



## **Courts Established in the State of Gujarat and the Contempt of Court Act**

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### **ABSTRACT**

If a person commits an act of contempt in the Supreme Court or the High Court, action can be taken against him only by taking him into custody. Apart from this, the Supreme Court or the High Court can take action on its own for 'criminal contempt'. Apart from that, if the Attorney General or Advocate General applies for it, the Supreme Court or the High Court can take action if any other person applies after obtaining their written consent. In case of such contempt of the subordinate court below, the High Court may take action on its own reference to that court or on an application to that effect by the Advocate General. The time limit for such application is one year.

Contempt of court cases have come up several times in the past in the Supreme Court as well as in various High Courts of the country. But the two contempt of court cases against the country's top lawmaker and human rights torchbearer Prashant Bhushan have grabbed the attention of the entire country and many of the country's top intellectuals, including Supreme Court Bar Association President Dushyant Dave, have come out in support of Prashant Bhushan.

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### **INTRODUCTION**

A critical place for the administration of justice by the state. The word court also means judge. The term 'Court' has been defined in various Acts. Tribunals are not courts and arbitrators and committees of bodies are not courts; A court in a broad sense means the formal authority that hears and decides civil and criminal judicial proceedings. The main function of the courts is to decide in accordance with the law whether a person has committed a crime and how to deal with him if he has. Without an impartial and powerful judiciary to settle disputes and conflicts between individuals, citizens would take the law into their own hands and chaos would prevail. In such a situation there will be no social order. Different states in India (except Jammu and Kashmir) have similar legal provisions regarding the establishment and functioning of civil courts. Civil Procedure Code, 1908 regulates civil proceedings before civil courts. While the Criminal Procedure Code, 1973 is the governing law in the criminal courts. Courts established in India are mainly based on the principles of 'Common Law' prevalent in England.

#### ***Courts established in the State of Gujarat***

Among the courts established in the state of Gujarat, the lowest civil court is the court of the Civil Judge, Junior Division. The geographical boundary of this court is the area of Taluka Agar Talukas, while its fiscal jurisdiction is Rs. 20,000 upto. The second court is the Court of Civil Judge, Senior Division. The geographical boundary area of this court is also the area of Taluka Agar Talukas. They are courts under the jurisdiction of the District Court. The geographical boundary area of the District Court is the area of District Agar Districts. The financial jurisdiction of the District Court is unfettered. Special Central Acts like the Hindu Marriage Act, 1955; Indian Succession Act, 1925; District Courts have been given special powers under the Protection and Anti-Palya Act, 1890 etc. District Courts are courts subordinate to the High Courts of the State.

A City Civil and Sessions Court has been established for the city of Ahmedabad under the City Courts Act, 1961, which is a court subordinate to the High Court of Gujarat. Besides, a Small Cause Court has been established under the Presidency Small Cause Courts Act, 1882 for Ahmedabad Metropolis under the Bombay Rent Regulation Act, 1947. The geographical boundaries of these two courts are the boundaries of the Ahmedabad Municipal Corporation. The financial jurisdiction of the City Civil Court of Ahmedabad is unfettered. This court is also the district court and court of sessions of Ahmedabad city. The Small Cause Court at Ahmedabad has exclusive and unfettered jurisdiction under the Mumbai Rent Rules Act. In other civil suits the pecuniary jurisdiction of this Court is Rs. 5,000 upto.

Small Cause Courts have been established under the Provincial Small Cause Courts Act for the cities of Vadodara, Rajkot and Surat. They are courts under the jurisdiction of the District Courts of Vadodara, Rajkot and Surat respectively and have exclusive and unrestricted jurisdiction in rent-possession suits, while in other civil suits their pecuniary jurisdiction is limited to Rs. 2,000 is up to.

Cases for recovery of damages in respect of motor vehicle accidents are conducted before tribunals constituted under the Motor Vehicles Act. A party to a judicial proceeding may appear in the proceedings in person or through a lawyer.

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## DISRESPECT

A case of contempt of court against Prashant Bhushan dates back to 2009. In the current crisis, courts across the country, including the Supreme Court, are hearing through video only in urgent cases. The Supreme Court's stance is clear that only urgent and important cases should be video-heard. Therefore, the hearing of the writ petition of habeas corpus for the release of several leaders arrested in Jammu and Kashmir has been adjourned. Why the 11-year-old case against Prashant Bhushan was suddenly taken up without any prior notice amid the threat of corona virus epidemic, it is a surprise for the people across the country. Supreme Court Bar Association President Dushyant Dave in an interview with The Wire said that this is against the rules and procedures of the Supreme Court.

The Contempt of Court Act is a century-old law originally from Britain. Indian law-and-judicial system is based on the British model. Britain itself has canceled this law in the year 2013. At the time the British Law Commission noted "the purpose of the contempt of court statute is not only to prevent false perceptions of judges, but also to prevent the public from gaining a correct perception of judges. The concept of contempt of court is incompatible with transparency and freedom of speech. That means there is conflict with it." The famous 20th century jurist Lord Denning said in 1968 that "we will never use the law of contempt of court to preserve the dignity of the court. Likewise, we will not use it against those who criticize us. We neither fear nor regret criticism against us. Freedom of expression is more important than that. Every person in Parliament or outside Parliament, Newspaper, Radio or T.V. Freedom to comment on matters of public importance." In 1987, after the judgment of a case, the 'Daily Mirror' published criticism about the judges as 'you old fools'. In 2016, following the Brexit case verdict, the Daily Mail described judges as 'enemies of the people'. There was no contempt of court case against these newspapers at that time. Lord Templeton replied, "I cannot deny that I am old. But, whether I am stupid or not is a matter of one's opinion. So there is no need to file a contempt of court case against him."

The then Justice Katju of the Supreme Court of India took a similar approach in 2008. He said, "If someone calls me a fool in or out of court, I will not take any action against him. Because this comment doesn't stop me from doing my job. I would ignore it or say that everyone has the right to express their opinion. No bones escape from words." He said that "the test to determine whether something constitutes contempt of court is whether it has made it difficult for the judge to function? Anyway, I must work according to my salary." A court is not supreme because it cannot or cannot make mistakes. When the judiciary errs, it can be criticized judiciously and maintaining the dignity of the court.

A court fee stamp has to be given as per the provisions of the Bombay Court Fees Act, 1959 for civil proceedings. If the party liable to pay the court fee stamp does not have sufficient means to pay the legal court fee amount, such person can be exempted from paying the court fee amount as 'Akinchan'. An indigent person cannot afford legal advice and retain a lawyer; if a defendant in a criminal case cannot afford to retain a lawyer for his defense, he can apply to the court for free legal advice.

An Act regarding the power of the Supreme Court and every High Court to punish for its contempt as per the Constitution of India. Such power is considered necessary in the public interest so that everyone gets justice without hindrance and there is no interference with the power of the court in the work of justice.

Indian Judiciary is based on British Judiciary. In India, the first law to this effect was enacted in 1926, which provided that the High Court could also punish contempt of lower subordinate courts. After the Constitution came into force, in 1952, provision was made that a person residing within or outside the jurisdiction of a High Court or a lower court could be punished for contempt. Then in 1971 CoA law was made for contempt of court. It defines 'contempt of court' for the first time. 'Contempt of Court' means 'Civil Contempt' or 'Criminal Contempt'. "Civil contempt" means willful disobedience of a judgment, order, order or decree of a court or willful non-compliance with an undertaking given to the court. A full opportunity of defense is to be given before punishment for this contempt.

**"Criminal contempt"** means to publish (by written or spoken words, by sign or display or otherwise) any matter or any other act which:

- (a) brings any Court into disrepute or appears to be brought into disrepute if any Court is brought into disrepute or appears to be brought into disrepute, or
- (b) obstructs or disturbs or appears to disturb any proceedings relating to justice, or
- (c) in any other way appears to disturb or obstruct the course of justice.

This clarifies that a publication does not amount to 'contempt of court' unless there is reasonable cause to believe that proceedings are pending in court at the time of publication, provided that no criminal or civil proceedings are pending at the time of publication.

The Supreme Court or the High Court has an unfettered right to punish for disobedience to the Constitution. He also has power to punish for contempt of lower subordinate courts. An act or event of contempt committed within or outside the jurisdiction of the High Court is punishable even if the person is within or outside the jurisdiction. These subordinate courts also include tribunals appointed by the State to settle disputes.

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## CONCLUSION

The purpose of this law is that the common man should have faith in the judiciary and that every court can administer justice without any fear or bias. Punishment can be made only for an act which seriously obstructs the process of justice and not for any technical contempt. Also in these cases, if the accused apologizes sincerely and the court is convinced of his pure intellect, then he is pardoned.

Under Articles 129 and 142 of the Constitution, the Supreme Court has been empowered to punish anyone including itself for contempt of law by any court across India. The Supreme Court took the unexpected step of sentencing Maharashtra's minister-in-charge, Swaroop Singh Nayak to one month in jail on 12 May 2006 for contempt of court. This was the first time that a sitting minister was sentenced to jail.

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