

CONTEMPT OF COURT ACT, 1976.

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CONTEMPT OF COURT ACT, 1976.

LXIV OF 1976

30th November 1976

An Act to enact a law relating to contempt of Court

The following **Act of Parliament** received the assent of the President on the 28th November, 1976, and is hereby published for general information :-

Preamble

Whereas, in view of the provisions of Article 204 of the Constitution of the Islamic Republic of Pakistan, it is necessary to enact a law relating to contempt of Court ;

COURT DECISIONS

Preamble-Act is not repugnant to the Injunctions of Islam- Shariat accords exalted position to a Court and Court has the power to punish a contemner for contempt of Court. **P L D 1993 Lah. 658**

It is hereby enacted as follows :-

1. Short title, extent and commencement

- (1) This Act may be called the Contempt of Court Act, 1976.
- (2) It extends to the whole of Pakistan.
- (3) It shall come into force at once.

2. Interpretation

In this Act, unless there is anything repugnant in the subject or context,-

- (a) "judge" includes all officers acting in a judicial capacity in the administration of justice ; and
- (b) judicial proceedings in relation to any matter shall be deemed to be pending from the time when a Court has come to be seized of the matter in a judicial capacity, till such time as the appellate, revisional or review proceedings in respect of the matter have come to an end or the period of limitation for filing such proceedings has expired without any such proceedings having been initiated.

Court Decisions

Contempt of Court:-- Plaintiff on continued highhandedness of police filing civil suits, injunction orders issued to Chief Officer of Municipal Corporation directing him, his employees, and police to refrain from removing plaintiff's cabins but police going to spot and removing two cabins-Cabin holder serving notice of contempt along with true copy of injunction order on police Sub-Inspector, Sub*-Inspector's action in thereafter proceeding to spot, asking for copy of injunction order or to accompany him to police station, held, exhibited intention to overawe or influence parties issuing notice of contempt-*Matter being already in Court, police officer's conduct, held, might by itself, amount to contempt of Court in certain respects. **1975 S C M R 80**

During pendency of appel*lant's complaint against a Presiding Officer of a Court and others, appellant in his newspaper publishing an article under caption: "Revision petition against misdeeds of Gul Muhammad Solangi allowed" and inter alia imputing to Presiding Officer as having com*elled the police to adopt unlawful attitude with the result that the police in defiance of the order of the Court had refused to accept the surety and kept the accused in wrongful confinement by adopting illegal methods"--Publication, held, tended to prejudice case of Presiding Officer in public eyes-Subsequent publication of yet another article making imputation that "clerk of Court appears to have assumed a position as though he was the matter of the Court"-Held likely to lower Court in public estimation, innuendo being that either Court connived at malpractices of clerk or was not in position to curb his misdeeds and maintain discipline and decorum of its own Court.

1975 S C M R 106

P L D 1964 S C 457 and P L D 1963 S C 170 ref.

Show-cause notice in writing is not necessary when the contempt is committed in view of the Court. **P L D 1993 Lah. 658**

Expression prima facie in contempt of Court but when read in context of matter printed and published found to refer to contentions of parties to litigation-Held, not in contempt of Court. **1971 P Cr. L J 882**

Apology-Statement made by contemner, not in justification of contempt but explaining his conduct as being not deliberate or intentional-Apology accepted as sufficient amends-Contemner discharged. **1971 P Cr. L J 882**

False allegations against Civil Judge:-- False allegations against Civil Judge contained in application submitted to Governor imputing immorality to Civil Judge by indulging in illicit intimacy with his maid servant and on intimacy being discovered adopting coercive measures against relations of woman trying to prevent her from visiting Civil Judge's house and getting one of such persons prosecuted and by being personally present in Court of Magistrate getting him convicted on a false charge-Held: Applicant assailed conduct of two officers engaged in administration of justice-Allegations of such kind lower dignity and prestige of judicial officers-Nom- can be allowed to defame or ridicule an officer engaged in administration of justice--Plea that allegations amounted to defamation and were made against Civil Judge in his private capacity, held, without any force-Allegations, even otherwise, against Magistrate for entertaining proceedings and passing final orders at Civil Judges instance-Clearly constitute an imputation in respect of discharge of judicial functions by Magistrate and therefore constitute contempt of Court.

The allegations of these kinds are of serious nature and in the eye of the public lower the dignity and the prestige of the judicial officers who are expected to administer justice, without fear, favour or frown. A judicial officer who is said to indulge in the institution of false cases in order to spite his opponents or eaters into alliance with another it, record conviction of innocent persons on false charges is unfit to hold any judicial' office. So the allegations are wilful and tenacious. No one can be allowed to defame or ridicule an officer engaged in the administration of justice otherwise the officer will be thrown at the mercy of the disgruntled litigants who will scandalize him with impunity and his position as a Judicial officer will be jeopardised. Cause of justice cannot be served by false and contemptuous imputations: This, on the contrary, impairs that cause and undermines the dignity and the authority of the Courts.

It was pleaded that the allegations which had been made in the application amounted to defamation and were made against the Judge in his private capacity and no criticism was levelled against him in respect of his judicial functions or anything done or attempted to have been done by him in the administration of justice and, therefore, the case should be tried by the ordinary Court. The plea was held to be without any force. Moreover, it was remarked, the allegations had also been made against the other Magistrate that he had entertained the proceedings under section 107, Cr. P. C. and passed final order at the instance of Civil Judge. Thus this allegation clearly constitutes an imputation in respect of the discharge of the judicial function by that Magistrate and, therefore, contempt of Court had been committed.
1971 P Cr. L J 1129

3. Contempt of Court

Whoever disobeys or disregards any order, direction or process of a Court, which he is legally bound to obey; or commits a wilful breach of a valid undertaking given to a Court ; or does anything which is intended to or tends to bring the authority of a Court or the administration of law into disrespect or disrepute, or to interfere with or obstruct or interrupt or prejudice the process of law or the due course of any judicial proceedings, or to lower the authority of a Court or scandalize a Judge in relation to his office, or to disturb the order or decorum of a Court, is said to commit "Contempt of Court".

Provided that the following shall not amount to commission of contempt of Court----

- (i) fair comments about the general working of Courts made in good faith in the public interest and in temperate language ;
- (ii) fair comments on the merits of a decision of a Court made, after the pendency of the proceeding in a case, in good faith and in temperate language without impugning the integrity or impartiality of the Judge ;
- (iii) subject to a prohibition of publication under section 9 or under any other law for the time being in force, the publication of a fair and substantially accurate report of any judicial proceedings ;
- (iv) the publication of any matter, amounting to a contempt of Court by reason of its being published during the pendency of some judicial proceedings, by a person who had no reasonable ground for believing that such judicial proceedings were pending at the time of the publication of the matter ;
- (v) the distribution of a publication, containing matter amounting to contempt of Court, by a person who had no reasonable ground for

believing that the publication contained, or was likely to contain, any such matter ;

(vi) a true averment made in good faith and in temperate language for initiation of action or in the course of disciplinary proceedings against a Judge, before the Chief Justice of a High Court, the Chief Justice of Pakistan, the Supreme Judicial Council, the Federal Government or a Provincial Government ;

(vii) a plea of truth taken up as a defence in terms of clause (vi) in proceedings for contempt of Court arising from an earlier averment unless it is mendaciously false ;

(viii) relevant observations made in a judicial capacity, such as, those by a higher Court on an appeal or revision or application for transfer of a case, or by a Court in judicial proceedings against a Judge ;

(ix) remarks made in an administrative capacity by any authority in the course of official business, including those in connection with a disciplinary inquiry or in an inspection note or a character roll or confidential report ; and

(x) a true statement made in good faith respecting the conduct of a Judge in a matter not connected with the performance of his judicial functions.

Court Decisions

Contempt of Court - Manners in which the offence of contempt of court may be committed specified and enumerated. **PLD 1999 Pesh . 61**

During pendency of appellant's complaint against a Presiding Officer of a Court and others, appellant in his newspaper publishing an article under caption: "Revision petition against misdeeds of Gul Muhammad Solangi allowed" and inter alia imputing to Presiding Officer as having compelled the police to adopt unlawful attitude with the result that the police in defiance of the order of the Court had refused to accept the surety and kept the accused in wrongful confinement by adopting illegal methods"--Publication, held, tended to prejudice case of Presiding Officer in public eyes-Subsequent publication of yet another article making imputation that "clerk of Court appears to have assumed a position as though he was the master of the Court"-Held likely to lower Court in public estimation, innuendo being that either Court connived at malpractices of clerk or was not in position to curb his misdeeds and maintain discipline and decorum of its own Court.

1975 S C M R 106

P L D 1964 S C 457 and P L D 1963 S C 170 ref.

Contemner throwing himself at Court's mercy without demur or qualification and showing spirit of manful confession of conscious wrong doing-Such apology, held, should normally be accepted-Acceptance of apology, however, being a matter for Court

concerned and not for appellate Court, S.C did not feel proper to accept apology but considering sentence harsh reduced it to a fine of one rupee in circumstances of case. **1975 S C M R 106**
P L D 1959 Dacca 84 ; P L D 1971 S C 72 and P L D 1973 S C 59 ref.
Expression prima facie in contempt of Court but when read in context of matter printed and published found to refer to contentions of parties to litigation-Held, not in contempt of Court. **1971 P Cr. L J 882**

Dismissal of Contempt of Court proceedings against respondent official by Trial Court as also by Appellate Court. Legal points and not factual aspects are to be discussed in revision. Factual side was already decided by trial Court as also by Appellate Court. Concurrent findings of both Courts, below indicated that they had not proposed to initiate contempt of Court proceedings against respondent official under provisions of Contempt of Court Act, 1976. Grounds agitated before High Court were almost the same which were argued before appellate Court- No legal flaw had been pointed out by petitioner who had also failed to point out any illegality in the orders of Courts, below. Concurrent findings of facts, arrived at by Courts below cannot be interfered with by High Court in revisional jurisdiction except on glaring irregularity if any. **PLJ 2000 Qta. 126 = PLD 2000 Qta. 40.**

Party to proceedings could not. while an application for interim relief was bona fide pending, blatantly so act as to pre-empt its lawful disposal because .such act, in given set of circumstances, could amount to doing things calculated "to interfere with or obstruct or interrupt or prejudice process of law or due course of a Judicial proceedings" and. thus, fell within mischief of S, 3 of Contempt of Court Act. 1976. **P.L.J.1999 Kar. 263 = 1998 CLC 1812**

4. Punishment

Whoever commits contempt of Court or abets the commission of contempt of Court may be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to five thousand rupees, or with both;

Provided that, on being satisfied that the accused, whether after defending himself or without offering any defence, has purged himself of the contempt of Court, the Court may discharge the accused or remit his sentence.

Court Decisions

Dismissal of Contempt of Court proceedings against respondent official by Trial Court as also by Appellate Court. Legal points and not factual

aspects are to be discussed in revision. Factual side was already decided by trial Court as also by Appellate Court. Concurrent findings of both Courts, below indicated that they had not proposed to initiate contempt of Court proceedings against respondent official under provisions of Contempt of Court Act, 1976. Grounds agitated before High Court were almost the same which were argued before appellate Court- No legal flaw had been pointed out by petitioner who had also failed to point out any illegality in the orders of Courts, below. Concurrent findings of facts, arrived at by Courts below cannot be interfered with by High Court in revisional jurisdiction except on glaring irregularity if any. **PLJ 2000 Qta. 126 = PLD 2000 Qta.**

5. Jurisdiction

- (1) A High Court or the Supreme Court, on its own information or on information laid before it by any person, may take cognizance of an alleged commission of contempt of the Court.
- (2) The Supreme Court shall have the power to take cognizance of any contempt of itself or of any Judge of the Supreme Court alleged to have been committed anywhere and a High Court shall have the power to take cognizance of any contempt of itself or of any Judge thereof or of any other High Court or of any Judge thereof alleged to have been committed within the territorial limits of its jurisdiction.
- (3) A High Court shall exercise the same jurisdiction in respect of contempts of Courts subordinate to it or to any other High Court as it exercises in respect of contempts of itself.
- (4) Nothing contained herein shall affect the power of any Court to punish any offence of contempt under the Pakistan Penal Code (Act XLV of 1860).

6. Penalty

Whoever contravenes or attempts to contravene any of the provision of this provisions of this act, or of any rules made or notification issued thereunder, shall, without prejudice to any confiscation or penalty to which he may be liable under the provisions of the customs Act, 1969 as applied by section 4, be punishable with fine which may extend to five hundred rupees and, upon any subsequent conviction, with imprisonment for a term which may extend to six months, or with fine which may extend to two thousand rupees, or with both.

7. Procedure for Supreme Court and High Court

(1) Whenever it appears to the Supreme Court or a High Court that there is sufficient ground for believing that a person has committed contempt of Court and that it is necessary in the interest of effective administration of justice to proceed against him, it shall make an order in writing to that effect setting forth the substance of the charge against the accused, and, unless he is present in Court, shall require by means of an appropriate process that he appears or be brought before it to answer the charge.

(2) The Court shall inform the accused of the ground on which he is charged with contempt of Court and call upon him to show cause why he should not be punished.

(3) The Court, after holding such inquiry and taking such evidence as it deems necessary or is produced by the accused in his own defence and after hearing the accused and such other person as it deems fit, shall give a decision in the case.

Provided that, in any such proceedings before the Supreme Court or a High Court, any finding given in its own proceedings by the Supreme Judicial Council about the nature of an averment made before it, that is relevant to the requirements of clause (vi) of the proviso to section 3, shall be conclusive evidence of the nature of such averment.

(4) If contempt of Court is committed in the view or presence of the Court, the Court may cause the offender to be detained in custody and, at any time before the rising of the Court on the same day, may proceed against him in the manner provided for in the preceding subsections.

Explanation.-Notwithstanding anything contained in clause (x) of the proviso to section 3, in any proceeding under this subsection, it shall not be open to the offender to take up a plea of truth of the statement for making which he is proceeded against.

(5) If any case referred to in subsection (4) cannot be finally disposed of on the same day, the Court shall order the release of the offender from custody either on bail or on his own bond.

Court Decisions

Notices served orally- Procedure adopted was thus in accord with law. **P L D 1993 Lah. 658**

Covenants contained in the petition, remarks and the statements made during the proceedings by accused were admitted by him to be contemptuous- Accused was thus guilty of having committed the grossest contempt of Court. **P L D 1993 Lah. 658**

Accused, an advocate of 16 years standing had committed gravest type of contempt which had no parallel in the history of the High

Court- Contemner, therefore, deserved no leniency and he was convicted to undergo simple imprisonment for six months and a fine of Rs.5,000 on each count- High Court, however, observed that if at any subsequent stage the contemner purged himself, as provided by SA, proviso of the Contempt of Court Act, 1976, and approached the High Court for the said purpose, the request would be considered on merits. **P L D 1993 Lah. 658**

8. Transfer of proceedings for reasons personal to the Judge

(1) Where, in a case in which a Judge has made an order under subsection (1) of section 7, not being a case referred to in subsection (4) of that section, the alleged contempt of Court involves scandalization personal to such Judge and is not scandalization of the Court as a whole or of all the Judges of the Court, the Judge shall forward the record of the case and such comments, if any, as he deems fit to make, to the Chief Justice of the Court.

(2) On receipt of the papers mentioned in subsection (1), the Chief Justice, after inviting, if he deems fit, further comments, if any, from the Judge first taking cognizance of the offence and making such inquiry in such manner as he deems fit, shall pass orders specifying which one of the following shall hear the case-

(a) another Judge, which, if the Chief Justice so orders, may be the Chief Justice ;

(b) a Bench of Judges set up by the Chief Justice, of which the Judge first taking cognizance of the offence is not a member ;
and the case shall then be heard accordingly.

(3) If, at any stage of a case in which the Chief Justice has passed an order under clause (a) of subsection (1), the Chief Justice is of opinion that, in the interests of justice, the case shall be transferred to another Judge, he may pass an order accordingly ; and the case shall then be heard by such other Judge.

(4) When, in pursuance of an order under subsection (2) the Judge first taking cognizance of the case is not hearing the case,----

(a) the other Judge or, as the case may be, the Bench of Judges hearing the case may invite or receive any further comments from the Judge first taking cognizance of the offence and shall call and hear any witnesses whom such Judge desires to be examined ; and

(b) all comments furnished by the Judge first taking cognizance of the offence shall be treated as evidence in the case and such Judge shall not be required to appear to give evidence.

(5) When in a case the first cognizance of the offence has been taken

by the Chief Justice, the functions of the Chief Justice under subsections (1), (2) and (3) shall be performed by a Bench of Judges composed of the two next most senior Judges available.

9. Proceedings in camera and prohibition of publication of proceedings

In case of proceedings for transfer of a hearing under section 8 or of any proceedings in which truth is pleaded as a defence in terms of clause (vi) of the proviso to section 3, the Court, if it deems fit in the public interest, may hear the case or any part thereof in *camera* and prohibit the publication of the proceedings of the case or any part thereof.

10. Appeal and limitation for appeal

(I) From an original order passed by the High Court under this Act an appeal shall lie, if the order is passed by a Single Judge, to a Division Bench, and if it is passed by a Bench of two or more Judges, to the Supreme Court.

(2) An appeal shall lie to the Supreme Court from an order passed by a Division Bench of a High Court in appeal against an order passed by a Single Judge.

(3) An appeal under subsection (1) or subsection (2) shall be filed-

(a) in the case of an appeal to a Bench of the High Court, within thirty days ; and

(b) in the case of an appeal to the Supreme Court, within sixty days, from the date of the order appealed against.

11. Power to make rules

The Supreme Court or, as the case may be, a High Court, may make rules, not inconsistent with the provisions of this Act, providing for any matter relating to its procedure.

12. Repeal

The Contempt of Courts Act, 1926 (XII of 1926) is hereby repealed.