



RAMA UNIVERSITY

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FACULTY OF JURIDICAL SCIENCES

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LECTURE: 38

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Lecture-38



Contempt of Court Act, 1971

Compared with foreign Jurisdictions

United Kingdom

There was no conviction for the offence of Scandalizing the Court from the common law in England since 1993. The origin of contempt by scandalizing the court can be traced back to 1765. The case of *King v. Almon*, in which the Almon faced judicial trial against him for libel against a judge. Justice Wilmort, in this case, gives special punishment to Almon for libel and from here the scandalizing a court became a form of Contempt of Court. Around a hundred years later the above case, Lord Morris in the case *McLeod v. St.Aubin* made a very wonderful statement that for contempt by scandalizing has become outdated and in place of that the court should leave on the public opinion whether the attacks or contempt that are derogatory or scandalous to the Judiciary or not. However, within a year, his words about the contempt by scandalizing being old or outdated and this has proved false in another case of *Queen v. Grey*. In this case, it has been conceded by the court that the judiciary is still open to criticism by the media, but it should qualify the statement “reasonable arguments or expostulation” must be offered to treat a statement as a contempt.

United States of America

This country has considered the offence of contempt by scandalizing to be too extreme. Every criticism that we do to the judiciary undermines the authority of the Court. Right to freely comment or criticise the action of a public institution is of primary importance to the public and also for the American idea of Democracy. For abolishing the offence of contempt by scandalizing, the UK consultation paper relied on the landmark decision of the US Supreme Court decision in case *Bridges v. California*[20]. This offence has been considered unconstitutional in the United States of America.

Criticism of the power of contempt of court

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The discretion that a judge has in determining the contempt and its punishment has been a debatable issue in the eyes of some scholars because the contempt power has given too much authority to the Judges. A professor from Virginia University has about this contempt power that the role of victim, judge, and prosecutor are dangerously mixed.

Much of the criticism goes around the due process or lack of restraint in the punishment for contempt of court. Critics have argued that the judge in the Criminal contempt may be too harsh while giving the Judgment. For example, in 1994, the Virginia Court has fined Mine Workers of America \$52 million in connection in violence that occurred in 1989. Similarly, sometimes the person who refused to provide the information to the court has been to jail for one year or for many years under the charge of contempt. There is some loophole in this context and it should be fulfilled.

Apart from criticism there are also some good things about contempt. Contempt of Court Act, 1971 is one of the most powerful statutes in the country. This statute gives the Constitutional Court the wide power to restrict an individual's fundamental rights to personal liberty (that he got under Article 21 of the Indian Constitution) for 'scandalizing the court' or willfully disobeying the court's order, judgment, decree, and direction, etc.

The existing role relating to ex facie contempt of lower courts is unsatisfactory and misleading in India. It appears that evidently, the difficulties in this regard are the after product of overlap of contempt powers under the Indian Penal Code, Contempt of Courts Act and contempt powers of the Supreme Court and High Court under the Indian constitution. The scenario has emerged as more complicated by way of the inconsistent interpretations followed through the Supreme Court and High Court regarding diverse provisions under the Indian Penal Code dealing with interference with the administration of justice and exclusion clause contained in the Contempt of Courts Act. Not only the higher court should be given the power to deal with contempt but also the lower court should be given this power. Contempt of Court if seen from the perspective of the judges, higher judicial officials seems good but if it comes to the perspective of common people it turns towards its bad effect.

SELF-TEST QUESTIONS

S.NO	Question	Option (a)	Option (b)
1.	The origin of contempt by scandalizing the court can be traced back to 1765.	True	False
2.	Section 12 of the Contempt of Court Act, 1971 deals with the punishment for Contempt of Court. High Court and the Supreme Court have been given the power to punish someone for the Contempt of Court.	True	False
3.	Section 13 has been added in the Contempt of Court Act, 1971 after amendment in 2006. The new Act may be called The Contempt of Court (Amendment) Act, 2006	True	False
4.	Section 14 of the Contempt of Court deals with the procedure of contempt proceeding in the face of the court of record whereas Section 15 of this Act deals with the procedure of the contempt proceeding outside the court of records.	True	False
5.	Criminal Contempt rather than Civil Contempt committed outside the Court. Section 15(1) of the Contempt of Court Act, 1971 deals with the notice of Criminal Contempt by Court of Record such as the Supreme Court and the High Court.	True	False

Answers: 1-(b),2-(a), 3-(a),4-(a),5-(a)