CONTEMPT OF COURT

Definitions of Contempt of court

• Any act that is meant to embarrass, hinder or obstruct a court in the administration of justice

• The willful and intentional failure to comply with a court order, judgment, injunction, or decree

by a party to the action, which may be punishable in a variety of ways, and in some instances,

incarceration.

• The willful failure to obey a court order, or disrespectful or unacceptable behavior in the presence

of the court.

• A finding by a judge that a person has violated a court order or is guilty of conduct before the

court calculated to disrupt the proceedings of the court.

• Any act involving disrespect to the court or failure to obey its rules or orders.

• Interfering with the administration of justice or ignoring the rules of the court. Showing

unwarranted disrespect for the court, refusing to testify in court or failing to obey a court order

are the most common types of contempt of court.

• Any act which is calculated to embarrass, hinder, or obstruct the court in administration of justice,

or which is calculated to lessen its authority or its dignity.

• Disregard for the authority of the court, including committing disorderly behavior in court,

improper conduct intended to influence the course of justice, or bringing the administration of

justice into disrepute.

• This is a charge that a judge can lay if someone interferes with the work of the court or ignores

the rules of court.

• The punishable act of showing disrespect for the authority of dignity of a court.

• A person may be found in contempt of court if the person fails to do something that the court

ordered that person to do, or if that person does something in court that the court orders the

person no to do.

• Contempt of court can occur in multiple scenarios. A direct contempt occurs in the view and

presence of the court and disturbs the court proceedings. A constructive contempt is the failure of

a party to obey a court order, decree, or judgment.

• Failure to show respect for an order of a court.

• disrespect for the rules of a court of law

• Willful disobedience of a judge's command or of an official court order.

Article: 204 of constitution of Islamic republic of Pakistan, 1973

Deals with “Contempt of Court”

(1) In this Article, "Court" means the Supreme Court or High Court.

(2) A Court shall have power to punish any person who,-

(a) Abuses, interferes with or obstructs the process of the Court in any way or disobeys any order of the

Court;

(b) Scandalizes the Court or otherwise does anything which tends to bring the Court or a Judge of the

Court into hatred, ridicule or contempt;

(c) Does anything which tends to prejudice the determination of a matter pending before the Court; or

(d) does any other thing which, by law, constitutes contempt of the Court.

(3) The exercise of the power conferred on a Court by this Article may be regulated by law (Contempt of

Court Ordinance, 1998) and, subject to law, by rules made by the Court.] Types of Contempt Of Court

1) Academic critique

Academic critique means an article written by a lawyer or a person holding an academic post containing a

critical analysis of a judgment pertaining to a pending criminal case on the basis of legal criteria or

desiderata.

2) Civil contempt

Civil contempt means the willful flouting or disregard of -

(i) An order, whether interim or final, a judgment or decree of a court;

(ii) A writ or order issued by a court in the exercise of its constitutional jurisdiction;

(iii) An undertaking given to, and recorded by, a court;

(iv) The process of a court

Procedure in cases of contempt in the face of the court.-

(1) In the case of a contempt committed in the face of the court, if the accused, persists in disorderly

conduct, the court may direct that he leaves the court room, and, failing compliance, may further direct

that he be physically removed from the court room.

(2) In all cases of contempt in the face of the court, the judge shall pass an order in open court recording

separately what was said or done by the accused person and what was observed by the judge and shall, if

he is not the Chief Justice, refer the matter to the Chief Justice, and, if he is the Chief Justice, to the senior

most available judge of a the court, who shall either hear and decide the matter himself or refer it to some

other judge for disposal; Provided that it shall not be necessary for the matter to be so referred if the

accused person requests in writing that it be decided by the judge before whom the contempt, or alleged

contempt, was committed.

3) Criminal contempt

Criminal contempt means the doing of any act with intent to, or having the effect of, obstructing the

administration of justice

Criminal contempt when committed

A criminal contempt shall be deemed to have been committed if a person:

(a) Attempts to influence a witness by intimidation or improper inducement, not to give evidence, or not

to tell the truth in any legal proceeding;

(b) Offers an improper inducement, or attempts to intimidate a judge, in order to secure a favorable

verdict in any legal proceedings;

(c) commits any other act with intent to divert the course of justice.

Who may move superior court to punish contemnor for criminal contempt?

In the case of a criminal contempt a superior court may take action;

(i) Suo Motu (superior court itself if satisfied that criminal contempt has actually been committed by the

contemnor), or

(ii) On the initiative of any person connected with the proceedings in which the alleged contempt has

been committed, or

(iii) On the application of the law officer of a provincial or the federal government.

4) Judicial contempt

Judicial contempt means the scandalisation of a court and includes personalized criticism of a judge

while holding office;

Personalized criticism means a criticism of a judge or a judgment in which improper motives are imputed

Personalized criticism personalized criticism of a specific judge, or judges, may constitute judicial

contempt except if made in good faith.

Suit for defamation a judge who has been criticized by some contemnor also has a right to file a suit for

defamation against that contemnor. Judicial contempt proceedings initiated by a judge, or relating to a judge, shall not be heard by the said

judge, but shall (unless he is himself the Chief Justice) be referred to the Chief Justice, who may hear the

same personally or refer it to some other judge, and, in a case in which the judge himself is the Chief

Justice, shall be referred to the senior most judge available for disposal similarly.

Time period for hearing of case of judicial contempt:

No proceedings for judicial contempt shall be initiated after the expiry of one year.

Which Court May Punish under Contempt of Court:

• Every superior court (Supreme Court or a High Court) shall have the power to punish a contempt

committed in relation to it.

• Every High Court shall have the power to punish a contempt committed in relation to any court

subordinate to it.

Punishment for contempt of court

Any person who commits contempt of court shall be punished with imprisonment which may extend to

six months simple imprisonment, or with fine which may extend to one hundred thousand rupees, or with

both.

Remittance of sentence on apology

A person accused of having committed contempt of court may, at any stage, submit an apology and the

court, if satisfied that it is bona fide, may discharge him or remit his sentence.

EXCEPTIONS TO THE APPLICATION OF CONTEMPT OF COURT:

Contempt of court does not apply in the following cases:

1) Fair Reporting

Fair reporting will not constitute contempt of court. The publication of a substantially accurate account of

what has transpired in a court, or of legal proceedings, shall not constitute contempt of court.

However, the court may, for reasons to be recorded in writing, in the interest of justice, prohibit the

publication of information pertaining to legal proceedings.

2)Parliamentary speech:

Nothing contained in this Ordinance or any other law is intended to stifle discussion in the Majlis-eShoora (parliament) or a Provincial Assembly on any matter of public importance without criticism of the

conduct of a judge in the discharge of his duties.

3) Innocent publication:

No person shall be guilty of contempt of court for making any statement, or publishing any material,

pertaining to any matter which forms the subject of pending proceedings, if he was not aware of the

pendency thereof.

4) Protected statements:

No proceedings for contempt of court shall lie in relation to the following:-

(i) Observations made by a higher or appellate court in a judicial order or judgment;

(ii) remarks made in an administrative capacity by any authority in thcourse of official business,

including those in connection with a disciplinary inquiry or in an inspection note or a character roll or

confidential report; and

(iii) A true statement regarding the conduct of a judge in a matter not connected with the performance of

his judicial functions. 5) Amicus briefs (briefs/discussions helpful for courts)

In any case pending in a superior court in which issues of public importance are involved, it shall be open

to persons or organizations other than the parties to the litigation to file, with the permission of the court,

amicus briefs confined to the legal issues arising in the case and the said briefs may contain such

submissions as are legally relevant.

Initiation of Proceedings for Contempt of Court:

Proceedings in cases of contempt shall be commenced by the issuance of a notice, or a show-cause notice,

at the discretion of the court.

If, after giving the alleged contemnor an opportunity of a preliminary hearing, the court is prima facie

satisfied that the interest of justice so requires, it shall fix a date for framing a charge in open court and

proceed to decide the matter either on that date, or on a subsequent date or dates, on the basis of

affidavits, or after recording evidence.

Appeal against Orders passed by a superior court in cases of contempt:

Orders passed by a superior court in cases of contempt shall be appealable in the following manner:-

(i)In the case of an order passed by a single judge of a High Court, an intra-court appeal shall lie to a

bench of two or more judges;

(ii)In a case in which the original order has been passed by a division or large bench of a High Court, an

appeal as of right shall lie to the Supreme Court; and

(iii)In the case of an original order passed by a bench of the Supreme Court, an intra-court appeal shall lie

to a larger bench of the court.

The period of filing an appeal

The period of filing an appeal shall be thirty (30) days.

Objectives of Punishment of Contempt of Court:

• Contempt of court serves the primary function of protecting the integrity of court proceedings

• The fine or jailing is meant to coerce the contemnor into obeying the court, not to punish him, and

the contemnor will be released from jail just as soon as he complies with the court order.

What Amounts to Contempt of Court? (w.r.t Media)

A publication must create a substantial risk of serious prejudice to the course of justice for it to amount to

contempt? In determining whether a publication has created a substantial risk of serious prejudice, the

courts will consider all the circumstances surrounding the publication and the proceedings in question. It

is clear that for a publication to be contempt a slight or trivial risk of serious prejudice is not enough nor

is a substantial risk of slight prejudice.

In making an assessment of whether the publication does create a substantial risk of serious prejudice the

court will consider:

• The likelihood of the publication coming to the attention of a potential juror.

• The likely impact of the publication on an ordinary reader at the time of publication.

• The residual impact of the publication on a notional juror at the time of trial.

In assessing the likelihood of a publication coming to the attention of a potential juror, the court will

consider whether the publication is distributed in the area from which jurors are likely to be drawn and the

number of copies circulated.

In assessing the likely impact of the publication on an ordinary reader, the court will consider the

prominence of the article in the publication and the novelty of the content of the article in the context of

likely readers.

The court will also take into account the length of time between publication and the likely date of trial, the

focusing effect of listening over a prolonged period to evidence in a case, and the likely effect of the

judge’s directions to a jury.