Contempt of Court

Why in News

Recently, the **Supreme Court of India** suo moto initiated the proceedings for **criminal contempt of court** against lawyer-activist Prashant Bhushan for his tweet criticising the current Chief Justice of India and the role of some Chief Justices of India in the last six years.

Key Points

- **Constitutional Provisions:**
    - **Article 129:** Grants Supreme Court the power to punish for contempt of itself.
    - **Article 142(2):** Enables the Supreme Court to investigate and punish any person for its contempt.
    - **Article 215:** Grants every High Court the power to punish for contempt of itself.
    - However, the expression 'contempt of court' has **not been defined by the Constitution.**

- **Contempt of Courts:**
    - As per 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:** It is willful disobedience to any judgment, decree, direction, order, writ or other processes of a court or wilful breach of an undertaking given to the court.
        - **Criminal contempt:** It is any act which may result in:
            - **Scandalising the court** by lowering its authority.
            - **Interference** in the due course of a judicial proceeding.
            - An **obstruction in the administration** of justice.
    - The Contempt of Courts Act 1971 was **amended in 2006** to include **the defence of truth** under **Section 13** of the original legislation. Implying that the **court must permit justification by truth as a valid defence** if it is satisfied that it is in the public interest.
    - Further, **innocent publication** and distribution of some matter, **fair and reasonable criticism** of judicial acts and comment on the administrative side of the judiciary **do not amount to contempt of court.**
- **Punishment for Contempt of Court:**
    - The **Supreme Court and High Courts** have the power to **punish for contempt of court,** either with simple imprisonment for a term up to six months or with fine up to Rs. 2,000 or with both.
    - In **1991,** the **Supreme Court ruled** that **it has the power to punish for contempt not only of itself but also of high courts, subordinate courts and tribunals functioning in the entire country.**
    - On the other hand, High Courts have been given special powers to punish contempt of subordinate courts, as per **Section 10 of the Contempt of Courts Act of 1971.**
- **Need for Contempt Law:**
    - **To insulate the judiciary from unfair attacks** and prevent a sudden fall in the judiciary's reputation in the public eye.
    - It helps judges to do their duties of deciding cases **without fear, favour, affection or ill will.**

- **Issues with Contempt Law**
  - **Article 19(1)(a)** of the Constitution gives the **right to freedom of speech and expression to all citizens,** while **"contempt provisions" curb people's freedom** to speak against the court's functioning.
  - The law is **very subjective** which might be used by the judiciary **arbitrarily to suppress their criticism** by the public.

    For example, the assessment of the ground of **scandalizing the court,** depends, to a great degree, on the temperament and preference of the judge. What could be contempt to Judge A may not be contempt to Judge B.

Way Forward

- The contempt of court should not be allowed to be used as a means to prevent criticisms. In contemporary times, it is more important that courts are seen to be concerned about accountability, that allegations are scotched by impartial probes rather than threats of contempt action, and processes are transparent.
- In this backdrop, there is a need to revisit the need for a law on criminal contempt, where India can learn from Britain which abolished the offence of scandalizing the judiciary as a form of contempt of court in 2013 based on the fact that the law was vague and not compatible with freedom of speech.

Source: TH