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EVOLUTION OF LAW REGARDING CONTEMPT OF COURT

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ABSTRACT: What is contempt? In its simplest form, contempt is the state of being despised or dishonoured; disgrace. Any act which leads to disrespect or disregard the authority and administration of law is considered to be contempt of court.The law of contempt has gradually evolved over recent years. Judges have altered and modified the contempt jurisdiction in order to deal with the issues faced by them. Most studies of the law of contempt rely upon the assumption that we must adapt to the contempt jurisdiction as we find it and that a historical analysis of how the contempt jurisdiction was evolved is unnecessary. Nevertheless, there is a lot to learn from the historical development of the law of contempt.

In this research paper, I have made an attempt to scrutinize and analyze the origin of the concept of contempt of court. This paper will cover all the aspects linked to this concept including the constitutional provisions and judicial interpretations. Further, this paper also throws light upon various landmark judgments dealing with the issue of contempt of court. With utmost respect of the judiciary, this research paper will be dealing with the comprehensive analysis of the concept of contempt of court. The main concern behind this concept is to protect the administration of justice in criminal as well as civil cases.

KEYWORDS: Contempt of Court, Judiciary, Administration of Justice

1. INTRODUCTION

As this famous quote was by the American Attorney Judge of the United States of Supreme Court, said in the case of Brown vs. Allen[1]. Here, question arises that weather a layperson, who is not entitled member of the bench can never make such pronouncement which questions the dependability of any court, except the Supreme Court of the land. In

[1]MANU/USSC/0086/1953 344 U.S. 443(1953).

this advanced era, if any person humped up contempt of court he has to face humiliation behind the bars. This problematic situation is the evidence when we look at the ambiguous expressions defining the ambit of contempt law.

Contempt in common language means any willful disobedience to, or disregard of, a court order or any misconduct in the presence of a court; action that interferes with a judge's ability to administer justice or that insults the dignity of the court as the ethos of contempt reduces the efficacy of reasonable justice to the people.[2]

As we know judiciary is in itself has its independent status and is one of the pillars of democracy which by punishing the guilty inculcate the feeling of faith in the citizens regarding the omnipotence of justice. Therefore, if any person tries to hamper the process of any judicial system or process is deemed to be a criminal in the eyes of law.

2. CONTEMPT OF COURT

The Constitutional pattern of India is based on the scheme rule of law. This means that every individual and collective responsibilities of a person are under supremacy of law. The logic behind the contempt of court is that people are bound to obey the judgment of the court which aims to serve the administration of justice. In this regard, we can say that the main object behind the contempt of court is to secure the process of justice.

2.1. CONTEMPT OF COURT IS CLASSIFIED IN TWO CATEGORIES-

- Civil Contempt
- Criminal Contempt

Civil contempt of court[3] has been defined as "willful disobedience to any judgment, decree, direction, order, writ or other process of a court or willful breach of an undertaking given to a court", whereas Criminal contempt of court[4]is defined 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:

(i) Scandalizes or tends to scandalize, or lowers or tends to lower the authority of, any court, or

(ii) Prejudices, or interferes or tends to interfere with the due course of any judicial proceeding,

(iii) Interferes or tends to interfere with, or obstructs or tends to obstruct, the administration of justice in any other manner."

[2] Black's law Dictionary.
[3] Section 2(b) of the Contempt of Courts Act, 1971.
[4] Section 2(c) of the Contempt of Courts Act, 1971.

3. HISTORICAL PERSPECTIVE

This history of punishing for the contempt of court has long history back to the 13th century. It was planned to safeguard the integrity of the fairness process by preventing unwarranted intervention with the administration of justice whether directed at judges, witnesses or others. Kings[5] created this contempt of court jurisdiction and claimed it was a natural adjunct to their settling work.[6] The law vests a discipline on a person while adjudicating and hence maintain a dignity of the administration of justice.

Therefore the idea of contempt of court confers a crime, if a person contempt or disregard of orders of the court and there was there was also mention of pecuniary penalty for contempt of court at some points.

4. ORIGIN OF THIS CONCEPT: INTERNATIONAL LEVEL

Before starting to international perspectives of the country regarding contempt of court, let me throw some light at their status under international law.[7] The major international instruments such as the International Covenant on Civil and Political Rights (ICCPR), the European Convention on Human Rights (ECHR), the American Convention on Human Rights (ACHR), and the African Charter on Human and People's Rights (ACHPR), all of them have provisions which protects both freedom of expression and the administration of justice.

In common law jurisdictions, the approach of contempt of court is by sub judice rule, means a person is prohibited from any kind of interference until proceedings are ongoing, and through all stages of appeal until the matter is settled between the parties. In United Kingdom, this set up is regulated by the Contempt of Court Act, 1981 and considered as a strict liable offence.[8] This Act was passed in response to the decision of the European Court of Human Rights in Sunday Times v. United Kingdom, in which injunction was granted to prevent newspaper from commenting as it would affect ongoing settlement negotiations. In Australia and New Zealand, there is no such contempt of court statue where the English common law test is still applicable which establish a less risk on a person. In Glennon, the High Court of Austria stated some different way which says that contempt of court wholly or partially depends on proof that the publication has, as a matter of practical reality, and definite tendency to interfere with the administration of justice. Dissimilarity in the United States, the power of the courts to punish for contempt by publication is immensely limited.

[5] SirG.D. Baneiji, 'The Hindu Law of Maniage and Stridhana', Tagoie Law Lecliiies. p. 3.
[6] Know the History of Contempt of Court in India, By Karan Dinesh Singh Rawat July 20, 2019, ABC Live.

[7] The Historical Perspective Of The Contempt Of Courts In India And Abroad, Shodhganga,
[8] Vepa P. Sathi. G.C.V. Subba Rao's, Commentary on Contempt of Courts Act. 1971'. 1999. at p.1.

4.1 ORIGIN IN INDIA

The concept of contempt of court has borrowed from the English law. In India, when British was ruling over us, the three High Courts of Calcutta, Bombay and Madras under the Indian High Courts Act of 1861 which had given the inherent power to punish for contempt.

The Contempt of Court Act, 1926 was the first statute in country with relation to law of contempt. It has been explained in Section 2 that jurisdiction in all the High Courts have power to punish for contempt of them and conferred on the High Court the power to punish for contempt of courts subordinate to it. This Act was applicable to the whole of British India, including the princely states of Hyderabad, Madhya Bharat, Mysore, Rajasthan, Travancore-Cochin, Saurashtra and Pepsu and they were having their own corresponding state enactments on contempt.[9]

Afterwards, this Act of 1926 was repealed and replaced by the Contempt of Courts Act, 1952, in which jurisdiction of High Court was defined which was not in the circle of earlier Act of 1926. Under this legislation, Chief Courts were also entitled with the power to try and punish for contempt of itself.

After long way of Independence, on April 1, 1960, a Bill was introduced in the Lok Sabha to amend the existing law of contempt of court which was uncertain, undefined and unsatisfactory. Government decided to scrutinize the law and study the bill, appointed a special committee in 1961, named Sanyal Committee which was under the charge of Shri H.N. Sanyal (Additional Solicitor General of India).The committee submitted its report in 1963, which defined the limited powers of certain courts in punishing for contempt of courts and specified by mentioning criminal contempt, recommending specifically the "procedure (to be followed) in case of criminal contempt of court". The recommendation of the Committee was accepted by the Government after a long consultation of all the States, Union Territory Administrations, and other stakeholders. Then, Bill was finally examined by the Joint Select Committee of the Houses of Parliament, which suggested few changes in the said Bill, regarding the period of limitation for going for contempt proceedings. The Contempt of Courts Act, 1971 (70 of 1971) came to be enacted and replaced the prior Act of 1952. The Act of 1952 categorizes the contempt of court under two heads, civil contempt' and criminal contempt.

[9] P.V. Kane, 'History of Dliainiasliastia/ Vol. K 196S, p.517.

5. LANDMARK JUDGMENTS

5.1 Ashok Paper Kamgar Union and Ors. Vs Dharam Godha And Ors (2004)[10]

In this case, the Supreme Court analyzed one of the provision of the Contempt of Courts Act, 1971 which was Section 2(b) of the same, defines the term civil contempt and it was interpreted that the term 'Willful' means an act or omission which is done voluntarily and intentionally and with the particular intent to do something the law forbids that is to say with bad purpose to disobey or to disregard the law and all these case must be adjudicated according to the facts and circumstances of each case.

5.2 D.N. Taneja vs. Bhajan Lal (1988)[11]

The case was regarding the interference of a third person who brings certain facts constitute contempt of court. In this case, Supreme Court held that if any person moves the court for contempt. Court will furnish that information but at last in front of the administration of justice, there are only two parties in such proceedings, the court and the contemnor.

5.3 Two cases from the past that have dealt with the issue of contempt of court, **Legal Remembrancer vs Motilal Ghose**, a case discussed in Calcutta High Court and another one being Vijay Pratap Singh vs Ajit Prasad , Allahabad High Court. The difference between civil and criminal contempt was discussed in both these cases, whereas in **Vijay Pratap Singh Vs Ajit Prasad**[12], it was said that in cases of civil contempt, the idea is to make right the wrongs were done by the person contempt of court and to do so sanctions are imposed, while in criminal contempt, the idea is to punish the person who contempt of court, because he has dishonored the court by his actions and has proven to be a hindrance in the process of justice.

[10]AIR2004SC105.
[11]1988(12) ACR541 (SC).
[12]AIR1966All305.

7. CRITICAL ANALYSIS

Criticism is an important ingredient of the modernistic society of the world, especially to those parts of the world who allow their citizens the right to have freedom of speech and expression and not even the judiciary, who is provider of justice, should be kept out of that sphere. In the Section 5 of the Act, it is given that fair criticism of judicial act is not contempt and a person would not hold guilty for publishing any comment which is fair and which is on the merits of a case that has been heard and decided already. The only thing person should take care of is that the criticism being published is fair and is not filled with malicious accusations as that would be the misuse of power, the power of criticism which is vested in the citizens.

Criticizing the court, the judicial acts or the judges is something which if done in its true sense, will only bring more scope of betterment inside and will be vital for the people's investment of faith and belief in the judiciary.

CONCLUSION

The judiciary and judicial proceedings are for the public welfare and they work towards the goal of delivering fair and equitable justice to all and that depicts a wider picture which is the image of well-being and sounding of our society. Being a hurdle in that process does not only put the contemnor at risk but it also snatches away the opportunity of someone getting a shot at justice. However, criticism on its merits and done in good faith is an absolute necessity and is something which should be promoted and appreciated, because it allows the citizens who are not a part of the judicial structure to keep check on the exercise of power by the judiciary. Keeping a blind eye and believing everything that that comes out from any source, be it the judiciary as well is not something which is expected out of vigilant citizens. As citizens who abide by the law it becomes our duty to help maintain the dignity of the courts and at the same time we do reserve our rights to a fair criticism of the judiciary as and when required.