

AZAD GOVERNMENT OF THE STATE OF JAMMU AND KASHMIR
LAW AND PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD
Dated the 26th June, 1993.

No. 746-51/LD/Leg/93. The following Act of the Assembly received the assent of the President on 9th June, 1993 is hereby published for general information:-

(ACT XXVII of 1993)

AN

ACT

to provide for and enforce the law relating to contempt of court

WHEREAS it is necessary and expedient to provide for and enforce the Law relating to Contempt of Court in the manner hereinafter appearing;

It is hereby enacted as follows:-

1. Short title, Extent and Commencement. (1) This Act may be called the Contempt of Court Act, 1993)

(2) It extends to the whole of Azad Jammu and Kashmir.

(3) It shall come into force at once.

2. Definitions.- In this Act unless there is anything repugnant to 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.

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 willful 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 to

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.-

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fair comments about the general working of Courts made in good faith in the public interest and in temperate language;

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;

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;

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;

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;

a true averment made in good faith and in temperate language or an evidence given in pursuance for initiation of action or in the course of disciplinary proceedings against a Judge; before the Chief Justice of High Court,

the Chief Justice of Azad Jammu and Kashmir, the Supreme Judicial Council, the President, the Prime Minister, Azad Government of the State of Jammu and Kashmir or the Azad Jammu and Kashmir Council;

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;

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 or officer 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.

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 tendered unqualified apology, the court may discharge the accused or remit his sentence.

Jurisdiction.- (1) The 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 any where and the High Court shall have the power to take cognizance of any contempt of itself or of any Judge thereof to have been committed within the territorial limits of its jurisdiction.

(3) The*High Court shall exercise the same jurisdiction in respect.of contempts of Courts subordinate to it 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 Penal Code.

Bars to taking cognizance.- (1) No High Court shall take cognizance under this Act of a contempt alleged to have been committed in respect of a Court subordinate to it where the said contempt is an offence punishable under the Penal Code.

(2) No Court shall take cognizance, as of a contempt of court, of any averment made before the Supreme Judicial Council in respect of which the Supreme Judicial Council has given a finding that the averment ful-filled the requirements of clause (vi) of the proviso to Section 3.

(3) No Court shall take cognizance of a contempt of court arising from an averment made in due course in appellate, revisional or review proceedings, till such proceeding have been finalized and no further appeal, revision or review lies.

(4) No court shall take cognizance of a contempt of court arising from an averment made before the Chief Justice of the High Court, the Chief Justice of the Supreme Court of Azad Jammu and Kashmir, the Supreme Judicial Council, the President, the Prime Minister, the Azad Government of the State of Jammu and Kashmir or the Azad Jammu and Kashmir Council, unless the authority, before which the averment was made so directs.

Procedure for Supreme Court _and_ High _Court.-

(1) Whenever it appears to the Supreme Court or the 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 the Chief Justice is already on the Bench, the Judge or Judges takes cognizance of the matter, shall forward the case to the Chief Justice for Constitution of Bench.-The Bench shall comprise of not less than two Judges, unless the Chief Justice for the reason to be recorded, otherwise directs.

(2) The Court shall issue notice to the accused and inform him the grounds on which he is charged.

(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 the 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 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 proceeding sub-sections.

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

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 involve scandalization personal to such judge, or same Judges 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 sub-section (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 setup 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 sub-section (2), 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 sub-section (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

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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 sub-section (1), (2) and (3) shall be performed by a Bench of Judges composed of the two next most senior Judges available.

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.

Appeal and limitation for appeal.- (1) From an order passed by the High Court under this Act an appeal shall lie, to the Supreme Court.

(2) An appeal under sub-section (1) shall be filed within sixty days from the date of the order appealed against.

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

Repeal.- The Contempt of Courts Act, 1926 as adapted in Azad Jammu and Kashmir and sub-section (2) of Section 17 of Courts and Laws Code, 1949 are hereby repealed.

Sd/-
(Syed Shakir Shah)
Deputy Secretary Law