

of
limitation of one year for initiating any proceedings of contempt, be
it suo motu or otherwise. Section 20 of the Act reads as follows:

â- S 20. Limitation for actions for contempt. â- No
court shall initiate any proceedings of contempt,
either on its own motion or otherwise, after the ex -
piry of a period of one year from the date on which
the contempt is alleged to have been committed. "

9. Learned Counsel appearing for the High Court, however, con -
tends that being an action initiated by the High Court under Article
215 of the Constitution of India and since the genesis of the initia -
tion of the contempt is the application dated 18.11.2008 filed by Mr.
Manoj Kumar Srivastava and Mr. Veer Singh, Advocates, and since
the High Court had considered the application within one year and
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had taken action by issuing notice, though after six years, it is within
time.

10. Our attention is invited to a three- Judge Bench decision of this
Court in Pallav Sheth v. Custodian and others 1
and particular to

paragraphs-39 and 40. Paragraphs 39 and 40 reads as follows:

â- S 39. In the case of criminal contempt of a
subordinate court, the High Court may take action
on a reference made to it by the subordinate court
or on a motion made by the Advocate-General or
the Law Officer of the Central Government in the
case of a Union Territory. This reference or motion
can conceivably commence on an application be -
ing filed by a person whereupon the subordinate
court or the Advocate-General if it is so satisfied
may refer the matter to the High Court. Proceed -
ings for civil contempt normally commence with a
person aggrieved bringing to the notice of the
court the wilful disobedience of any judgment, de -
cree, order etc. which could amount to the com -
mission of the offence. The attention of the court is
drawn to such a contempt being committed only
by a person filing an application in that behalf. In
other words, unless a court was to take a suo motu
action, the proceeding under the Contempt of
Courts Act, 1971 would normally commence with
the filing of an application drawing the attention of
the court to the contempt having been committed.

When the judicial procedure requires an applica -
tion being filed either before the court or consent
being sought by a person from the Advocate-Gen -
eral or a Law Officer, it must logically follow that
proceedings for contempt are initiated when the
applications are made.

40. In other words, the beginning of the ac -
tion prescribed for taking cognizance of criminal
contempt under Section 15 would be initiating the
proceedings for contempt and the subsequent ac -
tion taken thereon of refusal or issuance of a no -

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(2001) 7 SCC 549
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tice or punishment thereafter are only steps follow -
ing or succeeding such initiation. Similarly, in the
case of a civil contempt, filing of an application
drawing the attention of the court is necessary for
further steps to be taken under the Contempt of
Courts Act, 1971.â- \235

11. We are afraid, the contentions advanced by the learned Coun -
sel for the appellants cannot be appreciated. Be it an action initiated
for contempt under Article 129 of the Constitution of India by the
Supreme Court or under Article 215 of the Constitution of India by

the High Court, it is now settled law that the prosecution procedure should be in consonance with the Act, as held by this Court in Pallav Sheth case (supra).

12. And thus, the dispute boils down to the question of limitation only.

13. Under the Act, the action for contempt is taken by only two courts, either the Supreme Court or the High Court. The procedure is prescribed under Section 15 of the Act, which reads as follows:

â- S 15. Cognizance of criminal contempt in other cases .â- (1) In the case of a criminal con - tempt, other than a contempt referred to in sec - tion 14, the Supreme Court or the High Court may take action on its own motion or on a motion made byâ-

- (a) the Advocate-General, or
- (b) any other person, with the consent in writ - ing to (sic of) the Advocate-General, or
- (c) in relation to the High Court for the Union territory of Delhi, such Law Officer as the Cen - tral Government may, by notification in the Official Gazette, specify in this behalf, or any

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other person, with the consent in writing of such Law Officer.

(2) In the case of any criminal contempt of a sub - ordinate court, the High Court may take action on a reference made to it by the subordinate court or on a motion made by the Advocate-General or, in relation to a Union territory, by such Law Officer as the Central Government may, by notification in the Official Gazette, specify in this behalf.

(3) Every motion or reference made under this sec - tion shall specify the contempt of which the person charged is alleged to be guilty.

Explanation .â- In this section, the expression â- SAdvo - cate-Generalâ- \235 meansâ-

- (a) in relation to the Supreme Court, the At - torney-General or the Solicitor-General;
- (b) in relation to the High Court, the Advo - cate-General of the State or any of the States for which the High Court has been estab - lished;
- (c) in relation to the Court of a Judicial Com - missioner, such Law Officer as the Central Government may, by notification in the Offi - cial Gazette, specify in this behalf.â- \235

14. Criminal Contempt of court subordinate to High Court can be initiated either suo motu or on a motion made by the Advocate Gen - eral. The suo motu action is set in motion on a Reference made to it by the subordinate court. In view of the process involved in making the Reference by the subordinate court, in Pallav Sheth case (supra), it has been held that the Reference is the starting point of the process of initiation of the action for contempt. That is why in paragraph-39, which we have extracted above, it has been clearly held that â- | â- Unless a court was to take suo motu action, the p ro -

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ceeding under The Contempt of Courts Act, 1971 would normally commence with the filing of an application drawing the attention of the court to the contempt having been committed. â- SThe application is the motion provided under Section 15 of The Contempt of Courts Act, 1971. Such a motion, by any person other than Advocate Gen - eral, can be made only with the consent in writing of the Advocate General. In other words, any other application made by a person without the consent of the Advocate General, is not an application in the eyes of law.â- \235

15. This aspect has been succinctly discussed and subtly distin -

guished in paragraph-44 of the Pallav Sheth case (supra). To quote paragraph-44:

â S 44. Action for contempt is divisible into two categories, namely, that initiated suo motu by the court and that instituted otherwise than on the court's own motion. The mode of initiation in each case would necessarily be different. While in the case of suo motu proceedings, it is the court itself which must initiate by issuing a notice, in the other cases initiation can only be by a party filing an application. In our opinion, therefore, the proper construction to be placed on Section 20 must be that action must be initiated, either by filing of an application or by the court issuing notice suo motu, within a period of one year from the date on which the contempt is alleged to have been committed.â \235

16. Coming to the factual matrix of the present case, the High Court is clear in its mind that the action under Section 15 of the Act is initiated suo motu by the High Court. To make it abundantly clear

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in the impugned order, it is said that the name of the petitioner is not to be shown in the cause list. Apparently, it can only be suo motu because the application filed by the advocates, and which is referred to in the impugned order, is without the consent in writing of the Advocate General. The only application other than by the Advocate General, contemplated under Section 15 of the Act, is the motion made by any person with the consent in writing of the Advocate General. Being a jurisdiction which, when exercised, is fraught with serious consequences, the Parliament has thought it justifiably fit to provide for such safeguards. Thus, the impugned article, having been published on 10.11.2008 and the High Court having initiated the suo motu action only on 28.04.2015, the same is hit by the limitation of one year prescribed under the Act.

17. In that view of the matter, it has become unnecessary for us to deal with the submissions on merits as to whether the contents of the article would constitute criminal contempt or not.

18. Accordingly, the appeal is allowed and the impugned order is set aside.

.....J.

(KURIAN JOSEPH)

.....â |â |J.

(ROHINTON FALI NARIMAN)

New Delhi;
June 30, 2016.

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ITEM NO.62 COURT NO.11 SECTION II
S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS
Petition(s) for Special Leave to Appeal (Crl.) No(s). 5032/2015
(Arising out of impugned final judgment and order dated 28/04/2015
in CACRL No. 21/2008 passed by the High Court of Judicature at
Allahabad)

MAHESHWAR PERI & ORS Petitioner(s)

VERSUS

HIGH COURT OF JUDICATURE AT ALLAHABAD
THROUGH REGISTRAR GENERAL Respondent(s)
(with appln. (s) for stay and office report)

Date : 30/06/2016 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE KURIAN JOSEPH

HON'BLE MR. JUSTICE ROHINTON FALI NARIMAN

For Petitioner(s) Mr. A.J. Bhambhani, Sr.Adv.

Ms. Sumita Hazarika, Adv.

For Respondent(s) Mr. Sunny Choudhary, Adv.

UPON hearing the counsel the Court made the following

O R D E R

Leave granted.

The appeal is allowed in terms of signed reportable Judgment.

Pending application(s) shall stand disposed of.

(Rajni Mukhi) (Renu Diwan)

SR. P.A. COURT MASTER

(Signed reportable Judgment is placed on the file)