

“Extent of Wilful Disobedience to Constitute Civil Contempt”

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Abstract

Background: The word 'contempt of Court' is a general term that defines the operation of a court of law that appears to damage or hinder people from taking advantage of the mechanism to address their disputes.

Objectives: The aims of the paper are to understand the concept of Contempt of Court, to describe the case laws related to Contempt of Court, to know about the Contempt under Indian Constitution and to analysis the Wilful disobedience of court order.

Methodology: To fulfill this objective researcher used secondary data. The data was collected by text books, documents, journal, policy papers and government websites.

Conclusion: In the contradictory interpretations of different clauses found in the Indian Penal Code concerning interfering with the administration of justice and the exclusion clause in the Courts Rule, the situation has appeared more complicated.

Keywords: *Contempt of Courts, Justice, Indian Constitution.*

1. Introduction

*“Law is not law if it violates the principles of eternal justice”
- Lydia Maria Child¹*

1.1 Concept of the Contempt of Court

The offence of disrespect to the dignity or authority of a court is a contempt of the Court.

The aim of contempt is to defend the public's interests if the Court has demeaned its authority and public trust in the administration of justice is weakened or eroded.

The Constitution derives its disrespect from the Supreme Court and High Court.

¹ Lydia Maria Child Quotes, Available at: http://www.notable-quotes.com/c/child_lydia_maria.html#:~:text=Law%20is%20not%20law%2C%20if,the%20principles%20of%20eternal%20justice.&text=We%20first%20crush%20people%20to,forever%2C%20because%20they%20are%20prostrate. (Visited on October 14, 2020).

The Contempt of Court Act, 1971, specifies the process in relation to investigation and penalty for contempt.

The Act divides contempt into civil and criminal contempt.

- Civil contempt refers to the deliberate disobedience of any court order.
- Criminal contempt :Any act or publication,
 - Scandalizes the court
 - Contrary to all legal proceedings
 - Interferes with the administration of justice in any other manner.

'Court scandalisation' generally refers to statements or publications that undermine public trust in the judiciary.

It is very difficult to define the concept of 'contempt of court'. The court needs to assess what will be an assault on the integrity of the court and diminish its reputation. It cannot be limited to the four walls of a description. The Contempt of Court Act, 1971² defined contempt of court for the first time. No legal description of disrespect of court is available. No matter what is specified under this statute, the word 'conflict of justice' is not specified but is only graded. In general, contempt of the court, *"To offend the dignity of the court and lower the prestige of the court"*³

Oswald describes disdain as any behaviour, which appears to mock, neglect, intervenes with, or bias, the jurisdiction and application of the law during litigation. It is described as follows in Halsbury laws in England *"Any act done or writing published which is calculated to bring a court or judge into contempt or lower his authority or to interfere with the due course of justice or the lawful process of the court is contempt of court"*.⁴

1.1 Essentials of Contempt of Court

Where an individual named Akash must show that the other person named Sita is guilty of a lawful act. He must then demonstrate to the Court that Sita's offence fulfils the fundamental requirement to commit or not. If the critical elements of this are satisfied, he is accountable for this. Similarly, any offence has an exemption which must be followed to keep the offender accountable. Disdaining the Court is also important and it is as follows:

¹ Lydia Maria Child Quotes, Available at: http://www.notable-quotes.com/c/child_lydia_maria.html#:~:text=Law%20is%20not%20law%2C%20if,the%20principles%20of%20ete%20rnal%20justice.&text=We%20first%20crush%20people%20to,forever%2C%20because%20they%20are%20prostra te. (Visited on October 14, 2020).

² Section 2 (a) of Contempt of Courts Act, 1971

³ Available at: http://law.uok.edu.in/Files/5ce6c765-c013-446c-b6ac-b9de496f8751/Custom/P.E.%20unit_5.pdf (Visited on October 14, 2020).

⁴ Ibid.

1. In the event of civil contempt it can be performed '*wilfully*' the disobedience to some form of court proceedings, its instructions, decision, decree, etc.
2. "**Publication**" is the most important thing in criminal contempt, and this publication can either be spoken or written, or be written or signed.
3. The court should render a "**valid order**" and the defendant's information should be supplied with that decision.
4. The contemporary action should be deliberate and the court order should clearly be ignored.

1.2 Types of Contempt of Court in India

Contempt of the Court is of two kinds, according to the form of the case in India.

1. Civil Contempt
2. Criminal Contempt

1. Civil Contempt

Section 2(a) of the Contempt of Court Act of 1971 notes that civil disobedience by any individual or voluntary breaching of undertakings by an individual granted to a Court is a deliberate disobedience to the warrant, warrant, course, decision or writ. Because Civil Contempt deprives a faction of the profit it gave, these are the major offences of a private kind. This error is normally done to the person by a person eligible to gain from the judgment.⁵

2. Criminal Contempt

In accordance with Article 2, paragraph 2 (c) of the 1971 Conjecture of the Court Act, criminal disregard was described as publishing all cases or other actions which were performed:

- (i) *Scandals or tends to scandalize, limit, or lower some court's authority, or*
- (ii) *harms, interferes with or tends to intervene with the legal procedure in due time., or*
- (iii) *Scandals or tends to outrage, restrict or diminish the jurisdiction of a court.*⁶

2. Review of Literature

Anteneh Geremew Gemedo, "Interpretative practice of Contempt of Court", (2019)⁷ In this report, the Ethiopian Court Outrage Rule was analysed in relation to the practise of five woreda

⁵ Diganth Raj Sehgal, Contempt of Court Available at: <https://blog.iplayers.in/contempt-of-court-2/>

⁶ Ms. Priyanka Oberoi (2017), Contempt of Court In India.

courts in East Gojam about crime with disdain. Their aim was to investigate this question. The investigator used a qualitative and non-doctrinal approach to analysis. Participants in the study were judges, district prosecutors and advocates. Contempt of court is considered to be practically contradictory with a precise meaning when there are numerous forms to discrimination or misuse the administration of justice. Courts use a summary method in which the contemporary citizen can be accused and convicted of his dislike, as it happens. The statute on contempt of the court has an important effect on the civil rights of the convicted as it governs the form in which the court is manned. Detailed courtroom management guides and mechanisms to respect the right of accused to hear shall be created to control the judge's power and secure the interests of the accused to due process.

Onyeisi Chukwudi, “Knitting Contempt of law to the administration of justice in Nigeria: No longer at Ease” (2017)⁸, the defiance of court orders in Nigeria has taken on an extra dimension in this study in recent times. As a consequence of the grievous disregard of its orders and decisions particularly by other arms of government, the court has gradually begun to lose its dignity. To ensure a smooth government activity in a democratic manner, the judiciary as an entity, with complete legal clothes, must be respected in accordance with the Constitution and all legislative actions rendered under it. Disregarding a court's decisions and judgments definitely would not help the rule of law and the legal process; indeed the order of the day is chaos and impunity. Thus, the importance of proper reverence for a court's directions can not be overstated because it underlies the peace guarantee and proper course of legislation. It has monumental repercussions and the title of impunity against the administration of justice in Nigeria puts the rule in a constant plunge pendulum. The paper discusses rule disrespect in Nigeria and recognises the rule as a product of resistance to court orders and provides a remedy for the simple enforcement of law by efficient justice administration.

3. Objectives

- i. To understand the concept of Contempt of Court.
- ii. To describe the case laws related to Contempt of Court.
- iii. To know about the Contempt under Indian Constitution.
- iv. To analysis the Willful disobedience of court order.

⁷ Anteneh Geremew Gemed, “Interpretative practice of Contempt of Court”,133 *Anteneh Geremew Gemed / Elixir Law* (2019)

⁸ Onyeisi Chukwudi, “Knitting Contempt of law to the administration of justice in Nigeria: No longer at Ease” (2017).

4. Methodology

The paper's methodology is completely secondary. The paper is based on secondary sources which is to be verified upon court orders to different & reliable investigating agencies in System.

5. Analysis

5.1 Contempt under Indian Constitution.

Article 129

Article 129 points out that the Court of Record is the Supreme Court which has all of these judges' privileges, including the ability to be sued for disrespect.⁹

Now let us know that something incorrectly commented about the court ruling leads to a contempt for the Case the sense of 'Court of Law'.

This query is addressed here. The 'case of record' implies a case that documents its conduct and trials for an immortal memory or for a non-existent memory as testimony or testimony. The reality regarding these records is challenging to challenge since they are also assumed to be a higher authority. The Court disdained somewhat the truth of these documents.

Article 142(2)

This essay also addresses the disgust of the Court. The present article stipulates that whenever Parliament creates some legislation on the terms, the Supreme Court has the right to compel the presence, creation of records or penalty for its disapproval of any individual by making some order to ensure the participation of any party.

It still doesn't mean even since the Supreme Court has the ability to prosecute Contempt of Court, it will do something against the right to personal expression. We are mindful that the Indian Constitution is the protector of all the privileges we have and so must preserve those privileges without breaching the Indian Constitution.¹⁰

⁹ Diganth Raj Sehgal, Contempt of Court Available at: <https://blog.ipleaders.in/contempt-of-court-2/>

¹⁰ *Ibid.*

5.2 Landmark Contempt Judgments

- *Supreme Court Bar Association vs Union Of India & Anr*¹¹

In these situations, the Judge held that, in order to apply in the Supreme Tribunal and in the High Court, the substantive side of Contempt of Court must also be prescribed by the Parliament. This means that in this situation, the maximum fine of Rs. 5000 is levied by Article 12(1) of the 1971 Contempt of Court Act and the six-month incarceration.

- *Zahira Habibullah Sheikh & Anr vs State Of Gujarat & Ors*¹²

In this situation the sentence levied by the Contempt of Court Act, 1971 only extends to the High Court but serves as a reference for the Supreme Court. It was not an alarming judgment, as the Supreme Court had great powers which were not given by the Indian constitutional draughtsmen.

- *Sudhakar Prasad vs. Govt. of A.P. and Ors.*¹³

This situation is analogous to the situation of the Bar Association of the Supreme Court. The Supreme Court again claimed that the forces of punishment for scorn were innate, and only this pre-existing condition was recognised in the clause of the Constitution.

Disregarding the court provision should not be used to regulate the practice of authority set out in Article 129 and Article 215 of the Constitution.

5.3 Willful disobedience of court order.

Non – rendering of Assistance through Courts Order

The non-render by the petitioner's police officer of the requisite aid in execution of a decree on the distribution of the land, while ordered to by the Court's execution decree, makes it impossible to enforce a decree and, therefore, is likely to hinder the broad execution of the warrant - *Utpal Kumar Das v. Court of the Munsiff, Kamrup*¹⁴.

¹¹ AIR 1998 SC 1895

¹² (2004) 4 SCC 158

¹³ (2001) 1 SCC 516

¹⁴ AIR 2008 Gau 62: 2008 (2) Gau LR 706

False Affidavit in Court

In *U.P. Resi. Emp. Co-op., House B. Society v. New Okhla Industrial Development Authority*¹⁵, In order to check and state the affidavit specifics of the allocation of plots, the Supreme Court ordered Noida authorities. One Mr. S. lodged a fake affidavit in line with that course, in attempt to deceive him before the Supreme Court. The Registry instructed that Mr. "S" should be informed on why no action against him should be taken for filing false affidavits at the Supreme Court.

Violation of Order of Supreme Court by Sons of Parties

Where the Supreme Court has confirmed an eviction order against an enterprise and order is not issued on companies filing refusal undertaking in the Court for a span of seven months and the order is not fulfilled, because no such enterprise or premises were granted by the business, the corporation and its partners have been held to be Bo The appellant in the above cases must be held to have knowingly refrained from passing the order by the Supreme Court and thereby allowed the corporation to confuse the court.

Although disdain is a grave issue and it interferes with the right of those found guilty of disdain, no Court should allow a party to mislead the court and thus to disrupt its order. So, in the present event, the court should ensure conformity with its order and should ensure that empty and peaceful possession is granted to the landlord to the advantage of the courts, believing that it can not be found guilty of infringing any company. The Court also noted that the motion for contempt should not be ordered again; Firm *Ganpat Rani Rai Krinla" v. Kalu Ram*¹⁶.

The written appeal regarding non-accreditation has been lodged. The written proposal was focused on the government advocate's confirmation. It was decided that, since there was no business awarding accreditation it would not be disrespect for the Court if the government did not do so. The unwillingness to grant except for the law was not an authority; *Union of India v. Mario Carbal*¹⁷.

In *Sanjiv Kumar v. Om Prakash Chantatal*¹⁸, The injunction was ignored by the Supreme Court to guide the CBI's lawsuit. The complainant is an IAS officer who reports about widespread graft and lists about vacancies of JBT State teachers. Any offences have been reported and a mechanism of departmental examination against the petitioner has been introduced to place pressure on him to avoid free inquiry. In view of the CBI status study, inquiries are being undertaken in a satisfactory manner on all subjects assigned to CBI or in the sense of the

¹⁵ AIR 2003 SC 2723; 2003 Cr LJ 3533

¹⁶ AIR 1989 SC 2285; 1989 Suppl (2) SCC 418

¹⁷ AIR 1982 SC 691; (1982) 3 SCC 262

¹⁸ AIR 2005 SC 2571; (2005) 5 SCC 510; 2005 Cr LJ 4911

petitioner's complaint or complaint against him. The Court ruled that the CBI may not need to withdraw the inquiry and that it is assigned to some separate research unit. No argument for the start of a despise proceeding.

6. Conclusion

Indian dissatisfaction and lying is the existing feature of an ex facie disrespect of lower courts. The overlap of the forces of disrespect under the Indian Penal Code, the overspreading of the Courts Act and the power of disrespect under the Indian Constitution seem to be a direct consequence of the difficulty. The condition has been further nuanced by inconsistent reading by the Supreme Court and the High Court of the numerous clauses of the Indian Penal Code pertaining to the administration of justice and the exclusion provision of the Conpret of Court Act. The situation is more complicated. This authority should not only be granted to the superior court in order to cope with scorn, but also to the inference court. Disgust from the judges' viewpoint appears healthy, but when it comes to the average people's perspective, higher judicial officials shift to its harmful consequences.

7. Suggestions

- The law of contempt should be maintained in front of the judge.
- When disrespect against the judiciary is, contrary to our provisional opinion, to be abolished, the disturbance of the judicial proceedings is to be committed.
- Intention or carelessness should be included in the mens rea element. The offence does not require that the disturbance affects the administration of justice, either possibly or expected.
- The crime does not constitute an insult to a judge if the hearings are not disrupted by that.
- The proposed crime of interruption proceedings should be of a general nature; particular forms of intervention should involve specific ways of committing such a crime, without the possibility of a duplicity of prosecution.
- the offences of juror misconduct laid down in the Juries Act of 1976.
- the inability of a witness in situations which at present make the witness guilty of disdain for the court to answer a question;
- the fault of a witness or legal representative who fails to appear in court
- failure to meet the conditions of the Court for the use of court of sound recorders

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