

CHAPTER XXXIV

¹ RULES TO REGULATE PROCEEDINGS FOR CONTEMPT UNDER ARTICLE 215 OF THE CONSTITUTION OF INDIA AND THE CONTEMPT OF COURTS ACT, 1971

1. New Chapter XXXIV has been substituted for the existing Chapter XXXIV vide Mah. Govt. Gazette Dt. 8-8-1996, Pt. 4-C, pg. 364.

1. Title. — These Rules shall be called the Contempt of Courts (Bombay High Court) Rules, 1994.

2. Commencement. — They shall come into force on the date of publication.

3. Definition. — In these Rules, unless there is anything repugnant to the subject or context,—

(a) "Act" means the Contempt of Courts Act, 1971 (No. 70 of 1971);

(b) "High Court" means the High Court of Judicature at Bombay and/or such other Court as may be designated as such for the purposes of the Contempt of Courts Act, 1971;

(c) "Judge" means a Judge of the High Court of Judicature at Bombay or of a Court designated as such for the purposes of Contempt of Courts Act, 1971:

(d) "Prothonotary" means the Prothonotary and Senior Master of the High Court and shall include the Additional Prothonotary and the Officer on Special Duty of a designated Court;

(e) "Registrar" means the Registrar of the High Court and shall include Additional Registrar, at Nagpur, Aurangabad or Goa:

(f) all the words and expressions used in these Rules but not defined therein shall have the meanings respectively assigned to them in the Act.

PART I

4. (1) Where Contempt of Court is committed in view or presence or hearing of Court, the contemnor may be punished by the Court before which contempt is committed either forthwith or on such date as may be appointed by the Court in that behalf.

(2) Pending the determination of the charge, the Court may direct that contemnor shall be detained in such custody as it may specify : Provided that the contemnor may be released on bail or on such other terms as to undertakings or otherwise as the Court may direct.

PART II

5. In case of contempt of Court other than the Contempt referred to in Rule 4, Court may take action. —

1. New Chapter XXXIV has been substituted for the existing Chapter XXXIV vide Mah. Govt. Gazette dt. 8-8-1996. Part 4-C, pages 364-368.

(a) Suo motu, or

(b) on a petition made by Advocate General.

(c) on a petition made by any person, and in the case of a criminal contempt with the consent in writing of the Advocate General.

(d) on a reference made to the High Court by any Subordinate Court in respect of Civil Contempt, or

(e) on a reference under section 15(2) of the said Act made by a subordinate Court either suo motu or on an Application received by it.

²[(f) If any information is lodged in the office of this Court in the form of a Petition or otherwise, inviting this Court to take action under the Contempt of Courts Act, 1971 or Article 215 of the Constitution of India, where the informant is not one of the persons named in Section 15 of the Contempt of Courts Act, 1971, the aforesaid Petition or information received shall be placed before the Chief Justice in Chambers for appropriate orders.

(g) The office shall place the same alongwith all other relevant papers before the Chief Justice in Chambers, within fifteen days of receipt of the same.

(h) In the event of the Chief Justice directing cognizance to be taken on the same, it shall be put up before the appropriate Division Bench in form of a Registered Petition, within fifteen days;

(i) The office shall maintain a separate register for registering such Petitions.]

² Sub Rule (f) to (i) added vide High Court Notification No. 3601/2008, Dt. 24.9.2008, published in M.G.G. Pt. IV-C, Dt. 2.10.2008.

COGNIZANCE AND PROCEDURE

6. *Parties to the Petition.* —

(a) Every Petition for initiating proceedings for contempt of Court shall be registered as Contempt Petition.

(b) In a proceeding initiated by Petition the initiator shall be described as Petitioner and the opposite party as Respondent.

(c) In every Petition for criminal contempt, the State of Maharashtra shall be made a Respondent.

7. (a) Every Petition or Reference under Rule 5(b), (c), (d) or (e) shall contain.—

(i) the name, description and complete address of the Petitioner or Petitioners and of the person charged;

(ii) nature of the contempt alleged, and such material facts, including the date or dates of commission of the alleged contempt, as may be necessary for the proper determination of the case:

(iii) if a Petition has previously been made by him on the same facts, the Petitioner shall give the details of the Petition previously made and shall also indicate the result thereof:

(b) Every Petition under Rule 5(c) shall be supported by an Affidavit.

(c) Where the Petitioner relies upon a document or documents in his possession or power, he shall file such document or documents or true copies thereof with the Petition.

8. (1) Every Petition or Reference under Rule 5(b), (c), (d) or (e) shall on being filed or received be forthwith posted before the Court for preliminary hearing and for orders as to issue of notice. Upon such hearing, the Court, if satisfied that a prima facie case has been made out for issue of notice, may issue such notice to the Contemnor and, if not so satisfied may dismiss the Petition.

(2) The Court may, if it thinks it absolutely necessary to do so, and where the Court is of the opinion that mere service of Notice, will not secure the presence of the Contemnor, along with issue of Notice also issue a bailable or non-bailable warrant for arrest of the contemnor.

9. (1) Notice to the person charged shall be in form 1. The person charged shall, unless otherwise ordered, appear in person before the Court as directed on the date fixed for hearing of the proceeding, and shall continue to remain present during hearing till the proceeding is finally disposed off by Order of the Court.

(2) When action is initiated on a Petition or a Reference, a copy of the Petition or the Reference along with the annexures and Affidavits shall be served upon the person charged.

10. The person charged may file his reply by way of an Affidavit or Affidavits within 14 days from the service of the Notice or within such time as the Court may fix.

11. No further Affidavit or document shall be filed except with the leave of the Court.

12. (a) Reference under section 15(2) of the Act may be made by subordinate Courts either suo motu or on an Application received by it.

(b) Before making a reference the subordinate Court shall hold a preliminary enquiry by issuing a Show Cause Notice accompanied by copies of relevant documents, if any, to the contemnor and after hearing him the subordinate Court shall write a concise reasoned Order of Reference indicating the nature of the Contempt and the person/persons alleged to have committed it.

13. The High Court may, on its Appellate Side, entertain a Petition for Contempt of Subordinate Court. If it considers it necessary, it may direct the Subordinate Court to investigate into question of fact and make a report.

14. Every Petition made by the Advocate General under sub-section (2) of section 15 of the Act shall state the relevant facts on the basis of which it is alleged that the contempt appears to have been committed by the person/ persons named therein. The Petition shall broadly summarise the relevant material justifying filing of the Petition.

15. Unless otherwise ordered by the Court, four copies of the Paper Book shall be prepared in the Office of the Prothonotary and Senior Master or the Registry, one for the petitioner, one for the opposite party and the remaining for the use of the Court. The Paper Books shall consist of the following documents;—

(i) Petition and Affidavits filed by the Petitioner.

(ii) A copy of. or a statement relating to, the objectionable matter or material constituting the alleged contempt.

(iii) Reply and Affidavit of the Opposite Party, if any?

(iv) Copies of Documents filed by the parties,

(v) Any other documents which the Prothonotary/Registrar may deem fit to include.

16. The Court may direct the Advocate General to appear and assist the Court.

17. The Court may, if it has reason to believe, that the person charged is absconding or is otherwise evading service of notice, or if he fails to appear in person or to continue to remain present in person in pursuance of the Notice, direct a Warrant bailable or non-bailable for his arrest or may direct attachment of his property as may be specified in the Order by the Court. The Warrant shall be issued under the signature of the Prothonotary or Registrar or Officer on Special Duty as the case may be. The warrant shall be executed, as far as may be in the manner provided for execution of warrants under the Code of Criminal Procedure.

18. The Court may pass such orders as it thinks fit including Orders as to costs which may be recovered as if the Orders were a decree of the Court.

19. (a) Every Notice issued by the High Court or Designated Court to the contemnor shall be accompanied by a copy of Petition or Reference, as the case may be, together with the copies of Affidavits, if any.

(b) Such Notice issued by the High Court or Designated Court shall be signed and dated by the Prothonotary or Additional Prothonotary or Officer on Special Duty or Assistant Registrar and shall be sealed with the seal of the High Court or the concerned Court.

(c) Notice of every proceeding under this Act shall be served personally on the person charged, unless the Court, for reasons to be recorded, directs otherwise. In that case service may be effected in the manner prescribed under the Code of Civil Procedure and/or the High Court Rules or the Rules of the concerned Court for service of process.

20. Whenever the High Court or Designated Court issues a notice, it may dispense with the personal attendance of the person charged with the contempt and permit him to appear through an Advocate and in its discretion, at any stage of the proceeding, direct the personal attendance of such person, and, if necessary, enforce such attendance in the manner herein above provided.

21. When any person charged with contempt appears or is brought before the Court or the designated Court such person/persons may be released on bail on such terms and conditions as the Court may deem fit and proper.

Enquiry

22. (a) Any person charged with contempt, may file an Affidavit in support of his defence on the date fixed for his appearance or on such other date as may be fixed by the Court in that behalf,

(b) If such person pleads guilty to the charge, his plea shall be recorded and the Court may, in its discretion, convict him thereon.

(c) 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 of guilt, it may determine the matter of the charges either on the Affidavits filed or after taking such further evidence as it deems fit.

23. The Rules contained in Bombay High Court Rules pertaining to grant of copies, process fees and translation of documents and such other matters in respect of which no provision is made in the Rules shall mutatis mutandis apply to the proceedings in the High Court and designated Court.

³[24. (i) Every petition or reference in respect of Civil Contempt alleging willful disobedience of any ad-interim/interim or final order passed by the High Court shall be heard and disposed of by the concerned Division Bench or Single Judge, as the case may be, before which/whom the main matter is pending or before which/whom the main matter would lie, if it were pending.

(ii) Every Petition or reference in respect of Civil Contempt of Subordinate Court shall be heard and disposed of by a Single Judge.

(iii) Notwithstanding anything contained in Sub Rules (i) and (ii), the Chief Justice may in his discretion assign to a Division Bench Contempt Petition which would otherwise lie before a Single Judge.

(iv) Notwithstanding anything contained in Sub Rules (i) and (ii), the Chief Justice, in his discretion, may assign Civil Contempt Petition to any other Division Bench or Single Judge.]

3. Substituted vide High Court Notification No. P. 3602/2014 dated 29th November, 2014, published in M. G. G., Extraordinary, Part 4-C dated 01st December, 2014.

25. (a) In case of contempt arising out of a proceeding on the Original Side of the High Court, the Petition shall be filed on the Original Side of the High Court.

(b) In case of contempt arising out of a proceeding on the Appellate Side of the High Court, the Petition shall be filed on the Appellate Side.

(c) Petitions or References for Contempt of Subordinate Courts shall be Filed on the Appellate Side.

(d) In case of contempt arising out of proceedings before the Designated Court, the petition shall be filed before the Designated Court. All the rules herein shall apply mutatis mutandis in respect of Contempt of the Designated Courts.

PART III

26. Where a person charged with contempt is adjudged guilty and is sentenced to suffer imprisonment, a Warrant of Commitment and detention shall be made out under the signature of Prothonotary or Registrar or Officer on Special Duty as the case may be.]

⁴[FORM I

Notice

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE/ORIGINAL SIDE

Criminal/Civil

CONTEMPT PETITION No.....

In

(.....)

.....

Petitioners.

Versus

.....

Respondents.

To

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.....
.....
.....

Whereas upon considering the material before it, Honourable Court is satisfied that there exists a prima facie case for issuance of a notice to considering action under Contempt of Courts Act against you;

Whereas the above named petitioner/s has/have presented Contempt Petition through his/her/their Advocate S/Shri praying for taking action under Contempt of Courts Act against you;

Whereas a reference is made to this Hon'ble High Court by.....; a Court subordinate to the Hon'ble High Court, praying for taking action under Contempt of Courts Act against you;

As stated in the accompanying copy of—

(a) Material relied upon i.e.

(b) and (c) copy of Contempt Petition.

(d) and (e) a copy of reference.

And whereas the same having been registered in this Court as Contempt Petition and this Court having on the day of20..... passed the following order :—

'.....
.....
.....'

Take therefore notice that the aforesaid Contempt Petition has been fixed for hearing on the day of..... 199..... on which date you shall appear in person before this Court and shall continue to remain present during hearing on all subsequent dates to which this Court may seem convenient to fix the matter, till the proceeding is finally disposed off by the order of the Court; and

To show cause as to why the action under Contempt of Courts Act should not be taken against you.

In case of your failure to appear as directed above and to show cause this Court shall proceed to pass such orders as may deem fit and proper.

Witness Shri Chief Justice at Bombay, aforesaid this..... day of..... 20.....

By order and in the name of the Court

(Additional Registrar, Judicial).]"

4. 'Form I' added vide High Court Notification No. P. 3603/94, Dt. 11-3-1997, Published in the Mah. Govt. Gazette Dt. 20-11-1997, Pt. 4-C, pg. 527.

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