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**CONTEMPT OF COURT: AN ANALYSIS**

 - Rohan Mohanto[[1]](#footnote-2)

**ABSTRACT**

*According to Oswald, contempt of court means any act that gravitates to bring the authority and administration of law into scorn or disrespect during litigation is considered to be contempt of court. Recently, we all have witnessed that contempt proceedings were initiated against Mr. Prashant Bhushan, senior advocate and, Mr. Kunal Kamra, a standup comedian for their tweets against the judges of the Supreme Court of India. The Attorney General of India, K.K. Venugopal while giving his consent to initiate criminal contempt against Mr. Kunal Kamra said that it is time that people understand that attacking the Supreme Court of India unjustifiedly and brazenly will attract punishment under the Contempt of Court Act, 1971. This research paper discusses the meaning of Contempt, Kinds of Contempt of Court, procedure, and most importantly what amounts to the Contempt with some landmark judgments of the Apex Court. It is high time now for everyone to comprehend that there is a very thin line between contempt of court and freedom of speech and expression! Misuse of freedom of speech is not at all acceptable in a democratic country like India. Criticism of any type should not hamper the performance of any individual rather it should motivate him to improve himself in the interest of justice.*

**INTRODUCTION**

**“We do not fear criticism, nor do we resent it[[2]](#footnote-3)”**

The courts are there to provide justice and if we start questioning it then how justice delivery system will work? Although fair and reasonable criticism is always acceptable, any act that tends to vandalize the image of the judiciary is intolerable. Therefore Contempt of Court Act, 1971 was enacted to safeguard the judiciary from any unwarranted attacks and to retain public confidence in the courts. The dignity and purity of the court must be protected[[3]](#footnote-4). There is a direct relationship between the independence of the judiciary and the Contempt of court. One of the fundamental principles of independence of the judiciary is that it should work freely without anyone’s intervention. Judiciary is one of the most crucial wings of democracy as it is the guardian of the Constitution.

Under Article 215, High Court initiates contempt of the Court proceedings.

**MEANING OF CONTEMPT OF COURT**

**Section 2(a)** of the Contempt of Court defines Contempt means Civil Contempt or Criminal Contempt[[4]](#footnote-5). It does not provide any proper definition of Contempt of Court.

**Article 129** states that the Supreme Court to be a Court of record. The Supreme Court shall be a court of record and shall have all the powers of such a court including the power to punish for contempt of itself. [[5]](#footnote-6)

In other words, it is an offense of disobedience or disrespect towards a court of law and its officers in the form of conduct that opposes or challenges the authority, justice, and dignity of the court.[[6]](#footnote-7)

**TYPES OF CONTEMPT OF COURTS**

* **CRIMINAL CONTEMPT**

**Section 2(c)** of contempt of court defines “criminal contempt” as the publication (whether by words, spoken or written, or by signs, or by visible representation, or otherwise) of any matter or the doing of any other act whatsoever which—

1. scandalizes or tends to scandalize, or lowers or tends to lower the authority of, any court; or
2. prejudices, or interferes or tends to interfere with, the due course of any judicial proceeding; or[[7]](#footnote-8)
3. interferes or tends to interfere with, or obstructs or tends to obstruct, the administration of justice in any other manner;

**Punishment:** Imprisonment up to 6 months with a 2000rs fine

* **CIVIL CONTEMPT**

**Section 2(b)** of contempt of court defines “civil contempt” as willful disobedience to any judgment, decree, direction, order, writ, or other processes of a court or wilful breach of an undertaking given to a court.[[8]](#footnote-9)

**Punishment:** Imprisonment up to 6 months with a 2000rs fine.

**WHAT AMOUNTS TO CONTEMPT OF COURT?**

* **Interference with Administration of Justice**

Any unwanted interference by anyone with the administration of justice is not acceptable at any cost. In the case of **Brahma Prakash Sharma vs. State of Uttar Pradesh**, the Supreme Court very clearly held there is no need to specifically prove that an actual interference with the administration of justice has been perpetrated in order to establish the offense of Contempt of Court. The court further said if any defamatory statement tends to interfere with the administration of justice is enough to initiate Contempt proceedings.

* **Scandalizing the Court**

Mere criticism of the Court does not amount to Contempt. In the case of **PN Dua vs Shiv Shankar and others,** the Supreme Court observed thatany criticism of the judges or judicial system is always welcomed, as everyone has some ideas or views. But so long as such criticism does not impair or hamper the administration of justice. The courts have the power to punish a person for an alleged contempt, be it by taking notice of the matter suo motu or at the behest of the litigant.

In another case of **Baradanath Mishra v Registrar of Orissa High Court**, the court held that the vilification of the judge is a common form of such contempt. The Court has to figure out that the vilification is of the judge as a judge, or it is the vilification of the judge as an individual. But if the latter then the judge cannot initiate a contempt proceeding and he is left with private remedies. If the former stands true then the court can initiate contempt and all reasonable doubt should be cleared.

The court needs to consider how much harm or degree of harm has occurred that affected the administration of justice. As per **section 13 of the Contempt of Court Act**, 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 that it substantially interferes, or tends substantially to interfere with the due course of justice.[[9]](#footnote-10) The contempt jurisdiction is not intended to uphold the personal dignity of the judges.

* **Interference with due course of Justice**

The court has tried to explain it through various judgments. In the case of **Pritam Lal vs. High Court of M.P[[10]](#footnote-11).,** the court held that it is paramount to preserve the proceedings of the court from any motivated attacks from some anti-social elements. Therefore it is necessary to punish the contemner in order to ensure dignity and purity of justice. No one can be exempted from the law of contempt if his conduct interferes or obstruct the due course of justice. Any libelous accusation made against the sitting judge of the High Court will not be tolerated and will definitely amount to contempt of the Court as it affects the smooth functioning of the judiciary.

In the case of **Shamsher Singh Bedi vs. High Court of Punjab and Haryana,** the Hon’ble Supreme Court held that when a remark made against the judge is discreditable and has a capability to distort the course of justice by interfering with the proper administration of justice then it will be contempt.

In the case of **Dr. D. C. Saxena vs Hon'ble C.J.I,** the Court was of the same view as in the Shamsher Singh Bedi case. The court believed that any act which tends to undermines people’s confidence in the administration of justice will amount to criminal contempt. Any vituperative attack on a judge questioning his authority would amount to contempt.[[11]](#footnote-12)

Again in the **Re Vijay Kurle** case, the Court said *no doubt; any citizen can comment or criticize the judgment of this court, but that citizen must have some knowledge before questioning the ability, integrity, and impartiality of a judge of the Constitutional Court of the land.*

**PROCEDURE**

The procedure is given under section 14 (1) of the contempt of court Act, which states that when it is alleged or appears to the Supreme Court or the High Court upon its 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, or as early as possible thereafter, shall.

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**a**. cause him to be informed in writing of the contempt with which he is charged;

**b**. allow him to make his defense 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.

It is to be noted that the contempt proceedings are not governed by IPC, Cr.P.C., CPC, and Evidence law. It is generally *sui generis*.

When contempt is committed outside the court then section 15 of contempt of Court governs the proceedings which state that:-

In the case of criminal contempt, other than a contempt referred to in section 14, the Supreme Court or the High Court may take action on its own motion or on a motion made by[[13]](#footnote-14)

* the Advocate-General, or
* any other person, with the consent in writing to the Advocate-General,

In the case of the Supreme Court, consent of the Attorney General or Solicitor General is necessary to initiate contempt proceedings. This is done in order to save the time of the courts.

**ARE DEFAMATION AND CONTEMPT THE SAME?**

No, there is a vast difference between defamation and contempt of court. If a defamatory statement is made against the judge in his personal capacity will not amount to contempt. But if the same statement should have been made targeting him as a judge then it will be contempt. A statement that tends to harm the reputation of the court or interfere in the administration of the court will be considered contempt only.

In the case of **Perspective Publication vs. State of Maharashtra,[[14]](#footnote-15)** the court said there is a need to make a distinction between libel or defamation on a judge and what amounts to contempt of court. The statement shall be tested on the ground that the statement is a defamatory attack on the judge or it is an attempt to interfere with the due course of justice.

**RECENT CASES OF CONTEMPT OF COURT**

* **Advocate Prashant Bhushan Case**

On June 27 and 29, 2020 Senior Advocate Prashant Bhushan has tweeted against Supreme Court functioning and the Chief Justice of India. The Court held both the tweets serious contempt of court. Mr. Bhushan has even refused to apologize and even SC gave him time to rethink and tender an unconditional apology or withdraw his statement[[15]](#footnote-16). But all went in vain.

The Supreme Court held Mr. Bhushan guilty of Contempt and imposed a fine of Re. 1 and the bench said Bhushan would be jailed for three months and barred from practicing for three years if he failed to pay this fine by September 15.[[16]](#footnote-17) However, this judgment was criticized by the legal world for setting up a wrong and illogical precedent.

* **Kunal Kamra Case**

Comedian Mr. Kunal Kamra has tweeted that the Supreme Court is the supreme joke of this Country and in his other tweet, he abused the sitting Hon’ble Chief Justice of India, Justice Sharad Arvind Bobde. Attorney General K.K. Venugopal while permitting to initiate criminal contempt against him said that the tweets are not only in bad taste but clearly cross the line between humour and contempt of the Court.[[17]](#footnote-18)

* **Maharashtra Governor Contempt Case**

Uttarakhand High Court has issued a notice to initiate contempt proceeding against the Maharashtra Governer Bhagat Singh Koshyari for the failure to follow an order of payment of market rent for a government bungalow which was allocated to him in his capacity as Chief Minister[[18]](#footnote-19). However, Mr. Koshyari has approached the Supreme Court seeking a stay of the High Court order. He has contended that since he is the sitting Governor of Maharastra, Article 361 of the Constitution protects him against such proceedings.

* **Civil Judge Junior Division Case**

On 18th November 2020, the Allahabad High Court issued a notice of criminal Contempt to a lawyer against whom, a complaint was made by a civil judge (Junior Division). [[19]](#footnote-20) The Court held that the allegation made against the advocate is very serious and cannot be ignored. According to the judge, the advocate misbehaved with her and used abusive language, created obstruction in the proceeding of the Court, and even manhandled the Court, terrorized and pressurized the Court.[[20]](#footnote-21)

The advocate has not only allowed the Court to function smoothly but also defamed the Court by making a serious allegation against the judge of taking bribery. These allegations are definitely brought down the dignity of the Court in the public domain and undermined the authority of the Court.

* **Rachita Taneja Case**

Rachita Taneja is a cartoonist, she portrayed a picture of Arnad Goswami (Senior Journalist) in which she has shown Arnab saying you don’t know who my father is and flanked by Supreme Court and BJP (ruling party).

The tweets undoubtedly violate the line between humour and contempt of the Court.[[21]](#footnote-22) The Attorney General had given his consent to initiate a contempt proceeding against her.

**CONCLUSION**

Not just the higher court ought to be enabled to manage contempt yet additionally the lower court ought to be given this force. Contempt of Court whenever seen according to the point of view of the appointed authorities, higher legal authorities appear to be acceptable however on the off chance that it goes to the viewpoint of ordinary citizens it turns towards its terrible impact. It is also the responsibility and duty of the citizen to respect the judiciary and not to abuse the freedom of speech and expression.

1. Law Student, Shri Ramswaroop Memorial University, Lucknow. [↑](#footnote-ref-2)
2. Lord Denning. [↑](#footnote-ref-3)
3. Prof. Kamlesh M. Pandya, The Concept of Contempt of Court in India, (PARIPEX INDIAN JOURNAL OF RESEARCH: Volume 7, issue 5, May 2018). [↑](#footnote-ref-4)
4. Section 2(a), Contempt of Court Act, 1971. [↑](#footnote-ref-5)
5. Article 129, Constitution of India, 1949. [↑](#footnote-ref-6)
6. Ujjaini Chatterji, “Comtempt, dignity and fair criticism; What do they mean to courts?” (THE LEAFLET, August 18, 2020). https://www.theleaflet.in/contempt-dignity-and-fair-criticism-what-do-they-mean-to-courts/# [↑](#footnote-ref-7)
7. Section 2(c), Contempt of Court Act, 1971. [↑](#footnote-ref-8)
8. Section 2(b), Contempt of Court Act, 1971. [↑](#footnote-ref-9)
9. Section 13(a), Contempt of Court Act, 1971. [↑](#footnote-ref-10)
10. [↑](#footnote-ref-11)
11. Ibid, 5. [↑](#footnote-ref-12)
12. Section 14(1), Contempt of Court Act, 1971. [↑](#footnote-ref-13)
13. Section 15(1), Contempt of Court Act, 1971. [↑](#footnote-ref-14)
14. AIR 1971 SC 221. [↑](#footnote-ref-15)
15. Apurva Vishwanath, “Explained: In Prashant Bhushan case, the larger questions over contempt” (The Indian EXPRESS, September 1, 2020). https://indianexpress.com/article/explained/supreme-court-prashant-bhushan-contempt-case-6569845/ [↑](#footnote-ref-16)
16. #  The Wire Staff “Supreme Court Fines Prashant Bhushan Re 1 in Contempt of Court Casse” (The Wire, August 31, 2020). https://thewire.in/law/prashant-bhushan-supreme-court-contempt-re-1-fine

 [↑](#footnote-ref-17)
17. #  Vakasha Sachdev “Kunal Kamra Contempt Case: What did the A-G Say? What Happens Now?” (the quint, November 12, 2020). https://www.thequint.com/news/law/kunal-kamra-contempt-of-court-details-what-is-next

 [↑](#footnote-ref-18)
18. Sanya Talwar, “Maharashtra Governor Moves Supreme Court Against Uttarakhand HC's Contempt Proceeding On Alleged Non-Payment Of Rent Of Govt. Allocated Bungalow” (LiveLaw, November 17, 2020). https://www.livelaw.in/top-stories/maharashtra-governor-moves-supreme-court-against-uttarakhand-hcs-contempt-proceeding-on-alleged-non-payment-of-rent-165980 [↑](#footnote-ref-19)
19. Sparsh Upadhyay, “Allahabad High Court Issues Criminal Contempt Notice To Lawyer Who Misbehaved With A Civil Judge”(Livelaw, November 11, 2020). https://www.livelaw.in/news-updates/allahabad-high-court-issues-criminal-contempt-notice-to-lawyer-who-misbehaved-with-a-civil-judge-166050 [↑](#footnote-ref-20)
20. Ibid. [↑](#footnote-ref-21)
21. Aditya Chunduru, “Attorney General KK Venugopal consents to contempt proceedings against cartoonist who criticized Sureme Court” (MEDIANAMA, December 3, 2020). https://www.medianama.com/2020/12/223-contempt-proceedings-consent-sanitarypanels-rachita-taneja/ [↑](#footnote-ref-22)