**Unveiling Contempt Laws in Pakistan**

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The phrase contempt of court (contemptus curiae) has been in use in English law for eight centuries. According to Corpus Jurist Secondum, Contempt of Court is disobedience to the court by acting in opposition to the authority, justice, and dignity thereof. It also implies a wilful disregard or disobedience of the court order. The Law relating to Contempt of Court has developed over the centuries as a means, whereby the Courts may act to prevent and punish conduct which tends to obstruct, prejudice or abuse the administration of Justice either in relation to a particular case or generally.

Contempt jurisdiction is conferred with twofold objectives, the foremost is to uphold the rule of law and the subsidiary is to punish the contemner if vindication of the rule of law cannot be achieved without sentencing the alleged contemner as a deterrent. The importance of arming a Court with the necessary powers to initiate contempt proceedings to enforce and retain the power of law and dignity of the Court can be scaled from the fact that article 204 of The Constitution of the Islamic Republic of Pakistan, 1973 itself confers and vests powers with the superior courts relating to contempt of court. However, under section 4 sub-section 2 of the Contempt of Court Ordinance 2003 ( The Ordinance), the High Court has the power to punish a contemner who commits contempt in relation to any Court subordinate to it. Article 204(3) further says that to exercise of the power conferred on a Court by this Article may be regulated by law and, subject to law, by rules made by the Court.

A fair and healthy comment on a judgment involving a question of public importance in a case which has finally been decided and is no longer pending shall not constitute contempt of court.

To regularisation of exercise of the power of contempt under law, as envisaged under article 204(3) of the constitution, the Parliament passed the Contempt of Court Act, 1976, which was replaced by the promulgation of Ordinance namely The Contempt of Court Ordinance 2003 in 2003. Later on, the ordinance was also repealed by the Act of the Parliament and a new law regarding contempt of court namely the Contempt of Court Act, 2012 was promulgated in Pakistan, but the latter was struck down by the august Supreme Court of Pakistan declaring the Act contrary to the provisions of the Constitution of Pakistan independence of the judiciary, consequently, the Contempt of Court Ordinance, 2003 stood enforced in Pakistan.

The superior court may initiate contempt proceedings against any person on suo motu or on information provided by an informer or on the application of the law officer of a Provincial or Federal Government, but the High courts are not empowered to take cognisance of alleged contempt which is punishable by subordinate courts under Pakistan Penal Code 1860. However, there is no such restriction or exclusion to the jurisdiction of the Supreme Court, as it can take cognizance of all matters of contempt of court throughout Pakistan under the Constitution and the Contempt of Court Ordinance, 2003.

The court can commence proceeding upon any contempt by issuance of notice or show cause notice to the contemner, and grant opportunity to the accused for his defence. The superior courts have held that jurisdiction in contempt matters is not criminal but sui generis. Therefore, the fundamental principles of criminal law (the accused must be given the benefit of the doubt, the onus to prove is upon the prosecution, presence of mens rea to make an act criminal) are not attracted when it comes to contempt, and Code of Criminal Procedure is also not applicable on contempt proceedings.

An accused of contempt of Court may at any stage of the proceedings submit an unconditional apology by surrendering himself at the mercy of the court and if the court is satisfied with the apology it may withdraw the contempt notice and discharge him or remit his sentence in case of appeal. However, tendering of unconditional apology did not necessarily lead to putting an end to every contempt proceedings. Moreover, indulgence could be shown by superior courts by way of grace and concession but it cannot be claimed as a matter of right. Any person who commits contempt of the court can be convicted and punished with imprisonment of a term which may extend to 6 months or with a fine of one hundred thousand rupees or both.

The convicted person may file an appeal against the conviction within 30 days under section 19 of the Ordinance. The section further states that 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 and in a case in which the original order has been passed by a Division or larger Bench of a High Court an appeal shall lie to the Supreme Court and where the original order passed by a Single Judge or a bench of two Judges of the Supreme Court an intra-Court appeal shall lie to a Bench of three Judges and in case the original order was passed by a Bench of three or more Judges an intra-Court appeal shall lie to a Bench of five or more Judges of the Supreme court.

Section 4 of the Ordinance enunciates and reiterates the general principle that every superior court shall have the power to punish a contempt committed about it, but on the other hand, also provides an exception to that general rule that a fair and healthy comment on a judgment involving a question of public importance in a case which has finally been decided and is no longer pending shall not constitute contempt of court.

Courts must be open to public scrutiny and criticism but to certain limits, bona fide criticism of conduct of a judge or decision is an integral part of the accountability of judicial officers. The decisions of the courts can be criticised, including in language which may be impolite, justice is administered under public gaze, which makes the decision-making process subject to scrutiny. The only exception to the criticism is that it should not be aimed at eroding public faith in the institution.

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