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What does CONTEMPT mean?

Oxford Dictionaries-

- The feeling that a person or a thing is worthless or beneath consideration.

OR

- Disregard for something that should be considered

Dictionary.references.com-

- The feeling with which a person regards anything considered as mean; vile, or worthless.

OR

- The state of being despised; dishonour; disgrace.



Contempt of Court

Anything that **curtails or impairs** the freedom of limits of the judicial proceedings.

Any conduct that tends to bring the authority and administration of Law into **disrespect or disregard**

Publishing words which tend to bring the administration of Justice into contempt, to **prejudice the fair trial**

Consisting of words spoken or written which **obstruct or tend to obstruct the administration of justice**

Need for Contempt of Court laws

Need for
maintaining
independence of
judiciary

Need to **respect** the
status and
decisions of
judiciary

Duty of all
authorities in India
to **assist** the courts
in **executing** their
orders

Full faith and credit
clause in the
Constitution

To **avoid willful**
disobeyance of
courts' orders

Avoid the tendency
to **lower image** of
judiciary

Genesis

World

- ❑ Called as ***contemptus curiae*** in Latin, has been in currency since 17th Century.
- ❑ Based on **Common law**- an unwritten law modelled on English law which does not derive its authority from any written statute.
- ❑ Genesis of contempt is in a judgement which was reserved after argument in **R. v Almon 1756** by Justice John Eardley Wilmot.
- ❑ Case: John Almon published derogatory remarks against Chief Justice- Court ordered attachment of properties- but Writ wrongly titled as R. v. Wilks- amendment without consent not permissible- hence abandoned.
- ❑ Judgement became public in 1802- paper published by Justice Wilmot's son.

India

- ❑ First recognized by the **Judicial Committee of the Privy Council** which observed that **the powers of the High Courts** to punish against contempt are the same in such courts as in the Supreme Court in England.
- ❑ The first Indian statute on the law of contempt i.e., **the Contempt of Courts Act was passed in 1926**. Later states like Hyderabad, Madhya Bharat, Mysore, Pepsu, Rajastha, Travancore-Cochin and Saurashtra enacted laws, which was replaced by **the Contempt of Courts Act, 1952**
- ❑ An attempt was made in April, 1960- A **Special Committee** set up- report on 28th February, 1963 to define and limit the powers of certain courts in punishing contempt of courts and to regulate their procedure in relation thereto. **Joint Select Committee of Parliament on Contempt of Courts** went in detail and a new Bill, The Contempt of Courts Bill, 1968 was prepared by the Joint Select Committee



Types of Contempt

Civil Contempt

Wilful disobedience to any judgement, decree, direction, order, or writ

Violation of rights of one party

Eg. Contemnor has failed to pay proper alimony payments

Criminal Contempt

Publication of any matter or the doing of act which scandalizes /interferes with judicial proceeding

Offence against the judiciary

Eg. Witness insults the judge during trial

Direct Contempt

Occurs in the presence of court

Eg. Shouting in a courtroom or refusing to answer questions

Indirect Contempt

Occurs outside the presence of court

Eg. Attempting to bribe judge

What constitutes Contempt of Court?

- 1. Wilful Disobedience to any judgement or order of court**
- 2. Act or publication scandalizing the authority of court, interfering with judicial proceedings or obstructing the administration of justice in any manner.**

- 1. Innocent publication**
- 2. Fair & accurate report of judicial proceeding**
- 3. Fair criticism of judicial act**
- 4. Complaint against presiding officers of subordinate courts**
- 5. Publication of information relating to proceedings in camera (except in certain cases)**

What does not constitute Contempt of Court?

Essential conditions of Civil Contempt of Court

There must be a judgement or order of a court

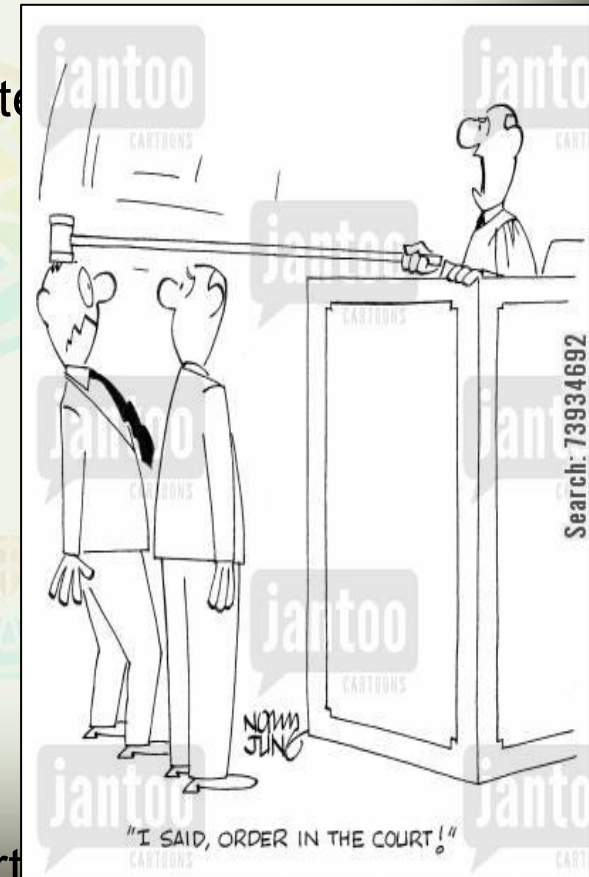
Knowledge of the order by respondent

Respondent must be capable of complying with the order

Wilful Disobedience of the order

Some examples of Contempt of Court

- ❑ A lawyer hurled shoes at the Judge in order to over awe, and to bully him (AIR 1981 SC 1382)
- ❑ Comments on pending proceedings with a tendency to prejudice fair trial
- ❑ A person walking into the chamber of a Magistrate and insisting on cancelling the order he passed against him, else a serious consequence would follow.
- ❑ Assault on Magistrate
- ❑ Insult to a Magistrate
- ❑ Private Communication with a Judge or Magistrate about a subjudice matter
- ❑ Threatening a counsel in a case.
- ❑ Bullying witnesses
- ❑ Destroying documents in the custody of the Court



- ❑ There is an old joke amongst lawyers. Annoyed with a lawyer's argument, the judge asks the lawyer: "Counsel do you take me for an idiot?"
- ❑ Pat comes the answer from the lawyer: "Your honour, I can't answer that question without being sent to jail for either contempt or perjury."



Constitutional Provisions

Article 129

Supreme Court shall be Court of Record & shall have powers to punish for contempt of itself

Article 215

Every High Court shall be Court of Record & shall have all the powers of such a court to punish for contempt of itself

Article 141

Law declared by Supreme Court to be binding on all courts

Article 142

Supreme Court may pass such a decree as is necessary for complete justice which shall be enforceable throughout territory of India

Article 144

Civil & Judicial authorities to act in aid of Supreme Court

Contempt of Court Act, 1971

- ❑ **Object**- to define powers & limit in punishing contempt of courts and to maintain the majesty & dignity of law courts and their image in the minds of the public.
- ❑ Sec.3-innocent publication and distribution of matter-not contempt.
- ❑ Sec.4-fair & accurate report of judicial proceeding-not contempt.
- ❑ Sec.5-fair criticism of judicial act-not contempt.
- ❑ Sec.6-complaint against presiding officers of subordinate courts(in case of any statement made by him in good faith)
- ❑ Sec.7-publication of information relating to proceedings in chambers or in camera(except in certain cases)



Contempt of Court Act, 1971

- Sec.9-Due regards to constitutional provisions- act not to imply enlargement of scope of contempt.
- Power of HC to punish contempt of subordinate courts as it has and exercises i.r.o. contempt of itself.
- Sec.10- no HC shall take cognizance of a contempt alleged to have been committed i.r.o. court subordinate to it where such contempt is an offence punishable under IPC.

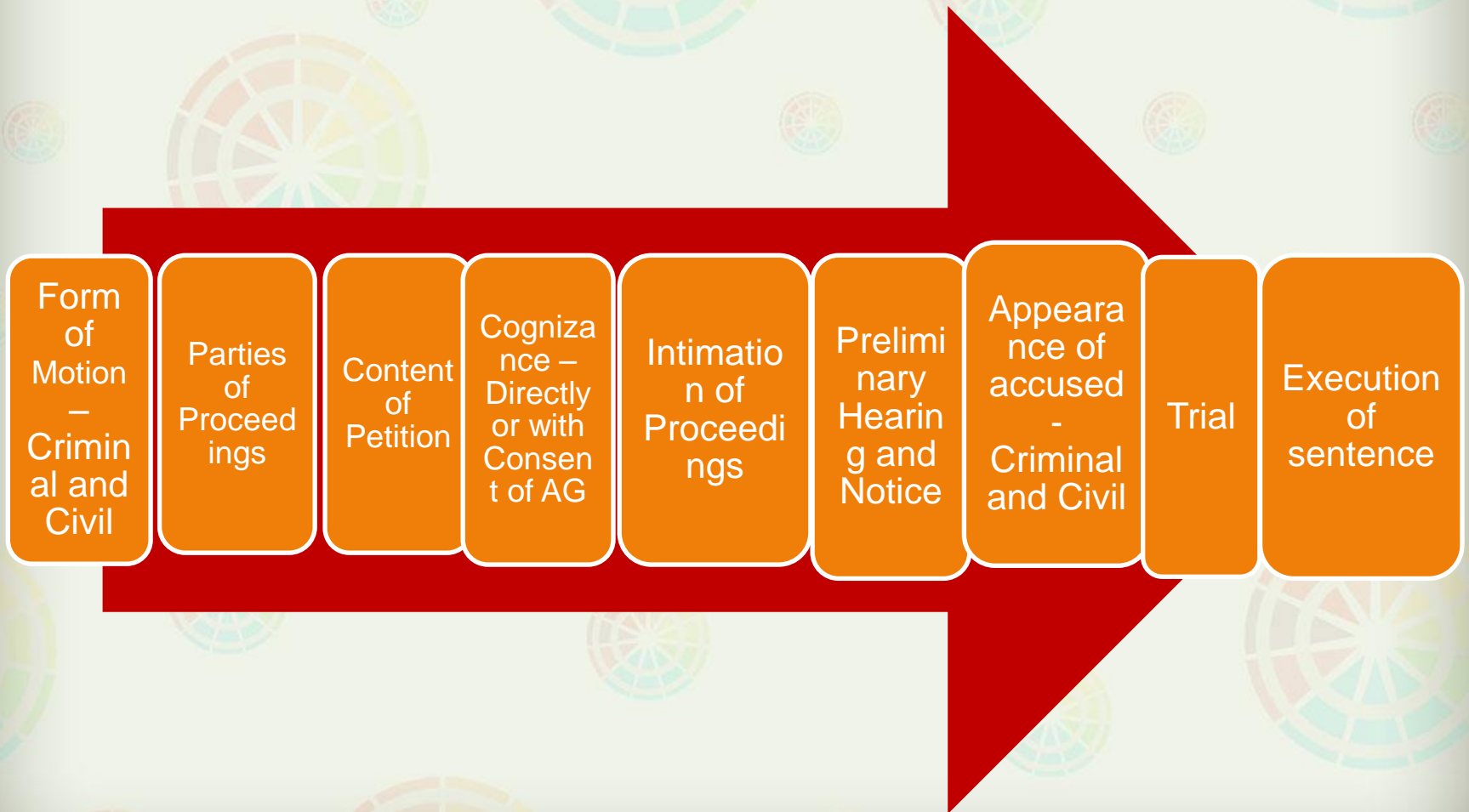
Punishments & Limitation for Contempt of Court

- ❑ Up to six months simple imprisonment or fine up to 2000/ or both. Accused may be discharged or punishment may be remitted on apology being made to satisfaction of the court.
- ❑ sec.12- apology shall not be rejected merely on the ground that it is qualified or conditional if the accused makes it bonafide
- ❑ **LIMITATION – ACTS COMMITTED WITHIN LAST 1 YEAR WILL BE CONSIDERED**

Contempt of Courts Amendment Act, 2006

- ❑ Substitute of sec.13 of act-1971 which provides certain circumstances under which contempt is not punishable.
- ❑ No court shall impose a sentence under this act unless it is satisfied that the contempt is of such a nature ,it substantially interferes or tends to with the due course of justice.
- ❑ The court may permit justification by truth as a valid defence if it is satisfied that it is in public interest and the request for invoking the said defence is bonafide.

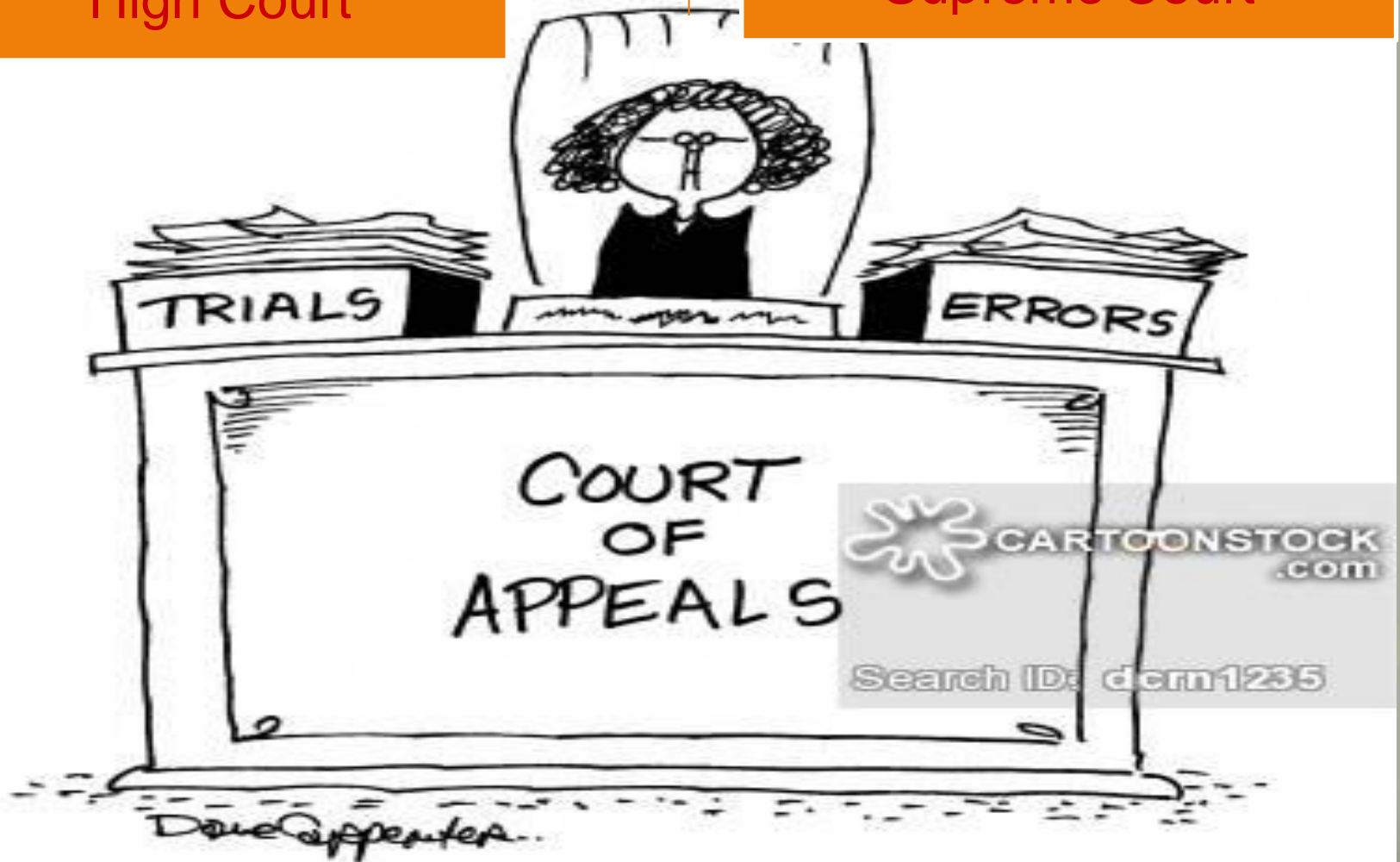
Proceedings of Contempt of Court



Appeal

High Court

Supreme Court



Case Laws

- Legal Remembrancer Vs Bibhuti Bhushan Das Gupta And Ors. On 1953;AIR 1953 SC 185
- 144 CrPC notice issued to parties by sub divisional magisterate, Purulia
- Held the opposite parties created contempt of court by scandalizing the SDM.
- Lesson learnt: Rule of Law is paramount
- No judiciary is small.

- Mohd Aslam Vs Union of India, 1994; AIR 548, 1994 SCC(6)442
- Babri Masjid case.
- CM submitted affidavit and violated the conditions.
- Held, it is flagrant breach of undertaking and wilful disobedience by CM, U.P
- One day imprisonment + Rs.2000/- fine

- Sanjeev Dutta, Deputy secretary Ministry of Information and Broadcasting Vs Others
- Diamond Jubilee celebrations of CAB with 6 nations tournament.
- Dispute between CAB, DD, TWI and Ministry of Broadcasting.
- Held unconditional apology of public servant not accepted as they were made under full knowledge to sabotage Rule of Law.
- Lesson learnt: draft your replies carefully.
- Don't be emotional in your affidavit.

- Dhananjay Sharma Vs. State of Haryana and others
- A writ of Habeas corpus issued by court.
- Held, SHO, Additional SP and SP filed wrong affidavit in court.
- CBI inquiry ordered. SP, Addl SP and SHO punished for contempt of court.
- Held, apologies cannot be accepted being apologies of not repentance but to escape punishment.

Vasudevan Vs Dhananjay, 1995

- A senior IAS officer held guilty of contempt of court (Commissioner of BMC)
- Held, the respondent guilty of CoC by delaying the implementation of the orders issued by court.
- Ordered one month imprisonment and fine.
- Lesson learnt: Don't delay and implement within the stipulated time.

Impact of Contempt Laws on Executive functioning

- ❑ Delay in COC will create operational difficulties
- ❑ Creates avoidable animosity between Judiciary and Executive
- ❑ The content of Judicial Orders is very unpleasant and offensive creating fear among executives
- ❑ Fear of COC will make misallocation of resources of administration like using of force, logistics etc
- ❑ Ambiguous court orders makes bureaucracy a sitting duck
- ❑ Inconsistent treatment of contempt cases.
- ❑ Court Orders can be sometimes be used to blackmail executive
- ❑ Harassment of executive through insistence on personal appearance and rude behaviour
- ❑ Lesson Learnt: Unlike Pro-Kabaddi tag line (Le panga...) the tagline here is Don't take PANGA!!!!

Debates and the way forward

Freedom of Expression Vs Contempt of Court:

- ❑ Free press is required for proper functioning of democracy in fact without free press democracy has no meaning...
- ❑ Free press require that any wrong being done by each arm of state be highlighted and give an informed opinion ...
- ❑ However while legislature and executive have been time and again targeted but press fears to touch upon the wrongdoings of judiciary.. The reason being it invites contempt of court..

- Courts are staffed by judges who are human beings with all frailties that a human being can possess, so they too can commit mistakes..if judges follow law and orders...ok
- If uses discretion ...his orders may become law...and some body must evaluate his law in a professional way
- Media---imp role in publicising....critising.. Decisions of court from stand point of policy and fundamental constal values. Such criticism makes them accountable....
- It enhances the quality of democracy.
- Its brings transparency and inturn increases faith in system.

- On the otherhand judges should be shielded from public pressure.....other wise justice in true sense will not be delivered.they may fail to uphold justice under media stress, crowd pressure..public sentiments... and in todays explosive growth of media and all pervasive social media judgements may be affected.their dignity and decorum will down and faith that it is last resort will be eroded
- For example---if media starts saying one day before judgement
- This judge past record is like that the order will be favourable to accused,
- The judge attended marriage of his accused cousin 15 yrs back means he will side accused.
- The judge distant relative is a opposition man hence he will deliver order against the accused etc..
- Coc has prevented this type of bullying of judiciary.
- However any type of non scrutiny has made judges inefficient and has burdened the system....non performers and corrupt thrive in the system ,,infact S.P.Barucha CJI remarked 80%of judges are honest means..

- ❑ There should be a performance commission which should be an instrument to receive complaints and investigate them.
- ❑ Bad judges should be punished by performance commission..
- ❑ At the same time vulgar misuse of free speech and abuse of judges be punitive.
- ❑ However the best answer to abuse of judges is not frequent or ferocious contempt sentencing but fine performance

ARUNDATHI ROY CONTEMPT

- The **first case for criminal contempt** emerged out of the following events:
- On 18th October 2000 –SC JUDGEMENT TO RESUME CONSTRUCTION OF SSP-
- On 13th December 2000 DHARNA-300-. RBP-DHARNA.ARRESTED AND LET OFF..PEACEFUL
- On 14th December 2000 five lawyers - FIR-
- January 2001 - COC –RBP-PETITION ENTERTAINED-NOTICE ISSUED-RBP-DENIED-ACCUSATIONS LUDICROUS-NO AFFIDAVIT-NO ADDRESSES-NO CONSENT OF ATTORNEY GENERAL.
- **The judgement** on 28th August 2001 by Justice G B Pattanaik & Justice Ruma Pal, -DISMISSED THE COC PETITION- “shabbily drafted, ...SHOULD NOT BE ENTERTAINED....
- *Extraordinarily enough, the matter did not end here.....*

least three paragraphs that were prima facie contemptuous.

These were:

“On the grounds that judges of the Supreme Court were too busy, the Chief Justice of India refused to allow a sitting judge to head the judicial enquiry into the Tehelka scandal, though it involves matters of national security and corruption in the highest places.

Yet when it comes to an absurd, despicable, entirely unsubstantiated petition in which all the three respondents happen to be people, who have publicly – though in markedly different ways – questioned the policies of the government and severely criticized a recent judgement of the Supreme Court, the Court displays a disturbing willingness to issue notice.

It indicates a disquieting inclination on the part of the Court to silence criticism and muzzle dissent, to harass and intimidate those who disagree with it. By entertaining a petition based on an FIR that even a local police station does not see fit to act upon, the Supreme Court is doing its own reputation and credibility considerable harm.”

The Court -- IMPUTED MOTIVES to specific courts for entertaining litigation or passing orders against her. She has accused Courts of `harassing' her --a personal vendetta against her. MADE COMPARISONS WHICH ARE NOT COVERED UNDER FAIR CRITICISM.....

- ❑ **On 5th September 2001 a fresh contempt notice was issued to Arundhati Roy.**
- ❑ In reply -- pointed out that the absurd and grossly defective nature of the first contempt petition against her - acknowledged by the Court
- ❑ strange that though the judges of the Supreme Court were obviously very busy ... This does not, and was not meant to impute motives to any particular judges. It does not, nor was not meant to undermine the dignity of the court. I was simply stating an honest impression that had formed in my mind.”

- former Law Minister Shiv Shankar - “unconcealed sympathy for the haves” and “Anti social elements ie. FERA violators, bride burners and whole hordes or reactionaries have found their haven in the Supreme Court”-not guilty.
- Final judgement MARCH 2002 : bench of Justice Pattanaik and Justice Sethi. Counsel of mr Roy- Justice Pattanaik to recuse himself from the proceedings and transfer this case to some other court, REASONABLE BIAS-NO PERSON SHOULD BE JUDGE IN HIS OWN CAUSE-SHOULD BE RAISED EARLIER-AND RAISING NOW MALAFIED...
- As the respondent has not shown any repentance or regret or remorse, no lenient view should be taken in the matter. **However, showing the magnanimity of law by keeping in mind that the respondent is a woman, and hoping that better sense and wisdom shall dawn upon the respondent in the future to serve the cause of art and literature by her creative skill and imagination,** we feel that the ends of justice would be met if she is sentenced to symbolic imprisonment besides paying a fine of Rs.2000/-.

E. M. Sankaran Namboodiripad vs T. Narayanan Nambiar

- C M of Kerala - press conference - critical remarks "an instrument of oppression" and the Judges as "dominated by class hatred, class prejudices", "instinctively" favoring the rich against the poor. He also stated that as part of the ruling classes the, judiciary "works 'against workers, peasants and other sections of the working classes" and "the law and the system of judiciary essentially served the exploiting classes".
- remarks in news papers- proceedings commenced-show cause - "substantially correct", though incomplete in some respects. And supplied the gaps.
- No mens rea-guarantees of freedom of speech and expression -expression to Marxist -programme of the Communist Party of India.
- By a majority judgement the appellant was convicted for contempt of court and fined Rs. 1000/- or simple imprisonment for one month. AppealedREDUCED PUNISHMENT.
- CJI Hidayatullah-

- Article 19(1) (a) guarantees complete freedom of speech and expression - exception - contempt of court.
- RIGHT is intended to give protection to expression of free opinions to change political and social conditions and to advance human knowledge.
- While the right is essential to a free society, the Constitution has itself imposed restrictions in relation to contempt of court and it cannot therefore be said that the right abolishes the law of contempt. or that attacks upon judges and courts will be condoned.
- The ends of justice in this case are amply served by exposing the appellant's ignorance about the true teachings of Marx and Engels (behind whom he shelters) and by sentencing him to a nominal fine. We accordingly reduce the sentence of fine to Rs. 50/-. In default of payment of fine he will undergo simple imprisonment for one week. With this modification the appeal will be dismissed.

Harijai Singh And Anr.; In ... vs Unknown

- “The Sunday tribune”, ”Punjab kesari” allegation that two sons of a senior judge of the Supreme Court and two sons of the Chief Justice of India were also favoured with the allotments of petrol outlets form the discretionary quota of Ministry.
- Editor Harijai singh and others were given contempt notice.
- Facts verified- published on the basis of the news report sent by a senior journalist .
- apology was carried out prominently .
- news item was not actuated by any malice towards the judiciary and that the mistake was bonafide. tendered his unconditional and unqualified apology.
- Apology was accepted and that wrong be corrected by posting prominently in news paper prominently.

Suggestions

- Changes in lawof contempt of court
- The present law is not according to scheme of constitutional spirit ...procedure established by law and due procedure of law
- Element of mens rea may be incorporated in the act
- Proceedings may be according to the indian evidence act and Criminal procedure code.
- Punishment for contempt is inadequate and is not a sufficient deterrent especially with regard to fine it should be sufficiently enhanced to deal with interference in administration of justice .

Avoiding **CONTEMPT OF COURT**

Four E-Z tips for unbiased third parties

- Do not ask questions
- Speak only when spoken to
- Anyone can be held in contempt of court
- Collecting information is manipulative and always results in mistrial



Thank you . . .

**Please note: Asking Questions will not amount to
Contempt of Syndicate Group 2!**