

**GOVERNMENT OF
MINISTRY OF**



**REPORT
OF
THE COMMITTEE
ON
CONTEMPT OF COURTS**

February, 1963

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Report of the Committee on Contempt of Courts.
February 1963.

ERRATA

At page 13, in the marginal note:-

(i) to paragraph 2, for "re.contempt", read "re: contempt"; and

(1) to paragraph 3,1, for "re.contempt", read "re:contempt".

At page 17, in the marginal note to paragraph 6.1, for "re.contempt", read "re:contempt".

At page 19, in foot note 4, -

1) in line 3, for "preverseness", read "perverseness"; and

l) in line 5, for "preverting", read "perverting".

At page 23, in paragraph 3.2, in line 4, for "avourable", read "favourably".

At page 25, in paragraph 3.4, in line 8, for "ttcks", read "attacks".

6. At page 30, -

(i) in lines 9-10, for "remote and and unknown"
read "remote and unknown"; and

(ii) for the existing foot note 1, read "Rajendra
Kumar Garg V. Shafiq Ahmad Azad, A.I.R. 1961
37, 42.".

7. At page 31, in the last line, before the figure
brackets "(1961)", insert the figure "3.".

8. At page 32, in line 2, for "Justice", read "Ju

9. At page 41, in foot note 1, in line 1, for "ma
read "matter".

10. At page 46, in the footnote, for "(1963)", read
"(1953)".

11. At page 47, in the marginal note to paragraph
for "th", read "the".

12. At page 57, in the marginal note to paragraph
for "Purge", read "Purge".

CHAIRMAN
COMMITTEE ON CONTEMPT OF COURTS

New Delhi, the 28th February 1963.

Shri Asoke Kumar Sen,
Minister of Law,
Government of India,
New Delhi.

MY DEAR MINISTER,

I have great pleasure in forwarding herewith the Report of the Committee on Contempt of Courts.

2. The constitution of the Committee, its terms of reference, the procedure adopted by the Committee for discharging the functions entrusted to it are explained in the first Chapter of the Report. The law and the problems relating to contempt of courts were examined in detail at 7 meetings of the Committee and on the basis of the discussions a draft Report and a Bill to give effect to the proposed recommendations were prepared by Shri G. R. Rajagopaul and these were considered and finalised by the Committee at its meetings held on the 16th, 18th and 22nd February, 1963.

3. The Committee desires to express its appreciation of the services rendered by the Member-Secretary, Shri H. C. Daga, in the preparation of an exhaustive summary of the case-law on the subject, both Indian and English, and by Shri R. V. S. Peri Sastri, Assistant Draftsman, in the preparation of the Report.

Yours sincerely,

H. N. SANYAL

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THE CONTEMPT OF COURTS BILL, 1963.

A

BILL

to define and limit the powers of certain courts in punishing contempts of courts and to regulate their procedure in relation thereto.

1. (1) This Act may be called the Contempt of Courts Act, 1963. Short title and extent.

(2) It extends to the whole of India:

Provided that it shall not apply to the State of Jammu and Kashmir except to the extent to which the provisions of this Act relate to contempt of the Supreme Court.

2. In this Act, "High Court" means the High Court for a State, and includes the court of the Judicial Commissioner in a Union territory. Definition.

3 (1) A person shall not be guilty of contempt of court on the ground that he has published any matter calculated to interfere with the course of justice in connection with— Innocent publication and distribution of matter not contempt.

(a) any criminal proceeding pending or imminent at the time of publication, if at that time he had no reasonable grounds for believing that the proceeding was pending or, as the case may be, imminent;

(b) any civil proceeding pending at the time of publication, if at that time he had no reasonable grounds for believing that the proceeding was pending.

(2) Notwithstanding anything contained in any law for the time being in force, a person shall not be guilty of contempt of court on the ground that he has published any such matter as is mentioned in sub-section (1) in connection with any civil proceeding imminent at the time of publication, merely because the proceeding was imminent.

(3) A person shall not be guilty of contempt of court on the ground that he has distributed a publication containing any such matter as is mentioned in sub-section (1), if at the time of distribution he had no reasonable grounds for believing that it contained any such matter as aforesaid or that it was likely to do so.

(4) The burden of proving any fact tending to establish a defence afforded by this section to any person in proceedings for contempt of court shall lie upon that person:

Provided that, where in respect of the commission of an offence no arrest has been made, it shall be presumed until the contrary is proved that a person accused of contempt of

court in relation thereto had no reasonable grounds for believing that any proceeding in respect thereof was imminent.

Explanation.—For the purposes of this section, a judicial proceeding—

(a) is said to be pending until it is heard and finally decided, that is to say, in a case where an appeal or revision is competent, until the appeal or revision is heard and finally decided or, where no appeal or revision is preferred, until the period of limitation prescribed for such appeal or revision has expired;

(b) which has been heard and finally decided shall not be deemed to be pending merely by reason of the fact that proceedings for the execution of the decree, order or sentence passed therein are pending.

Fair and accurate report of judicial proceeding not contempt.

4. Subject to the provisions contained in section 7, a person shall not be guilty of contempt of court for publishing a fair and accurate report of a judicial proceeding or any stage thereof.

Fair criticism of judicial act not contempt.

5. A person shall not be guilty of contempt of court for publishing any fair comment on the merits of any case which has been heard and finally decided or on the conduct of any judge if it be for the public good.

Explanation.—Whether the comment is or is not for the public good is a question of fact.

Complaint against presiding officers of subordinate courts when not contempt.

6. A person shall not be guilty of contempt of court in respect of any statement made by him in good faith concerning the presiding officer of any court subordinate to a High Court to the Chief Justice of that High Court.

Publication of information relating to proceedings in chambers or *in camera* not contempt except in certain cases.

7. (1) A person shall not be guilty of contempt of court for publishing a fair and accurate report of a judicial proceeding before any court sitting in chambers or *in camera*, except in the following cases, that is to say,

(a) where the publication is contrary to the provisions of any enactment for the time being in force;

(b) where the court, having power to do so, expressly prohibits the publication of all information relating to the proceeding or of information of the description which is published;

(c) where the court sits in chambers or *in camera* for reasons connected with public order or the security of the State during that part of the proceeding about which the information in question is published;

(d) where the information relates to a secret process, discovery or invention which is an issue in the proceedings.

(2) Without prejudice to the provisions contained in sub-section (1), a person shall not be guilty of contempt of court for publishing the text or a fair and accurate summary of the whole, or any part, of an order made by a court sitting in chambers or *in camera*, unless the court has expressly prohibited the publication thereof in exercise of any power conferred by any enactment for the time being in force.

8. Nothing contained in this Act shall be construed as implying that any other defence which would have been a valid defence in an action for contempt of court has ceased to be available merely by reason of the provisions of this Act.

Other defences not affected.

9. Nothing contained in this Act shall be construed as implying that any publication is punishable as contempt of court which would not be so punishable apart from this Act.

Act not to imply enlargement of scope of contempt.

10. Every High Court shall have and exercise the same jurisdiction, powers and authority, in accordance with the same procedure and practice, in respect of contempts of courts subordinate to it as it has and exercises in respect of contempts of itself:

Power of High Court to punish contempts of subordinate courts.

Provided that no High Court shall take cognizance of a contempt alleged to have been committed in respect of a court subordinate to it where such contempt is an offence punishable under the Indian Penal Code.

11. A High Court shall have jurisdiction to inquire into or try a contempt of itself or of any court subordinate to it, whether the contempt is alleged to have been committed within or outside the local limits of its jurisdiction, and whether the person alleged to be guilty of contempt is within or outside such limits.

Power of High Court to try offences committed or offenders found outside jurisdiction.

12. (1) 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:

Limit of punishment for contempt of court.

Provided that the accused may be discharged or the punishment awarded may be remitted on apology being made to the satisfaction of the court.

(2) Notwithstanding anything contained in any law for the time being in force, no court shall impose a sentence in excess of that specified in sub-section (1) for any contempt either in respect of itself or of a court subordinate to it.

13. Notwithstanding anything contained in any law for the time being in force, 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 as substantially to interfere with the due course of justice.

Technical contempts not punishable.

Procedure where contempt is in the face of the Supreme Court or a High Court.

14. (1) When it is alleged, or appears to the Supreme Court or the High Court upon its own view, that a person has been guilty of contempt committed in its presence or hearing, the Court may cause such person to be detained in custody, and, at any time before the rising of the Court, on the same day shall—

(a) cause him to be informed orally of the contempt with which he is charged;

(b) afford him an opportunity to make his defence to the charge;

(c) after taking such evidence as may be necessary or as may be offered by such person and after hearing him, proceed, either forthwith or after adjournment, to determine the matter of the charge; and

(d) make such order for the punishment or discharge of such person as may be just.

(2) Notwithstanding anything contained in sub-section (1), where a person charged with contempt under that sub-section applies, whether orally or in writing, to have the charge against him tried by some Judge other than the Judge in whose presence or hearing the offence is alleged to have been committed, and the Court is of opinion that it is practicable to do so and that in the interests of proper administration of justice the application should be allowed, it shall cause the matter to be placed before the Chief Justice for such directions as he may think fit to issue as respects the trial thereof.

(3) Pending the determination of the charge, the Court may direct that a person charged with contempt under this section shall be detained in such custody as it may specify:

Provided that he shall be released on bail, if a bond for such sum of money as the Court thinks sufficient is executed by him with or without sureties conditioned that the person charged shall attend at the time and place mentioned in the bond and shall continue to so attend until otherwise directed by the Court.

Cognizance of criminal contempt in other cases.

15. (1) In the case of a criminal contempt, other than a contempt referred to in section 14, the Supreme Court or the High Court may take action on a motion made by—

(a) the Advocate-General, whether on his own motion or at the instance of such Court, or

(b) any other person, with the consent in writing of the Advocate-General.

(2) In the case of any criminal contempt of a subordinate Court, the High Court may take action on a reference made to it by the subordinate Court or on a motion made by the Advocate-General.

(3) Every motion or reference made under this section shall specify the contempt of which the person charged is alleged to be guilty.

Explanation—In this section, the expression "Advocate-General", means,—

(a) in relation to the Supreme Court, the Attorney-General, and

(b) in relation to the High Court, the Advocate-General of the State, and,

(c) in relation to the court of a Judicial Commissioner, such Law Officer as the Central Government may, by notification in the Official Gazette, specify in this behalf.

16. (1) Notice of every proceeding under section 15 shall be served personally on the person charged, unless the Court for reasons to be recorded directs otherwise. Procedure after cognizance.

(2) The notice shall be accompanied—

(a) in the case of proceedings commenced on a motion, by a copy of the motion as also copies of the affidavits, if any, on which such motion is founded; and

(b) in the case of proceedings commenced on a reference by a subordinate Court, by a copy of the reference.

(3) The Court may, if it is satisfied that a person charged under section 15 is likely to abscond or keep out of the way to avoid service of the notice order the attachment of his property of such value or amount as it may deem reasonable.

(4) Every attachment under sub-section (3) shall be effected in the manner provided in the Code of Civil Procedure, 1908, for the attachment of property in execution of a decree for payment of money, and if, after such attachment, the person charged appears and shows to the satisfaction of the Court that he did not abscond or keep out of the way to avoid service of the notice, the Court shall order the release of his property from attachment upon such terms as to costs or otherwise as it may think fit. 5 of 1908

(5) 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 such further evidence as may be necessary, and pass such order as the justice of the case requires.

17. Every order for the punishment of a person charged with contempt of court shall state that facts constituting the contempt, the defence of the person charged and the substance of the evidence taken, if any, as well as the finding and the punishment. Judgment in contempt cases.

18. (1) Every case of criminal contempt under section 15 shall be heard and determined by a Bench of not less than two Judges. Hearing of cases of criminal contempt to be by Ben

(2) This section shall not apply to the Court of a Judicial Commissioner.

Appeals.

19. (1) An appeal shall lie as of right from any order or decision of a High Court in the exercise of its jurisdiction to punish for contempt—

(a) where the order or decision is that of a single Judge, to a Bench of not less than two-Judges of the Court;

(b) where the order or decision is that of a Bench, to the Supreme Court.

(2) Pending any 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 himself of the contempt.

(3) Where any person aggrieved by any order against which an appeal may be filed satisfies the High Court that he intends to prefer an appeal, the High Court may also exercise all or any of the powers conferred by in sub-section (2).

(4) An appeal under sub-section (1) shall be filed—

(a) in the case of an appeal to a Bench of the High Court, within twenty days, and

(b) in the case of an appeal to the Supreme Court, within a period of sixty days;

from the date of the order appealed against.

**Punish-
ment how
to be
carried out
in certain
cases.**

20. (1) Notwithstanding anything contained in section 12, where a person is found guilty of a civil contempt, the court, if it considers that a fine will not meet the ends of justice and that a sentence of imprisonment is necessary shall, instead of sentencing him to simple imprisonment, direct that he be detained in a civil prison for such period not exceeding six months as it may think fit.

(2) Where the person found guilty of contempt of court in respect of any undertaking given to a court is a corporation, the punishment may be enforced, with the leave of the court, by the detention in civil prison of the directors or principal officers of the corporation.

**Power of
Supreme
Court to
make
rules.**

21. (1) The Supreme Court may make rules, not inconsistent with the provisions of this Act, providing for any matter relating to the procedure of the Supreme Court and the High Courts.

(2) Any rules so made, in so far as they relates to the procedure of the High Courts, shall be made after consultation with the High Courts.

Repeal.

22. The Contempt of Courts Act, 1952, is hereby repealed.