

BAR BENCH RELATIONS

CONTEMPT OF COURT

Object of the Act: The main object of the contempt of court Act is to protect the dignity and decorum of the court and to uphold the majesty of law.

The object is not to protect the judges from criticism. By providing punishment for contempt of the court the ability to deliver fearless and impartial justice is strengthened.

Definition: it is difficult to define it by words, because the scope of contempt of court is very wide.

Contempt means (i) Any disrespect to the authority of law. (ii) Disobedience of the order of the court. (iii) Disturbance to the proceedings of the court.

Types:

- (i) Civil contempt and
- (ii) Criminal contempt.

Civil contempt S.2(b) defines the term 'civil contempt'. It means

- (i) Willful disobedience to any judgemaent, decree, direction, order, writ or other process of a court; or
- (ii) Willful breach of an undertaking given to a court. For taking action for civil contempt on the ground of willful disobedience of court order, it should be established that the court which has passed the order has jurisdiction to pass such order. Disobedience of an order passed without jurisdiction is not a Contempt must prove that the court has no jurisdiction

A willful breach of an unconditional undertaking given orally or in writing either in person or through his Advocate will be treated as civil contempt.

Punishment: S.12 prescribes the punishment for contempt. court may award any one of the following punishments.

- (i) Simple imprisonment for a term which may extend to 6 months.**
- (ii) Fine**
- (iii) Both the punishment ie., Imprisonment and fine together.**

S.2C defines the term `criminal contempt'. It means

(i) Publication of any matter (by words, spoken or written, or by signs or by visible representation or otherwise.

(ii) Doing of any other act which

(a) Scandalises or tend to scandalise, or lowers or tends to lower the authority of any court;

Or (b) Prejudices or interferes or tends to interfere with the due course of judicial proceeding;

or (c) Interferes or tends to interfere with, or obstructs or tends to obstruct the Administration of justice.

Publication means publishing something orally or in writing through news paper, pamphlets, radio, television or cinema. conversation between two persons cannot be treated as publication. To decide criminal contempt, the absence of criminal intention on the part of the person who has published the matter containing criminal contempt or done the act of contempt will not be taken into account.

In E.M.S.Nambothribad v.T.N.Mambiar (AIR 1970 SC 2015) the then Chief Minister of Kerala, Mr.Nambothribad in a press meet expressed the following about judiciary. judiciary is responsible for the suppression of people. Judges are favouring some class of people and working against the other classes. Judiciary is acting against the interest of working class and the agriculturist. judiciary is helping the oppressor group.

The supreme court held that the act of Mr. Nambothribad amounts to criminal contempt. Making complaint against a Judge about his misconduct with sufficient evidence to the higher authorities is not a contempt. But, the same complaint is published in any manner then it amounts to contempt.

Preventing the court Amin from executing the court order, Threatening an Advocate not to appear in a particular case, Threatening the witness, Preventing the witnesses from attending the courts, Preventing the Commissioner from performing his duties are treated as criminal contempt.

S.12 Prescribes the punishment for contempt of court. punishment is same for the civil as well as the criminal contempt. If the charge of contempt of court is proved, the Court shall award any one of the following punishment.

1.Simple imprisonment for a term which may extend to 6 months.

2.Fine which may extend to Rs.2000/-.

3.Both the punishments ie., imprisonment and fine together.

According to S.12(2),For contempt of court any one of the above mentioned punishment alone can be given and not any other punishment alone can be given and not any other punishment. But, in Delhi Judicial Services Association v. State of Gujarat (AIR 1991 SC 2176)the Supreme Court held punishment not mentioned in S.12 can also be given for contempt of court.

In Re Vinay Chandra Mishra (AIR 1995 SC2348)the supreme court held that for contempt of court committed by an Advocate, he shall be suspended from practice for a fixed period or he shall be permanently restrained from practice.

Defences in Criminal Contempt Or Criminal Contempt not Punishable S.3 to 7 deals with the defences available in Criminal Contempt.

They are as follows:

- 1.Innocent Publication(S.3):A person shall not be guilty of contempt of court if he had made any innocent publication of any matter pending before a court without knowing that the matter is pending in a court. The person charged with contempt must prove that publication is made without knowing that the Matter is pending in the court.**
- 2.Publication Relating to a Decided Case (S.3(2)):Publication about the decided case is not a contempt since the case is already decided by the court, the publication is not going to interfere with the disposal of the case. that is why it is not treated as contempt.**
- 3.Distribution of publication without knowing that it contains contempt of court Matter(S.3(3)): If a person distributes and publication without knowing that it contains contempt of court matter then it cannot be treated as contempt. If the publication does not contain the name and address of the Author, publisher and printer then this defence cannot be used by the person distributing such publications.**

4.Fair and Accurate Reporting of Judicial Proceedings(S.4): Fair and accurate reporting of judicial proceedings is not a contempt. This is because we are following the principle of openness in the matter of administration of justice.

The following reporting of judicial proceedings though it is fair and accurate it will be treated as contempt of court.

- 1. Reporting of the proceedings against any law which is in force.**
- 2. Reporting of the proceedings when the court has prohibited the reporting in the interest of the general public.**
- 3. Reporting of the proceedings conducted in the judges chamber in the interest of defence of public order**
- 4. Reporting of information relating to secret process, discovery or invention which is an issue in the case.**

5. Fair Criticism of Judicial Act(S.5): A proper and fair comment on a decision is not a contempt of court. Criticism is permitted to the extent where it does not interfere with the administration of justice. So, it is open to any one to express fair, reasonable and legitimate criticism of a judicial decision.

6. Bonafide Complaint against the Presiding Officers of a subordinate court(S.6): A bonafide complaint made in good faith against the presiding officer of a subordinate court to the higher authorities, who have control over such subordinate court, is not a contempt.

7. No Substantial Interference with the Administration of Justice: It means an act which is technically a contempt but such act does not substantially interfere with the administration of justice. For such acts no punishment is awarded.

Defences in the Civil Contempt or Civil Contempt not Punishable

Following are some of the important defences available to a person charged with civil contempt.

- 1. Disobedience of the Order is Not Willful:** If the disobedience of the order is accidental or which is not willful then it's a good defence in a civil contempt proceedings.
- 2. The Order Passed Without Jurisdiction:** If the order passed by the court is without jurisdiction then the disobedience or violation of such order cannot be treated as contempt of court. An order passed without jurisdiction is void, hence it won't bind any person. The person charged with contempt must prove that the court has no jurisdiction to pass such order.
- 3. Order Disobeyed is Vague or Ambiguous:** An order is treated as vague if it is not clear, specific and complete. For violation of such order contempt proceedings cannot be taken.
- 4. Order Involves More than One Reasonable Interpretation:** If the order of the court involves more than reasonable interpretation, and one interpretation is adopted by the party and acted in accordance with such interpretation then he cannot be held liable for contempt of court for not following the order interpretation.
- 5. Compliance with the Order is Impossible:** Impossibility means that the implementation of the order is practically not possible
- 6.No Knowledge of the Order:** A person cannot be held liable for civil contempt, if he has no knowledge about the order. If he has knowledge about the order, through it is not officially communicated to him, then he cannot put this defence for violation of the order.