Law of Contempt

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The Outlook of Law of Contempt
Historical growth of Law of Contempt: The organized society came into existence to bring peace and security to the people. For achieving this purpose, people of the past established an independent agency called ‘King’. This institution or agency called ‘King’ formulated certain guidelines to be followed by the people. These guidelines are nothing but code of conduct to be obeyed by the people. This code of conduct is equivalent to the present laws of the legislatures. In olden days it was the king who decided the disputes arising between his subjects. Disobedience of the code of conduct prescribed by the King used to attract punishment to be inflicted by the King. In later stages of development of society, disputes between the people increased phenomenally. So King found it difficult to settle all those disputes as he is busy with increased executive activities. This situation resulted in the appointment of other persons to discharge the adjudicatory functions of the King. This is how the Courts have come into existence everywhere in the civilized world. The decisions given by these courts relating to the disputes of the people were to be considered as if they were the decisions of the King.

As everybody knows, the king could not be abused or scandalized or questioned. In the same way the authority of the Courts could not be questioned or condemned or scandalized as they were the institutions established by the king by delegating his authority. If anybody obstructed or prejudiced or scandalized, the authority of the courts in the administration of justice, such a person used to be punished. This is considered the genesis of the concept of contempt of court. King had the right to punish a person and also a right to pardon a person on the basis of a sincere apology. This authority exercised by the king traveled down the ages to the superior courts of the present day. These courts just like king got the power to inflict punishment for disobedience of their authority and also got the right to grant pardon on sincere apology tendered in connection with that disobedience. It means superior courts got the power to punish the person for humiliating or scandalizing their authority. Any one who scandalized or obstructed or humiliated or questioned the authority of courts in the administration of justice, was considered to have committed an act known as “contempt of Court” which is punishable.

Unfortunately this law relating to the concept of “Contempt of Court” remained for long in a confused state. This is due to divergent opinions expressed by different judges. First
time, the principles governing the ‘Contempt of Court’ were explained by Wilmot, J.\(^1\). The judgment of Wilmot, J., is considered the foundation for the law of contempt. He says as follows:

“The arraignment of the Justice of the judges is arraigning the kings justice. It is an impeachment of his wisdom and goodness in the choice of his judges and excites in the minds of the people a general dissatisfaction with all judicial determinations and indisposes their minds to obey them and whenever men’s allegiance to the law is so fundamentally shaken, it is the most fatal and most dangerous obstruction of justice; and in my opinion calls out for a more rapid and immediate redress than any of the obstruction whatsoever, not for the sake of the judges as private individuals, but because they are channels by which the king’s justice is conveyed to the people”.

The above stated principle of Wilmot, J., has been accepted universally. As we in India, adopted the British pattern, our law of contempt is based on the Wilmot, J., principles. In India until 1926, we don’t have any law on Contempt of Courts. Till then the precedents established by English Courts governed the cases pertaining to Contempt of Court. The first law relating to contempt of court was brought into force in the year 1926. It was known as “The Contempt of Court Act, 1926”. This Act of 1926 was replaced in the year of 1952 by another Act. This 1952 was replaced by the present Act 70 of 1971. The present Act is known as “The Contempt of Courts Act, 1971”. But the most unfortunate thing is that the expression “Contempt of Court” has not been defined with the precision anywhere in the enactment of 1971. There was no definition at all in the Acts of 1926 and 1952.

Object and purpose of Law of Contempt: The introduction of the Contempt of Courts Act, 1971 in the statute book has been for the purposes of securing a feeling of confidence of the people in general for due and proper administration of justice in the country. It is a powerful weapon in the hand of the law courts by reasons wherefore it must thus be exercised with due care and caution and for larger interest\(^2\). A contempt proceeding against a person who has failed to comply with the order of the Law Courts serves dual purpose, namely, (1) vindication of public interest by punishment of

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\(^1\) In Rex v Almon (1765) Wilm.243
\(^2\) Mrityunjoy Das v Syed Hasbur Rahaman., AIR 2001 SC 1293
contemptuous conduct; and (2) coercion to compel the contemner to do what the law requires him to do¹.

Freedom of Speech vis-à-vis law of Contempt: Freedom of speech and expression so far as they do not contravene the Contempt of Courts Act, 1971 are to prevail without any hindrance. However, the maintenance of dignity of Courts is one of the cardinal principles of the rule of law in any democratic set up and any criticism of judicial institution couched in language that apparently appears to be mere criticism but ultimately results in undermining the dignity of Courts cannot be permitted when found to have crossed the limits and has to be punished².

Contempt of Court: Section 2(a) of the Contempt of Courts Act, 1971 explains two types of contempt i.e., Civil and Criminal Contempt. “Civil Contempt” means a willful disobedience to any judgment, decree, direction, order, writ or other process of a Court or willful breach of an undertaking given to Court³.

In view of the definition of civil contempt in section 2(b) of the Act, before a party can be committed for civil contempt, there must be willful or deliberate distortion of the order of the Court⁴.

The “Criminal Contempt⁵” means the publication whether by words spoken or written, or by signs, or by visible representation or otherwise of any matter or doing of any other act whatsoever which-

(i) Scandalises or tends to scandalize, 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; or

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

In Barada Kanta Mishra v Registrar, Orissa High Court⁶, it is made clear that the principle of contempt by scandalising the court extends to attack made on a judge in

¹ Aligarh Municipal Board v Ekka Tonga Mazdoor Union., AIR 1970 SC 1767.
² AIR 2002 SC 1375
³ Section 2(b) of the Contempt of Courts Act, 1971
⁵ Section 2(C) of the Contempt of Courts Act, 1971
⁶ AIR 1974 SC 710
his administrative or other capacities as distinguished from judicial capacity. It is observed that there is no warrant for the narrow view that the offence of scandalizing the courts takes place only when the act constituting the offence of scandalizing of courts, relates to adjudicatory functions of a Judge in a seat of justice.

**Conclusion:** The approach and content of the Contempt of Courts and respective offences were very extensive, but the author limits precise extent only. Grievance has been made from various quarters for changing the Contempt of Courts Act, 1971 which is labeled as archaic.

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