CHAPTER XXXV-E

RULES FRAMED UNDER SECTION 23 OF THE CONTEMPT OF COURT ACT, 1971

1. Introduction :- The Rules contained in this Chapter shall govern presentation and hearing of Contempt of Court cases coming to this High Court under the Contempt of Courts Act, 1971.

2. Nature of contempt to be indicated :- Every application, reference or motion for taking proceedings under the Contempt of Courts Act, 1971 shall mention at the head whether it relates to the Commission of 'Civil Contempt' or 'Criminal Contempt' :

Provided that, if there are allegations both of commission of Civil Contempt and Criminal Contempt against the same person/persons, two separate applications shall be moved, one dealing with Civil Contempt and the other with Criminal Contempt.

3. Facts to be stated in the motion or reference:- (1) Every such motion or reference made under Section 15 (1) of the Act shall contain in precise language the statement setting forth the facts constituting the contempt of which the person charged is alleged to be guilty and shall specify the date or dates on which the contempt is alleged to have been committed.

(2) Every motion made by the Advocate General under sub-section (2) of Section 15 of the Act shall state the allegations of facts and the view of the informant that in relation to these facts contempt appears to have been committed of which the Court should take cognizance and take further action. The motion should contain sufficient material to indicate why the Advocate General is inclined to move the court.

(3) (a) A petition for taking contempt of court proceedings shall be supported by an affidavit. In case of criminal contempt three copies of the application and the affidavit shall accompany the application :

Provided that if there are more than one opposite parties, the petition shall be accompanied by as many extra copies as there are opposite parties.

(b) When the petitioner relies upon any document or documents in his possession, he shall file the same along with the petition or a copy thereof as annexure to affidavit.

(c) A petition made under Section 15 (1) (b) of the Act shall also be accompanied by the consent in writing of the Advocate General and a copy thereof.

(4) Every petition is respect of criminal contempt, where it is not moved by the Advocate General and where the consent in writing of the Advocate General had not been obtained, and every petition in regard to criminal contempt of a subordinate court where no reference has been made by it and the petition is moved without the consent of the Advocate General shall clearly state the reasons why the consent in writing of the Advocate General could not be obtained and why the court has been approached to act suo motu.

4. Civil and criminal contempt's presentation after stamp reporter :- (a) Every case relating to civil contempt shall be presented before the Bench [1]constituted for that purpose.

(b) Every case of criminal contempt coming under Section 15 of the Act shall be presented before the Bench of not less than two Judges constituted for the purpose.

(c) provided that every case of contempt of Court presented before the Court shall bear the report of the Stamp Reporter as to sufficiency of Court-fee paid and also about limitation. References relating to contempt of court received on Administrative side from the subordinate courts shall, along with the office report with respect thereto, be laid before the Chief Justice, who shall have the discretion to file the same or to order that the same be laid before the Bench concerned, [2][at Allahabad or Lucknow as the case might be] for further proceedings in connection with the case.

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[1] Delete the word "of a Single Judge" vide Notif. No.296/VIII-C-2 dt. 1.6.05 published in U.P. Gazette Part-Ii dated 6.8.05

[2] Inserted vide Notification No.278/VIII-C-2 dt. 26.5.2005, Correction Slip No.233, published in U.P. Gazette Part-II dated 11.6.2005 and its Corrigendum No.12501/2005, dated 16.9.2005.

5. Issuance of notice :- Such allegations contained in the petition as appears to the Court to make out a prima facie case of contempt of Court against the person concerned, shall be reduced into charge or charges by the Court against such person, and notice shall be issued only with respect to those charges :

Provided that the Court shall not issue notice if more than a year has elapsed from the alleged act of contempt of court.

6. Documents accompanied notice :- Where an order has been made directing that notice be issued to any person to show cause why he should not be punished for contempt of Court, a date shall be fixed for the hearing and a notice thereof in the prescribed form given to the person concerned. The notice of a criminal contempt shall also be served on the Government Advocate. The notice shall be accompanied by copies of the application, motion and the affidavit or a copy of the reference by a subordinate court as the case may be, and a copy of the charge or charges as framed by the court and shall require the person concerned to appear either in person or through counsel unless otherwise ordered before the Court at the time and on the date specified therein to show cause why he should not be punished for Contempt of Court. Notice of every proceeding under Section 15 of the Act shall be served personally on the person charged, unless the Court for reasons to be recorded directs otherwise.

7. Contempt in the presence of the Court :- When it is alleged or appears to the Court upon its own view that a person has been guilty of contempt committed in its presence or hearing, the Court may cause such person to be detained in custody, and at any time before the rising of the Court, on the same day or as early as possible thereafter, shall--

(a) cause him to be informed in writing of the contempt with which he is charged, and if such person pleads guilty to the charge, his plea shall be recorded and the Court may in its discretion, convict him thereon;

(b) if such person refuses to plead, or does not plead, or claims to be tried or the Court does

not convict him, on his plea or guilt, afford him an opportunity to make his defence to the charge, in support of which he may file an affidavit on the date fixed for his appearance or on such other date as may be fixed by the court in that behalf;

(c) after taking such evidence as may be necessary or as may be offered by such person and after hearing him, proceed either forthwith or after the adjournment, to determine the matter of the charge; and

(d) make such order for punishment or discharge of such person as may be just.

8. Application for transfer of hearing to be placed before Chief Justice :- Notwithstanding anything contained in Rule 7, where a person charged with contempt under that rule applies, whether orally or in writing to have the charge against him tried by some Judge other than the Judge or Judges in whose presence or hearing the offence is alleged to have been committed, and the court is of opinion that it is practicable to do so and that in the interest of proper administration of justice the application should be allowed, it shall cause the matter to be placed together with a statement of the facts of the case, before the Chief Justice for such directions as he may think fit to issue as respects the trial thereof.

9. Detention of contemnor during pendency of the proceedings :- Pending the determination of the charge under clause (c) of Rule 7 the Court may direct that the person charged with contempt under section 14 of the Contempt of Courts Act, 1971, shall be detained in such custody as it may specify.

10. Informant not to plead unless directed by the court:- After giving information about the commission of contempt of court by any person or persons, the informant shall not have any right to appear or plead or argue before the Court unless he is called upon by the Court specially to do so.

11. Bail in contempt case:- When any person charged with contempt appears or is brought before the High Court

and is prepared, while in custody or at any stage of the proceedings, to give bail, such person shall be released on bail, if a bond for such sum of money as the Court thinks sufficient is executed with or without sureties conditioned that the person charged shall attend at the time and place mentioned in the bond and shall continue to so attend until otherwise directed by the Court :

Provided that the High Court may if it thinks fit, instead of taking bail from such person, discharge him on his executing a bond without sureties for his attendance as aforesaid, or without executing such bond :

Provided further that on the failure of a person to comply with the conditions of the bail bond as regards the time and place of attendance, the Court may refuse to release him on bail when on a subsequent occasion in the same case he appears before the Court or is brought in custody and every such refusal shall be without prejudice to the powers of the Court to call upon any person bound by such bond to pay the penalty thereof.

The provisions of Sections 422 to 448 and 450 of the Code of Criminal Procedure, 1973, shall so far as may be, apply to all the bonds executed under the Rule.

12. Attachment of property and warrant of arrest in certain cases:- The Court may, if satisfied that the person charged is absconding or likely to abscond or is keeping or is likely to keep out of the way to avoid service of the notice, order the attachment of his property of such value or amount as it may deem reasonable. In case of criminal contempt the Court may, in lieu of or in addition to the order of attachment of property, order issue of warrant of arrest of such person :

Provided that, in case the Court considers it fit and expedient, it may issue warrant of arrest in the first instance.

Such warrant may be endorsed in the manner laid down in Section 71 of the Code of Criminal Procedure. The attachment referred to above shall be effected in the manner provided in the Code of Civil Procedure, 1908 for the attachment of property in execution of a decree for payment of money. If after such attachment, the person charged appears and shows to the satisfaction of the Court that he did not abscond

or keep out of the way to avoid service of the notice, the Court shall order the release of his property from attachment upon such terms as to costs or otherwise as it may think fit.

13. Paper book and issue of copies in contempt cases:- The rules contained in the Rules of Court pertaining to grant of copies and charging process fees in criminal matters and preparation of paper book in contempt of Court cases and such other matters in respect of which no provision has been made in this Chapter, shall apply mutatis mutandis to the proceedings under this Chapter and the appeals coming under Section 19 of the Act. Similarly when proceedings are pending in subordinate Court, the Rules made by the High Court for conduct of business of such subordinate Courts shall apply to those proceedings.

14. Costs :- Where costs have been awarded by the Court in proceedings for contempt of court but have not been paid, the person entitled to them may apply to the Court for execution of the order. The application shall be accompanied by an affidavit stating the amount of costs awarded and the amount, remaining unpaid, and it shall be laid before the Court for orders. The Court may direct the Chief Judicial Magistrate to realise the amount due by himself or by any Magistrate subordinate to him. Such amounts shall be realised as if it were an amount of fine.

Indian Kanoon

Registered-Post/E-mail

From :

V. K. DIXIT, HJS,
Registrar General,
High Court of Judicature at
Allahabad.

To:

All the District Judges,
Subordinate to the High Court of Judicature at
Allahabad.

C.L. No. \\ /2009/IIIb-36/Admin 'G', Dated: April 7 , 2009

Subject: Timely submissions of service reports in Contempt matters by the Chief Judicial Magistrates.

Sir/Madam,

Taking serious view of the non submission of reports within stipulated time by the Chief Judicial Magistrates in the matter of effecting service of summons in Contempt Applications, the Hon'ble Court has desired that all the Chief Judicial Magistrates must ensure that summons are duly served upon the alleged contemnor and compliance report is sent to the Hon'ble Court on or before the date fixed in summons.

1. C.L. No. 109/VIIIC-2/Admin. 'G' dated 30.11.1990.
2. C.L. No. 19 Admin. 'G' dated 3.2.1991.
3. C.L. No. 23/06/Admin. 'G' dated 29.5.2006.

Therefore, in continuation of earlier Circular Letters noted in the margin, I have been directed to say that the Chief Judicial Magistrates shall ensure service of summons in Contempt Applications well within stipulated time.

I am further to request you to kindly bring the contents of this Circular letter to the knowledge of all the Judicial Magistrates under your administrative control for strict compliance.

Encl. As above.

Your faithfully,

(V. K. DIXIT)

No. 4248 /2009/IIIb-36/Admin 'G', Dated: April 7 , 2009

Copy forwarded for information and necessary action to:

1. *Registrar, Lucknow Bench, Lucknow.*
2. *Private Secretaries to all the Hon'ble Judges at Allahabad and at Lucknow to place the circular letter before their Lordship's for kind perusal.*
3. *Director, Institute of Judicial Training & Research, Gomti Nagar, Lucknow.*
4. *All the Judicial officers posted at High Court, Allahabad and at Lucknow Bench.*
5. *Member Secretary, U.P. State Legal Service Authority-IIIrd Floor, Jawahar Bhawan Annexe, Lucknow-226001 (U.P.)*
6. *The Section Officer, Administrative 'H' Section for compilation in the Guard File.*

Registrar General

From:

S.S. Kulshrestha, H.J.S.
Registrar General,
HIGH COURT OF JUDICATURE AT
ALLAHABAD

To:

All the District Judges,
Subordinate to High Court of Judicature at
Allahabad

C.L. No. 13 Dated : March 21, 2001

Sub: Service of contempt notice on the addressee.

IndiaCode

Sir,

Under the Contempt of Courts Rules (as provided in Ch.XXXV-E Rule 6 of Rules of the Court), affecting of personal service on the alleged contemner is an essential requirement. It has been observed by Hon'ble court with concern that while affecting service of notice care to the rules are not taken. Instances have also come into the notice of the Hon'ble court that service on the contemner is preferred to have been affected on his Orderly or official attached with him. This is in clear violation of the rules and cannot in any way be presumed personal service. Hon'ble courts directions given in the Civil Misc. Contempt Application No. 3311 of 2000 Narendra Bahadur Mishra Vs. Ravindra Nath Tripathi and others are also enclosed herewith for circulating amongst the judicial officers for ensuring compliance in such matters.

I am therefore desired to request you to bring into the notice of all the judicial officers the directions given in the aforesaid case and they be asked to remain careful whilc sending the report about service of notice on the alleged contemner.

Yours faithfully,

Encl. As above.

Registrar General

From,

O.N.Khandelwal, H.J.S.
Registrar General,
High Court of Judicature
at ALLAHABAD.

To,

All the District Judges,
Subordinate to the High Court
of Judicature at ALLAHABAD.

Circular Letter No. 7 /2003 Dated: February 28 , 2003.

Subject: Order dated 17.01.2003 of Hon'ble Court passed in Criminal Contempt No. 25 of 1999- In Re S/Sri Shitla Prasad Misra and 22 other Advocates of Civil Court, Allahabad.

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Sir,

In Criminal Contempt No. 25 of 1999- In Re S/Sri Shitla Prasad Mishra & 22 other advocates of Civil Court, Allahabad, t Hon'ble Court has observed with concern that a large number of incidents are coming to the notice of the Court about hooliganism of the lawyers of the district courts in the State and the time has now come to take strong action in the matter a to put down this hooliganism. The Hon'ble Court, is, therefore, of the view that this kind of hooliganism will not be tolerated by this Court and whoever indulges in such activities shall be given harsh punishment.

The Hon'ble Court has further observed that if the lawyers have any grievance against any particular Judge of the district court, it is always open to them to approach the District Judge or the Administrative Judge of the respective district and if they have any grievance against the District Judge, they can approach the Administrative Judge or Hon'ble th Chief Justice, but it is not open to them to take law into thei own hands and misbehave with the Judge and indulge in hooligani The Court will not tolerate infringement of its authority by lawyers who misbehave with the Judges or interfere with the judicial process.

I am, therefore, directed by the Court to send a copy of the judgement passed by this Court in Criminal Contempt No. 25/ for your information and necessary action.

Encl : As above.

Yours faithfully,

Registrar General

No. 2878 /2003 Dated Feb. 28 , 2003

COPY alongwith the order dated 17.1.2003 passed in

the aforesaid Criminal Contempt No. 25/99 is forwarded to :-

1. All the District judges alongwith two extra copies of the Judgement for sending to the President and Secretary, Bar Association in their districts.
2. District Judge, Allahabad with the request to kindly keep the conduct of the concerned lawyers under his supervision for a period of two years and if they do any act against the dignity of the Court then necessary action shall be taken against them.
3. Registrar, Lucknow Bench, Lucknow.
4. P.S. to all Hon'ble Judges of Allahabad and Lucknow Bench, Lucknow for their Lordships' kind perusal.

By order of the Court,

Registrar General

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