



Contempt of Court

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Why in News

The Supreme Court found civil rights lawyer Prashant Bhushan guilty of criminal contempt of court.

The lawyer had made a defamatory tweet against the Chief Justice of India.

Key Points

- **Defamation of SC:** The judgment said that the tweet **scandalised** the Supreme Court as an institution.
 - It held that being the epitome of the Indian judiciary, an attack on the Supreme Court can lead to ordinary litigants and judges of High Courts across the country **losing the confidence in the Supreme Court.**
- **Not to vindicate judges:** However, the court acknowledged that its contempt powers could be used **only to uphold the majesty of law** and not to vindicate an individual judge against whom a defamatory remark is made.
- **Suo Moto cognizance:** The court said that the **prior consent** of the **Attorney General (AG) of India** is not required to suo motu initiate the inherent contempt powers of the Supreme Court.
 - The *suo motu* contempt powers of the top court is drawn from **Article 129 of the Constitution.**
 - The Contempt of Court Act of 1971 cannot limit this power of the court. The statute **only provides the procedure in which such contempt is to be initiated.**

Contempt of Court Act of 1971

- According to the Contempt of Court Act of 1971, contempt of court is of **two types**:
 - **Civil contempt**: It is the **wilful disobedience** to any judgment, decree, direction, order, writ or other process of a court or wilful breach of an undertaking given to a court.
 - **Criminal contempt**: It is the publication of any matter or the doing of any other act which **scandalises** or lowers the authority of any court, or **interferes** with the due course of any judicial proceeding, or **obstructs** the administration of justice in any other manner.
- **Punishment**: The Contempt of Court Act of 1971 punishes the guilty with imprisonment that may extend to **six months or fine of ₹ 2,000 or both**.
- **Amendment**: It was amended in 2006 to include “**truth and good faith**” as a defence.
 - It was added that the court may impose punishments only if the act of the other person **substantially** interferes, or tends to interfere with the due course of justice
- **Criticism**:
 - It is criticized to be **reminiscent of british colonialism** in india as the contempt laws have been abolished from the United Kingdom itself.
 - Demands have been raised to **restrict contempt** to only “wilful disobedience” of directions/judgments of the court and remove “scandalizing the court”.
 - It is also said that it may lead to **judicial overreach**.
 - There are **high numbers of contempt cases pending** in various High Courts and the Supreme Courts, which delays the justice administration by an already **overburdened judiciary**.

- **Review by the Law Commission:** The Law Commission reviewed the Contempt of Court Act of 1971 in 2018 and noted:
 - The powers of the contempt of the Supreme Court and High Courts are independent of the Act, 1971” and the **contempt powers of the higher courts are derived from the articles 129 and 215 of the Constitution of India itself.**
 - **Article 129:** The **Supreme Court shall be a court of record** and shall have all the powers of such a court including the **power to punish for contempt of itself.**
 - **Article 215:** Every High Court shall be a court of record and shall have all the powers of such a court including the power to punish for contempt of itself.
 - Therefore, deletion of the offence from the Act **will not impact the inherent constitutional powers of the superior courts** to punish anyone for its contempt.
 - 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 which may be a reason for its abolition in the UK.
 - The Commission observed that abolishing the offence in India would **leave a legislative gap.**
 - It empowers the High Court to act if someone is in contempt of the subordinate courts. Diluting the Act would **expose the subordinate judiciary to acts of contempt of court.**
 - The 1971 Act **contains adequate safeguards** to exclude instances which may not amount to criminal contempt as defined under Section 2(c) of the Act 1971.
 - The statute has stood the **test of judicial scrutiny for about five decades.**

Suo Moto Cognizance

- A Suo Moto cognizance is a **Latin term** which means an action taken by a government agency, court or other central authority on their own apprehension.
- A court takes a Suo Moto Cognizance of a legal matter when it receives information about the **violation of rights or breach of duty** through media or a third party’s notification.
- **Article 32 of the Indian Constitution and Article 226 of the Indian Constitution** lay down the provisions for filing **Public Interest Litigation (PIL)** in Supreme Court and High Courts respectively. This has given rise to the court's power to initiate legal action on their cognizance of a matter.

- Suo Moto's power of supreme court has been provided under **Article 131** of the Indian Constitution.

Article 131 vests the Supreme Court with **original jurisdiction** over any dispute arising between the states or between the centre and state. The article gives the Supreme Court the power to take up such cases straight instead of going through a lower court or reviewing a lower court's judgement

- Suo Moto's actions by Indian courts are a reflection of **judicial activism**.

Source: TH