

LEGISLATION COMMENTARY DRAFTING – CONTEMPT OF COURT ACT,1971.

TEAM CODE- T030

I. ABSTRACT:

The term contempt of court can be easily understood as when we are disrespectful or the disobedience towards the court of law. Which means that, the person who is willfully fail to obey the court order or directions disrespect the legal authorities and powers of orders. In judiciary system judge has the right to impose any sanctions regarding offences committed such as fine or can send the contemnor to the prison or jail for a certain period of the time and if the person is found guilty of contempt of the court of law.

This term can also be understood about the term of the freedom of limits of the proceeding in judicial system. In India, The contempt of court is defined under section 2(a) of The contempt of court Act, 1971. In this concept, it can be described both Civil and criminal contempt. In Indian Constitution, there are mainly to articles were explain about the contempt of court at under article 129 and 142 (2).

All judges are given the judicial proceedings with certain reasonable and valid limit which it has the freedom to make any judicial proceedings in the courts. Anything which is to be curtails are stops it in making any judicial proceedings is to be necessity can amount to concept of contempt of court.

The law contempt is based on sound public confidence Hindi administration of justice. The purpose of contempt jurisdiction is to up hold the majesty are presiding officer and dignity of law courts. The contempt of court Act ,1971 is defines contempt of court and also provides for the procedure, limitation, punishment and appeals as well as defenses available to contamnor.

It is a fact that an independent and impartial judiciary is the sine quo non of a healthy society . The contempt of court includes failure to comply with requests, witness tampering with drawing evidence or defying court orders.

II. KEYWORDS:

Contempt of court, Civil contempt , Criminal contempt, Administration of justice, Fundamental rights, punishment, Remedy.

III. PASSING AUTHORITY:

The law of contempt holds it's a roots in mainly English law. The first time statute on contempt of court act in India was passed in the year of 1926 and later on they got replaced by the contempt of court Act, 1952. This act was passed by the parliament in 1971 and it came into effectively enforced on 24th December 1974. Mainly it extended to the whole of India and it is consist of 24 sections only. In order to maintained the integrity of the court it is an inherent power of the judiciary system to punished for contempt of court offences. The court have the power to punish for The contempt of court is a necessary incident¹.

IV. INTRODUCTION:

Contempt of court is a matter which regarding that justice should be administered fairly and it also punishes anyone who aims to hurt other dignity or authority of the judicial tribunals. Contempt of court is an wrong full act of disrespect or disobedience court orders and showing of disobedience towards the court or interference with its in the order of process in the court of law.

A contempt is maybe addressed the behavior both in the court hall and outside of court hall and it also included the public displays of respect towards the court of law. Contempt of court is a legal violation it was committed by an individual who disobedience a judge or other legal proceedings in the court hall and outside the court hall. In contempt of court contains mainly 4 essentials of elements under title 18 of the United States code.

1. Misbehavior of any person in its presence .
2. Misbehavior in near there to as to obstruct the administration of justice.
3. Misbehavior of any of its offices in their official transactions.
4. Disobedience are resistance to its lawful writ, process ,order ,rules ,degree or command².

V. BACKGROUND OF THE LEGISLATION:

¹.Iyer . K. V . Krishna Swamy, professional conduct and Advocacy, Oxford University press,1945,page 173.

² Iyer. K. V. Krishna Swamy, professional conduct and Advocacy, Oxford University press,1945,page 173.

The historical aspect of law of The contempt in India which was deals with the report of sanyal committee. The sanyal committee has been starting a responsible of many amendments process in law of contempt. The law of contempt similar to other many loss has been brought from the English loss and statutes but this law has not been absolutely taken from the English loss it has other origins too. The age old system which our country was having to protect Court or assemblies in the past. The great philosopher Kautilya written his book of arthashastra has been about the governance at that time. And he has written that,” any person who exposes the king are insults his council or make any type of bad attempt on the kings then the tongue of that person should be cut off”. And he also added one more statement that,” when a judge threatens bully are make silence to any of the disputants in the court then he should be punished”.

No statutory provisions for The contempt of court until the year of 1952. After, one of the important enactment was enforced that is contempt of court Act, 1952. It is one of the statutory provisions and it was effectively enforced on 1952. And this act will be extended to throw out the India except Jammu and Kashmir. This act will be given the power to High Court for punish The contempt of the subordinate Court. It was replaced by the contempt of court Act,1926. It was prevailing in the state of the Rajasthan and one more state of Saurashtra. Although this act will be extended to hole of Bangladesh. This law has been given the two main fundamental rights they are there,

1. Freedom of speech and expression,
2. Right to personal liberty.

There was a bill is to introduced in the loksabha for make any changes relating existing law of contempt. This bill will be introduced by Shri B.B Gupta on 1st April 1960. The government taking this bill and examination need for reform in the existing Act . Then the government made a special committee was formed in 1961, under the chairmanship of H.N Sanyal and he submitted the report on 28th February,1963. The report of this committee took the form of contempt of court Act, 1971. The procedure and application of this enactment. It was done by earlier act of contempt of court Act, 1926 and 1952. And it was given several changes through The contempt of court Act, 1971. And in this act segregated The contempt of court into criminal contempt and civil contempt with their definitions respectively³.

A. ESSENTIALS OF CONTEMPT OF COURT ACT,1971:

In contempt of court Act ,1971 there will be a some important and necessary essentials are there when it will be full filled then the person commits contempt of court will be liable for that act.

³ Menon. N. R. Madhava, clinical legal Education, Eastern book company,2008,page 168.

1. Disobedience to any manner of court proceedings ,orders, directions, judgement ,degree, guidelines etc..
Should be done will fully in the matter of civil contempt.
2. In the matter of criminal contempt publication is the publication can be either in the form of spoken or written or any sign visible representation.
3. The Court should make a valid order and disorder must be in knowledge of the respondent.
4. The action of contemnor should be deliberated and it also should be clearly this regard after court's order judgements⁴.

B. TYPES OF CONTEMPT OF COURT:

In contempt of court Act ,1971 of India is depending upon the nature of cases based upon that the types will be framed in this act there are two types of contempt is there.

1. Civil contempt.
2. Criminal contempt.

1. CIVIL CONTEMPT:

According to section 2(a) of the Contempt of court Act, 1971 states that civil contempt it is Willful disobedience to the order, decree, judgement which is passed by the reasonable jurisdiction and it will be willfully breached by an individual.

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This is the case of non-rendering of assistance, although the court has ordered that to render assistance. Degree executed by the court to delivered the immovable property because of certain obstructions the defendant fail to do so. Hence, he was held liable for the constituent disobedience to the orders of The contempt Civil Court.

2. CRIMINAL CONTEMPT:

⁴ Iyer. K. V. Krishna Swamy, professional conduct and Advocacy, Oxford University press,1945,page 175.

⁵ AIR 2008 Gau 62: 2008(2) Gau LR 706.

According to section 2(c) of The contempt of court Act, 1971 states that, criminal contempt it is defined as (i) the publication of any matter by words ,spoken or written, any gesture sign or (ii) doing of any act which includes,

1. Scandalize or tends to scandalize or lowers or tends to lower the authority of any Court.
2. Biasness, interferes Or tends to interfere with the due course of any type of judicial proceedings or
3. Obstructs or tends to obstructs interfere or tends to interfere with the administration of justice in any manner⁶.

3. **PUNISHMENT FOR CONTEMPT OF COURT:**

According to section 12 of The contempt of court Act,1971 deals with the punishment for The contempt of court. High Court and supreme court having the power to punished the person who is committed a content of court if it is criminal or civil in nature. Punishment will be simple imprisonment it may extended that 6 months and it also imposed fine it may be extended to rupees 2000. If the person who committed contempt of court he may ask apology the court is satisfied that then Court is exempt that the person from the punishment.

4. **REMEDIES AGAINST AN ORDER OF PUNISHMENT:**

According to section 13 of the contempt of court Act ,1971 after amendment in 2006 the new act maybe called The contempt of court (Amendment)Act ,2006 this section 13 deals about the content of court cannot be punished under certain reasonable circumstances.

Clause (a) of Section 13 of the Contempt of Court (Amendment) Act, 2006 states that no Court under this Act shall be punished for Contempt of Court unless it is satisfied that the Contempt is of such a nature that it substantially interferes or tend to substantially interfere with the due course of Justice.

Clause (b) of Section 13 of this Act states that the court may give the defence on the justification of truth if it finds that the act done in the public interest and the request for invoking that defence is bona fide⁷.

5. **CONTEMPT PROCEEDINGS:**

⁶ Iyer . K. V. Krishna Swamy, professional conduct and Advocacy, Oxford University press,1945,page 177.

⁷ Menon. N. R.,Madhava , Clinical legal Education, Eastern book company,2008,pages 180.

According to section 14 of the contempt of court deals with the procedure of contempt proceeding in the face of the court of record. And section 15 of The contempt of court deals with the procedure of The contempt proceedings outside of the court of records.

The courts have the inherent powers to punish for it's contempt. So, that these Court of record can deal with the matter of content by making their own cold procedure by adopting the fare and reasonable in which the alleged container should be given full opportunity to defend himself⁸.

VI. CONCLUSION:

Contempt of court act and contempt power of the supreme court and high court under the Indian constitution. The scenario has emerged as more complicated by the way of the inconsistent interpretations followed through the supreme court and high court regarding diverse provisions under the Indian penal code. Contempt of court if seems from the perspective of the judges higher judicial officials seems good but if it comes to the perspective of common people it turns towards its bad effect.

VII. REFERENCE:

1. Iyer, K.V. Krishna Swamy , professional conduct and Advocacy , Oxford University press,1945.page 173,175,177.
2. Menon,N.R, Madhava, Clinical legal Education, Eastern book company,2008, page 168,180.

VIII. CASE LAWS:

- 1.Utpal Kumar Das v. Court of the Munsiff, Kamrup, AIR 2008 Gau 62: 2008 (2) Gau LR 706.
2. Attorney-General v. Times Newspapers Ltd, [1973] 3 W.L.R. 298.
3. R.N. Ramaul v. State of Himachal Pradesh, AIR 1991 SC 1171 .
4. Sudhakar Prasad vs. Govt. of A.P. and Ors., (2001) 1 SCC 516.
5. P.N. Duda vs V. P. Shiv Shankar & Others, 1988 AIR 1208.

⁸ Iyer. K. V. Krishna Swamy, professional conduct and Advocacy, Oxford University press,1945,page 177.

