(8) SCR 407

<sup>155</sup> Sultan Ali Nanghiara v. Nur Hussain, AIR 1949 Lah 131.

administration and the concept of justice itself. It is worthwhile to note that even before the introduction of the Constitution,<sup>156</sup> this very authority had the benefit of statutory recognition for as early as 1935 under Section 220(i).<sup>157</sup>

It is a fact that the constitutional validity of the act<sup>158</sup> has been challenged in multiple cases, majorly on three grounds.

The Hon'ble High Court of Kerala, in the matter of **Noordeen Mohmmad v. A.K. Gopalan**,<sup>159</sup> clarified that **firstly**, that the provision related to contempt of court, as applied in India, is a constitutional principle. **Secondly**, it has already been determined that the Contempt of Courts Act does not violate the equal protection clause under Art. 14 of the Constitution. This is because the classification provided under the Act is entirely based on an intelligible differentia distinguishing persons or entities grouped together from those excluded from such grouping. This classification establishes a rational relationship/nexus to the objective sought to be achieved by the statute, and consequently, the contempt law falls within the chaste folds of reasonableness and does not offend Art. 14,<sup>160</sup> as held in **Harkchand v. Union of India**.<sup>161</sup>

Further, the law does not violate the freedom of speech<sup>162</sup> as clarified by several judgments of the Supreme Court. This right is not even absolute in case of press. Any one of the grounds specified under Art. 19(2)<sup>163</sup> can be invoked by the State to enforce restrictions through legislation. Under Clause (2) of Art. 19,<sup>164</sup> contempt of court is one of the permissible grounds which allows for a restriction of freedom of speech and expression if such speech constitutes concept of contempt. Art.

19(2)<sup>165</sup> not only allows passage of legislative measures that impose restrictions to avoid contempt of court but also safeguards existing legislation on contempt.<sup>166</sup>

The law of contempt does not offend Art. 21,<sup>167</sup> as stated in **State of Bombay v. Mr. P.**,<sup>168</sup> where it was maintained that well-settled procedures for contempt proceedings give statutory sanctity. Sections 3<sup>169</sup> and Section 10<sup>170</sup> categorically declare that contempt procedures are recognized by statute. Thus, this cannot be said to be a violation of the law on contempt of Art. 21.<sup>171</sup>

#### PROVISION OF APPEAL UNDER THE CONTEMPT OF COURTS ACT, 1971.

Justice Nicholls pointed out that contempt proceedings are not established for the personal benefit or comfort of judges. Rather, it is intended to protect the judiciary against wrongful criticism or calumny. The point is to ensure that only this institution, responsible for declaring and enforcing the rules that bind society, may be criticized upon proper channels, namely, appeals and formal approaches.<sup>172</sup>

It is pertinent to note that Section 19<sup>173</sup> establishes right to appeal against an order of conviction issued under the Contempt of Courts Act.<sup>174</sup> Therefore, the person convicted of contempt, if dissatisfied with the order would have the opportunity to appeal against the said conviction in a superior court.

**Exception** – An appeal, by no means, can be presented against the orders passed under sections §12,<sup>175</sup> §13<sup>176</sup> or §14.<sup>177</sup> In other words, if a

<sup>156</sup> Basu, D. D. Commentary on the Constitution of India: Vol. 1-4. 9th ed., LexisNexis, 2014.

<sup>157</sup> Ibid.

<sup>158</sup> Supra note at 3, pg. no 1.

<sup>159</sup> Noordeen Mohmmad v. A.K. Gopalan, AIR 1886 Ker 301

<sup>160</sup> INDIA CONST. Art. 14.

<sup>161</sup> Harkchand v. Union of India, AIR 1970 SC 1453

<sup>162</sup> INDIA CONST. Art. 19(1)(a)

<sup>163</sup> INDIA CONST. Art. 19(2).

<sup>164</sup> Ibid.

<sup>165</sup> INDIA CONST. Art. 19(2).

<sup>166</sup> M.S.M. Sharma v. Sri Krishna Sinha, AIR 1959 SC 395.

<sup>167</sup> INDIA CONST. Art. 21.

<sup>168</sup> State of Bombay v. Mr. P., AIR 1959 Bom 182.

<sup>169</sup> CONTEMPT OF COURT ACT, § 3, of 1971, Acts of Parliament, 1971 (India).

<sup>170</sup> CONTEMPT OF COURT ACT, § 10, of 1971, Acts of Parliament, 1971 (India).

<sup>171</sup> Supra note at 18, pg. no 3.

<sup>172</sup> Australian Law Journal, pg. no 73-76, 1928 2, 145.

<sup>173</sup> INDIA CONST. Art. 19.

<sup>174</sup> Supra note at 3, pg. no 1.

<sup>175</sup> CONTEMPT OF COURT ACT, § 12, of 1971, Acts of Parliament, 1971 (India).

<sup>176</sup> CONTEMPT OF COURT ACT, § 13, of 1971, Acts of Parliament, 1971 (India).

<sup>177</sup> CONTEMPT OF COURT ACT, § 14, of 1971, Acts of Parliament, 1971 (India).



person is punished or not punishable, under these particular provisions, they cannot challenge these decisions by appeal.

**Limitation period** – The provision further states that any appeal should be filed within thirty days after being made against the order. Thus, the limitation motivates people to file appeals in time and does not allow them to delay the judicial process because contempt matters have to be disposed of expeditiously.

### JURISDICTION OF COURT IN THE MATTER OF APPEAL

Appeals under *Section 19*<sup>178</sup> can be made before the Supreme Court or the High Court; yet no appeal is provided for orders passed under sections 12,<sup>179</sup> 13,<sup>180</sup> or 14,<sup>181</sup> respectively. In that case, the review of some contempt findings is restrained. Appeals have to be filed within *thirty days* of the order. Challenging contempt convictions in time is ensured. This framework thus strikes a right balance of the right to appeal against the imperative of judicial efficiency and finality of some judicial orders. This does not stand in the way of court oversight, but it also does not hamper the integrity of contempt processes.

### ANALYSIS OF THE RECENT JUDICIAL PRONOUNCEMENT

#### Ajay Kumar Bhalla vs Prakash Kumar Dixit<sup>182</sup>

##### Bench

- Respected Justice DY Chandrachud,
- Respected Justice JB Pardiwala
- Respected Justice Manoj Misra

##### Statement of Facts

The petitioners had impugned an order of the High Court holding them in contempt for having violated so-called directions on the merits of a contractual dispute. That order was made after the High Court had issued some purported

directives on the merits of the dispute, even though there was no order relating to any punishment. It was a Supreme Court appeal under Section 19 of the Act,<sup>183</sup> challenging the maintainability of a non-punitive direction. The petitioners' contention was that since the directions were not punitive in nature, they were not appealable.

##### Petitioner's submission

In their written submissions, the Petitioner claimed that even if the implementation date for the minor penalty is considered to be October 16, 2018, he should still be eligible for all promotions up to the rank of Inspector General (IG) from the year 2021 until his retirement on March 31, 2023. During the hearing, the Petitioner's counsel referenced this submission, stating that the Petitioner would be content if granted the rank of IG on his retirement date.

##### Respondent's contention

The respondent argued that contempt proceedings were not maintainable under Section 19<sup>184</sup> as no punitive measures were ordered by the Court. They said that contempt jurisdiction should be exercised only when an act is clear and also punitive in nature. Respondent submitted that their actions amounted to no case of contempt because they had a mistaken impression that they were legally justified in their actions pertaining to compliance with the directions of the court.

##### Case relied upon.

The bench majorly relied upon the case of **Midnapore Peoples' Coop. Bank Ltd.**<sup>185</sup> to establish the dictum of maintainability as per section 19.<sup>186</sup>

In the judgment *Midnapore Peoples' Cooperative Bank Ltd. v. State of West Bengal*, the Supreme Court held that the directions issued in contempt proceedings although they do not carry any punishment are appealable

<sup>178</sup> CONTEMPT OF COURT ACT, § 19, of 1971, Acts of Parliament, 1971 (India).

<sup>179</sup> Supra note at 28, pg. no 4.

<sup>180</sup> Supra note at 29, pg. no 4.

<sup>181</sup> Supra note at 30, pg. no 4.

<sup>182</sup> *Ajay Kumar Bhalla vs Prakash Kumar Dixit*, Civil Appeal Nos 8129-8130 Of 2024.

<sup>183</sup> Supra note at 31, pg. no 4.

<sup>184</sup> Supra note at 31, pg. no 4.

<sup>185</sup> *Midnapore Peoples Coop.Bank Ltd. vs Chunilal Nanda* AIR 2006 SUPREME COURT 2190

<sup>186</sup> Supra note at 31, pg. no 4.

under section 19 of the act.<sup>187</sup> The court conceded that this direction has direct impact on the rights of the parties concerned and the merits of the dispute can even get substantially affected. The decision emphasizes the scrutiny of judicial orders to prevent judicial overreach. Hence, the decision restates the jurisprudence that parties should be allowed to challenge court orders made while their legal rights may get affected in cases. To this extent, the case has become a landmark reference point in determining what appeals are maintainable under contempt proceedings relating to directions on merits.

### Judgement

In the present matter, The Division Bench decision provided was overruled by the Supreme Court, which restored the Letters Patent Appeal for rehearing on its merit. The Court held that the Letters Patent Appeal was valid because it entertained substantial issues other than a mere exercise of contempt.

### CONCLUSION

The Judge observed that such appeals under Section 19<sup>188</sup> are allowed against the orders made in the contempt proceeding, that is to say that such appeals form an essential part of proper dispensation of justice and handing out accountability. They elaborated how the lack of imposition of any punishment would decrease neither the burden of compliance with judicial directions. In cases where such appreciations are entertained, the judge remarks that the contempt of court remains within the boundaries of legitimate respect for judicial authority and also averts arbitrary disregard to the dictates of the court.

Appeals in contempt matters are considered important as parties will have an opportunity to appeal to those judgments made against them on matters relating to compliance to any court order. They are intended to ensure that judicial authority is preserved and also to hold all

parties accountable for their actions regarding judicial mandates. This will allow courts, as they offer appeal, to fine-tune judgments and enforce further compliance with a few legal principles. In this case, justice would eventually prevail, and the rule of law will be furthered.

<sup>187</sup> Ibid.

<sup>188</sup> Supra note at 31, pg. no 4.