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Contempt proceedings are "quasi-criminal" – Broadly speaking, civil contempts are contempts which involve a private injury occasioned by disobedience to the judgment, order or other process of the court. On the other hand, criminal contempts are right from their inception in the nature of offences – Consequently, in the case of a civil contempt, the proceeding for its punishment is at the instance of the party interested and is civil in its character; in the case of a criminal contempt, the proceeding is for punishment of an act committed against the majesty of the law – *In other words, the question whether a contempt is civil or criminal is not to be judged with reference to the penalty which may be inflicted but with reference to the cause for which the penalty has been inflicted.*

Predecessor to the Contempt of Courts Act, 1971, namely, the Contempt of Courts Act, 1952 did not contain any definition of the expression "contempt of court". A Committee was appointed by the Government of India, referred to as the Sanyal Committee, which then went into whether this expression needs to be defined. The Sanyal Committee Report, 1963 then broadly divided contempts into two kinds – civil and criminal contempt – as follows:

"**2.1.** … Broadly speaking, the classification follows the method of dividing contempt into criminal and civil contempts. The Shawcross Committee adopted the same classification on the grounds of convenience. *Broadly speaking, civil contempts are contempts which involve a private injury occasioned by disobedience to the judgment, order or other process of the court. On the other hand, criminal contempts are right from their inception in the nature of offences.* In *Legal Remembrancer v. Matilal Ghose, I.L.R. 41 Cal. 173 at 252,* Mukerji J. observed thus: "A criminal contempt is conduct that is directed against the dignity and authority of the court. A civil contempt is failure to do something ordered to be done by a court in a civil action for the benefit of the opposing party therein. *Consequently, in the case of a civil contempt, the proceeding for its punishment is at the instance of the party interested and is civil in its character; in the case of a criminal contempt, the proceeding is for punishment of an act committed against the majesty of the law*, and, as the primary purpose of the punishment is the vindication of the public authority, the proceedings conform as nearly as possible to proceedings in criminal cases. It is conceivable that the dividing line between the acts constituting criminal and those constituting civil contempts may become indistinct in those cases where the two gradually merge into each other."

2.2. Notwithstanding the existence of a broad distinction between civil and criminal contempts, a large number of cases have shown that the dividing line between the two is almost imperceptible. For instance, in *Dulal Chandra v. Sukumar, A.I.R. 1958 Cal. 474 at 476, 477*, the following observations occur:

"The line between civil and criminal contempt can be broad as well as thin. Where the contempt consists in mere failure to comply with or carry out an order of a court made for the benefit of a private party, it is plainly civil contempt and it has been said that when the party, in whose interest the order was made, moves the court for action to be taken in contempt against the contemner with a view to an enforcement of his right, the proceeding is only a form of execution. In such a case, there is no criminality in the disobedience, and the contempt, such as it is, is not criminal. If, however, the contemner adds defiance of the court to disobedience of the order and conducts himself in a manner which amounts to obstruction or interference with the course of justice, the contempt committed by him is of a mixed character, partaking as between him and his opponent of the nature of a civil contempt and as between him and the court or the State, of the nature of a criminal contempt. In cases of this type, no clear distinction between civil and criminal contempt can be drawn and the contempt committed cannot be broadly classed as either civil or criminal contempt … To put the matter in other words, a contempt is merely a civil wrong where there has been disobedience of an order made for the benefit of a particular party, but where it has consisted in setting the authority of the courts at nought and has had a tendency to invade the efficacy of the machinery maintained by the State for the administration of justice, it is a public wrong and consequently criminal in nature."

2.3. *In other words, the question whether a contempt is civil or criminal is not to be judged with reference to the penalty which may be inflicted but with reference to the cause for which the penalty has been inflicted*. …"(at pages 21-22) (emphasis supplied)

The Statement of Objects and reasons for the Contempt of Courts Act, 1971 expressly states that the said Act was in pursuance of the Sanyal Committee Report as follows:

"**Statement of Objects and Reasons**.—It is generally felt that the existing law relating to contempt of courts is somewhat uncertain, undefined and unsatisfactory. The jurisdiction to punish for contempt touches upon two important fundamental rights of the citizen, namely, the right to personal liberty and the right to freedom of expression. It was, therefore, considered advisable to have the entire law on the subject scrutinised by a special committee. In pursuance of this, a Committee was set up in 1961 under the Chairmanship of the late Shri H. N. Sanyal the then Additional Solicitor General. The Committee made a comprehensive examination of the law and problems relating to contempt of Court in the light of the position obtaining in our own country and various foreign countries. The recommendations which the Committee made took note of the importance given to freedom of speech in the Constitution and of the need for safeguarding the status and dignity of Courts and interests of administration of justice.

The recommendations of the Committee have been generally accepted by Government after considering the views expressed on those recommendations by the State Governments, Union Territory Administrations the Supreme Court, the High Courts and the Judicial Commissioners. The Bill seeks to give effect to the accepted recommendations of the Sanyal Committee."

The Contempt of Courts Act, 1971 defines "civil contempt" and "criminal contempt" in Section 2. as follows:

"**2. Definitions**.—In this Act, unless the context otherwise requires,—

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(b) "civil contempt" means 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;

(c) "criminal contempt" means the publication (whether by words, spoken or written, or by signs, or by visible representations, or otherwise) of any matter or the doing of any other act whatsoever which—

(i) scandalises or tends to scandalise, 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; or

(iii) interferes or tends to interfere with, or obstructs or tends to obstruct, the administration of justice in any other manner;

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Whether the contempt committed is civil or criminal, the High Court is empowered to try such "offences" whether the person allegedly guilty is within or outside its territorial jurisdiction. (Section 11)

Punishments awarded for contempt of court, whether civil or criminal, are dealt with by Section 12 of the Act.

In criminal contempt cases, "cognizance" in contempts other than those referred to in Section 14 of the Act is taken by the Supreme Court or the High Court in the manner provided by Section 15. Section 17 then lays

down the procedure that is to be followed after cognizance is taken. Finally, by Section 23, the Supreme Court and the High Courts are given the power to make rules, not inconsistent with the provisions of the Act, providing for any matter relating to its procedure.

Court, in **Niaz Mohd. v. State of Haryana**, (1994) 6 SCC 332, spoke of the hybrid nature of a civil contempt as follows:

"**9.** Section 2(*b*) of the Contempt of Courts Act, 1971 (hereinafter referred to as 'the Act') defines "civil contempt" to mean "wilful disobedience to any judgment, decree, direction, order, writ or other process of a court …". **Where the contempt consists in failure to comply with or carry out an order of a court made in favour of a party, it is a civil contempt. The person or persons in whose favour such order or direction has been made can move the court for initiating proceeding for contempt against the alleged contemner, with a view to enforce the right flowing from the order or direction in question. …**

10. … In *Halsbury's Laws of England*, 4th Edn., Vol. 9, para 53, p. 34, it has been said:

"Although contempt may be committed in the absence of wilful disobedience on the part of the contemner, committal or sequestration will not be order unless the contempt involves a degree of fault or misconduct."

It has been further stated:

"In circumstances involving misconduct, civil contempt bears a twofold character, implying as between the parties to the proceedings merely a right to exercise and a liability to submit to a form of civil execution, but as between the party in default and the State, a penal or disciplinary jurisdiction to be exercised by the court in the public interest." (emphasis supplied)

In **T.N. Godavarman Thirumulpad (102) v. Ashok Khot**, (2006) 5 SCC 1, this Court held:

"**33. Proceedings for contempt are essentially personal and punitive.** This does not mean that it is not open to the court, as a matter of law to make a finding of contempt against any official of the Government say, Home Secretary or a Minister.

34. While contempt proceedings usually have these characteristics and contempt proceedings against a government department or a Minister in an official capacity would not be either personal or punitive (it would clearly not be appropriate to fine or sequester the assets of the Crown or a government department or an officer of the Crown acting in his official capacity), this does not mean that a finding of contempt against a government department or Minister would be pointless. The very fact of making such a finding would vindicate the requirements of justice. In addition, an order for costs could be made to underline the significance of a contempt. A purpose of the court's powers to make findings of contempt is to ensure that the orders of the court are obeyed. This jurisdiction is required to be coextensive with the court's jurisdiction to make orders which need the protection which the jurisdiction to make findings of contempt provides. In civil proceedings the court can now make orders (other than injunctions or for specific performance) against authorised government departments or the Attorney General. On applications for judicial review orders can be made against Ministers. In consequence such orders must be taken not to offend the theory that the Crown can supposedly do no wrong. Equally, if such orders are made and not obeyed, the body against whom the orders were made can be found guilty of contempt without offending that theory, which could be the only justifiable impediment against making a finding of contempt. (See *M.* v. *Home Office* [(1993) 3 All ER 537 : (1994) 1 AC 377 : (1993) 3 WLR 433 (HL)])." (emphasis supplied)

The description of contempt proceedings being "quasi-criminal" in nature has its origin in the celebrated Privy Council judgment of **Andre Paul Terence Ambard v. Attorney-General of Trinidad and Tobago**, AIR 1936

PC 141 in which Lord Atkin referred to contempt of court proceedings as quasi-criminal (*see* page 143).

In **Sahdeo v. State of U.P.**, (2010) 3 SCC 705, Court again referred to the "quasi-criminal" nature of contempt proceedings as follows:

"**15.** The proceedings of contempt are quasi-criminal in nature. In a case where the order passed by the court is not complied with by mistake, inadvertence or by misunderstanding of the meaning and purport of the order, unless it is intentional, no charge of contempt can be brought home. There may possibly be a case where *disobedience is accidental*. If that is so, there would be no contempt. [Vide *B.K. Kar* v. *Chief Justice and Justices of the Orissa High Court* [AIR 1961 SC 1367 : (1961) 2 Cri LJ 438] (AIR p. 1370, para 7).]

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18. In *Sukhdev Singh* v. *Teja Singh* [AIR 1954 SC 186 : 1954 Cri LJ 460] this Court placing reliance upon the judgment of the Privy Council in *Andre Paul Terence Ambard* v. *Attorney General of Trinidad and Tabago* [AIR 1936 PC 141] , held that the proceedings under the Contempt of Courts Act are quasi- criminal in nature and orders passed in those proceedings are to be treated as orders passed in criminal cases.

19. In *S. Abdul Karim* v. *M.K. Prakash* [(1976) 1 SCC 975 : 1976 SCC (Cri) 217 : AIR 1976 SC 859] , *Chhotu Ram* v. *Urvashi Gulati* [(2001) 7 SCC 530 : 2001 SCC (L&S) 1196] , *Anil Ratan Sarkar* v. *Hirak Ghosh* [(2002) 4 SCC 21 : AIR 2002 SC 1405] , *Daroga Singh* v. *B.K. Pandey* [(2004) 5 SCC 26 : 2004 SCC (Cri) 1521] and *All India Anna Dravida Munnetra Kazhagam* v. *L.K. Tripathi* [(2009) 5 SCC 417 : (2009) 2 SCC (Cri) 673 : AIR 2009 SC 1314] , this Court held that burden and standard of proof in contempt proceedings, being quasi-criminal in nature, is the standard of proof required in criminal proceedings, for the reason that contempt proceedings are quasi-criminal in nature.

20. Similarly, in *Mrityunjoy Das* v. *Sayed Hasibur Rahaman* [(2001) 3 SCC 739 : (2006) 1 SCC (Cri) 296 : AIR 2001 SC 1293] this Court placing reliance upon a large number of its earlier judgments, including *V.G. Nigam* v. *Kedar Nath Gupta* [(1992) 4 SCC 697 : 1993 SCC (L&S) 202 : (1993) 23 ATC 400 : AIR 1992 SC 2153] and *Murray & Co.* v. *Ashok Kumar Newatia* [(2000) 2 SCC 367 : 2000 SCC (Cri) 473 : AIR 2000 SC 833], held that jurisdiction of contempt has been conferred on the Court to punish an offender for his contemptuous conduct or obstruction to the majesty of law, but in the case of quasi-criminal in nature, charges have to be proved beyond reasonable doubt and the alleged contemnor becomes entitled to the benefit of doubt. It would be very hazardous to impose sentence in contempt proceedings on some probabilities.

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27. In view of the above, the law can be summarised that the High Court has a power to initiate the contempt proceedings suo motu for ensuring the compliance with the orders passed by the Court. However, contempt proceedings being quasi- criminal in nature, the same standard of proof is required in the same manner as in other criminal cases. The alleged contemnor is entitled to the protection of all safeguards/rights which are provided in the criminal jurisprudence, including the benefit of doubt. There must be a clear-cut case of obstruction of administration of justice by a party intentionally to bring the matter within the ambit of the said provision. The alleged contemnor is to be informed as to what is the charge, he has to meet. Thus, specific charge has to be framed in precision. The alleged contemnor may ask the Court to permit him to cross-examine the witnesses i.e. the deponents of affidavits, who have deposed against him. In spite of the fact that contempt proceedings are quasi-criminal in nature, provisions of the Code of Criminal Procedure, 1973 (hereinafter called "CrPC") and the evidence Act are not attracted for the reason that proceedings have to be concluded expeditiously. Thus, the trial has to be concluded as early as possible. The case should not rest only on surmises and conjectures. There must be clear and reliable evidence to substantiate the allegations against the alleged contemnor. The proceedings must be concluded giving strict adherence to the statutory rules

framed for the purpose."

In **Maninderjit Singh Bitta v. Union of India**, (2012) 1 SCC 273, Court again referred to "civil" and "criminal" contempt as follows:

"**17.** Section 12 of the 1971 Act deals with the contempt of court and its punishment while Section 15 deals with cognizance of criminal contempt. Civil contempt would be wilful breach of an undertaking given to the court or wilful disobedience of any judgment or order of the court, while criminal contempt would deal with the cases where by words, spoken or written, signs or any matter or doing of any act which scandalises, prejudices or interferes, obstructs or even tends to obstruct the due course of any judicial proceedings, any court and the administration of justice in any other manner. Under the English law, the distinction between criminal and civil contempt is stated to be very little and that too of academic significance. However, under both the English and Indian law these are proceedings sui generis.

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19. Under the Indian law the conduct of the parties, the act of disobedience and the attendant circumstances are relevant to consider whether a case would fall under civil contempt or criminal contempt. For example, disobedience of an order of a court simpliciter would be civil contempt but when it is coupled with conduct of the parties which is contemptuous, prejudicial and is in flagrant violation of the law of the land, it may be treated as a criminal contempt. Even under the English law, the courts have the power to enforce its judgment and orders against the recalcitrant parties."

That contempt proceedings are "quasi-criminal" is also stated in **Kanwar Singh Saini v. High Court of Delhi**, (2012) 4 SCC 307 (at paragraph 38) and in **T.C. Gupta v. Bimal Kumar Dutta**, (2014) 14 SCC 446 (at paragraph 10).

Tags: Contempt of Courts Act, Quasi-Criminal