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AUDACITY BY PROFESSIONALS:

THE CONCEPT OF CONTEMPT OF COURT

THE EXORDIUM

Anything that curtails or impairs the freedom of limits of the judicial proceedings must of necessity result in hampering of the administration of Law and in interfering with the due course of justice. This necessarily constitutes contempt of court. Oswald defines contempt to be constituted by any conduct that tends to bring the authority and administration of Law into disrespect or disregard or to interfere with or prejudice parties or their witnesses during litigation. Halsbury defines contempt as consisting of words spoken or written which obstruct or tend to obstruct the administration of justice.

Black Odgers enunciates that it is contempt of court to publish words which tend to bring the administration of Justice into contempt, to prejudice the fair trial of any cause or matter which is the subject of Civil or Criminal proceeding or in anyway to obstruct the cause of Justice. In case of India, under Section 2(a) of the Contempt of Courts Act of 1971 defines contempt of court as civil contempt or criminal contempt, it is generally felt that the existing law relating to contempt of courts is somewhat uncertain, undefined and unsatisfactory.

The jurisdiction to punish for contempt touches upon two important fundamental rights of the citizens, namely, the right to personal liberty and the right to freedom of expression. It was, therefore, considered advisable to have the entire law on the subject scrutinized by a special committee. In pursuance of this, a committee was set up in 1961 under the chairmanship of the late H N Sanyal, the then additional solicitor general. The committee made a comprehensive examination of the law and problems relating to contempt of court in the light of the position obtaining in our own country and various foreign countries.

The recommendations, which the committee made, took note of the importance given to freedom of speech in the Constitution and of the need for safeguarding the status and dignity of courts and interests of administration of justice. This term Contempt of Court can be effectively comprehended as when we are discourteous or insubordination towards the official courtroom which implies that we wilfully neglect to comply with the court request or lack of regard the legitimate specialists. At that point the judge has the privilege to force endorses, for example, fines or can send the contemnor to imprison for a specific timeframe on the off chance that he is seen as liable of Contempt of Court.

This term can likewise be comprehended as far as the opportunity of points of confinement of the legal continuing. As we realize that all judges in courts can give legal procedures which have a specific breaking point in which it has the opportunity to make any legal continuing and anything which diminishes or stops it in making any legal continuing which is of need can add up to scorn of court. Halsbury, Oswald, and Black Odgers have likewise given the meaning of Contempt of Court and notwithstanding that, they have discussed its abuse and its off-base elucidation and furthermore its expansive plan.

The legal system that we see today is the summit of the long journey which has started from the divine rule that was in proclamation to the natural law and more further to the positive law that we see today. Contempt of Court is a matter which regards that justice should be administered fairly and it also punishes anyone who aims to hurt the dignity or authority of the judicial tribunals. This law has its origin from the medieval times when the royal powers of the monarch were transferred to the court and at this time the monarch was believed to be appointed by God and everyone was accountable to him.

DELIBERATION ON THE CONTEMPT OF COURTS ACT, 1971

The Law Commission of India (Chair: Justice B.S. Chauhan) submitted its report on the Contempt of Courts Act, 1971. Contempt refers to the offence of showing disrespect to the dignity or authority of a court. The Act divides contempt into civil and criminal contempt. Civil contempt refers to the wilful disobedience of an order of any court. Criminal contempt includes any act or publication which: (i) 'scandalises' the court, or (ii) prejudices any judicial proceeding, or (iii) interferes with the administration of justice in any other manner. 'Scandalising the Court' broadly refers to statements or publications which have the effect of undermining public confidence in the judiciary.

The Commission observed that there were a high number of civil (96,993) and criminal (583) contempt cases pending in various High Courts and the Supreme Court. The Commission observed that the high number of cases justify the continuing relevance of the Act. It stated that amending the definition of contempt may reduce the overall impact of the law and lessen the

respect that people have for courts and their authority and functioning. In relation to the offence of ‘scandalising the Court’, the Commission noted that the United Kingdom had abolished the offence in its contempt laws.

However, it noted that there were two differences in circumstances in India and the United Kingdom, which warranted a continuation of the offence in India. First, India continues to have a high number of criminal contempt cases, while the last offence of Scandalising the Court in the UK was in 1931. Second, the offence of Scandalising the Court continues to be punishable in UK under other laws. The Commission observed that abolishing the offence in India would leave a legislative gap. The Commission observed that amending the definition of contempt will lead to ambiguity. This is because the superior courts will continue to exercise contempt powers under the Constitution. If there is no definition for criminal contempt in the Act, superior courts may give multiple definitions and interpretations to what constitutes contempt. The Commission suggested retaining the definition for the purpose of ensuring clarity. The Commission noted that there are several safeguards built into the Act to protect against its misuse. For instance, the Act contains provisions which lays down cases that do not amount to contempt and cases where contempt is not punishable. These provisions suggest that the courts will not prosecute all cases of contempt. The Commission further noted that the Act had withstood judicial scrutiny, and therefore, there was no reason to amend it.



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