

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE MR. JUSTICE ANIL K.NARENDRA
&
THE HONOURABLE MR.JUSTICE MURALEE KRISHNA S.
Monday, the 21st day of July 2025 / 30th Ashadha, 1947
CON.APP(C) NO. 4 OF 2025(FILING NO.)

Cont.Cas.(Crl.) 1/2025 OF HIGH COURT OF KERALA

APPELLANT(S)/RESPONDENT:

**R. RAJESH, EX M.L.A & MEMBER OF SYNDICATE, AGED 43 YEARS,
UNIVERSITY OF KERALA, PALAYAM, THIRUVANANTHAPURAM, [S/O A.T.
RAGHAVAN (LATE), NALLOORKULATHIL HOUSE, KOLLAKADAVU, CHANGANNUR-,
PIN - 690509.**

BY M/S.ADV.S.RILGIN V.GEORGE, K.T.RAVEENDRAN, MEERA J. MENON, ALFIYA A.

RESPONDENT(S)/PETITIONER:

**HIGH COURT OF KERALA, REPRESENTED BY THE REGISTRAR GENERAL, HIGH
COURT OF KERALA, ERNAKULAM, [SUO MOTU PROCEEDINGS INITIATED BY THE
HIGH COURT OF KERALA], PIN - 682031.**

BY ADV.HARIKUAMR.G (served on)

**This Unnumbered Contempt Appeals (Civil).../2025(Filing
No.4/2025)again coming for orders on 21.07.2025 and this court's order
dated 18/07/2025, the court on the same day passed the following:**

P.T.0

"CR"

ANIL K. NARENDRAN & MURALEE KRISHNA S., JJ.

Unnumbered Con. App.(C) No..... of 2025
(Filing No.4 of 2025)

Dated this the 21st day of July, 2025**ORDER****Anil K. Narendran, J.**

The respondent-alleged contemnor in Cont. Case (Crl.) No.1 of 2025 registered *suo motu*, vide the order dated 07.07.2025 of the learned Single Judge, has filed this Contempt Appeal, invoking the provisions under sub-section (1) of Section 19 of the Contempt of Courts Act, 1971, challenging the said order of the learned Single Judge. Paragraphs 12 to 14, and also the last paragraph of the order dated 07.07.2025, read thus;

"12. This Court is drawing the contempt proceedings *suo motu*, finding *prima facie* that the insinuation and intemperate language used by the alleged contemnor in his Facebook post is to interfere with the Court proceedings and scandalise the Court and interfere with the administration of justice in an *ex facie* contemptuous way. The Court is at pains to act against the alleged contemner, but the Court is also cautious of its duties and responsibilities to protect the institution of the High Court and to maintain purity and sanctity in the administration of justice.

13. In view thereof, this Court holds Sri R.Rajesh, Ex-MLA and Syndicate Member of the University of Kerala, to have *prima facie* committed *ex facie* contempt of the Court by writing the Facebook post mentioned above on 06.07.2025, which amounts to

scandalising and lowering the authority of this Court and interference with due course of judicial proceedings and it also tends to interfere or obstruct the administration of justice.

14. This Court, exercising powers in terms of Section 15 of the Contempt of Court Act, 1971 and the plenary powers of the High Court under Article 215 of the Constitution of India, read with Rule 164(2) of Chapter XII of the Rules of the High Court of Kerala, 1971 frames the following charges against Mr. R. Rajesh, Ex-MLA and Syndicate Member of the University of Kerala.

- (i) You, Mr. R.Rajesh, Ex-MLA and Syndicate Member of the University of Kerala, by writing the Facebook post on 06.07.2025 on your Facebook page, have clearly intended to defile the image of the Court, cast insinuations and insult to the Judges heading the education Bench.
- (ii) You, Mr. R.Rajesh, Ex-MLA and Syndicate Member of the University of Kerala, have written the Facebook post on 06.07.2025, with the clear intention to bring the Court into disrepute by making scandalous and unfounded allegations in intemperate language. Your *ex facie* contemptuous writing on Facebook as envisaged under Section 15 of the Contempt of Courts Act, 1971 defines criminal contempt that makes you liable to be punished under the provisions of the Contempt of Courts Act, 1971, and, therefore, you are hereby called upon to answer the aforesaid charge in person or through counsel and be present yourself to be tried on 23.07.2021.

The Registry is directed to number this *suo motu* contempt case against the alleged contemnor.

Let notice be issued to Mr. R.Rajesh, Ex-MLA and Syndicate Member of the University of Kerala, alleged contemnor for his appearance before this Court on 23.07.2025 at 10.15 a.m. Let the contempt case be posted before the appropriate Bench, with

orders from the Hon'ble Chief Justice."

2. Registry sought clarification as to maintainability of Contempt Appeal under Section 19 of the Contempt of Courts Act, in view of the law laid down by the Apex Court in **Midnapore Peoples' Co. Op. Bank Ltd. v. Chunilal Nanda [(2006) 5 SCC 399]**, the law laid down by a Full Bench of this Court in **Suni B.T. v. Vinayaka Granites [2025 (1) KHC 217]**, which was followed by the Division Bench in **Suni B.T. v. Vinayaka Granites [2025: KER:2637]**. The learned counsel for the appellant offered clarification, citing the decision of the Apex Court in **V.M. Manohar Prasad v. N. Ratnam Raju [(2004) 13 SCC 610]** and the decision of a Full Bench of the Chhattisgarh High Court in **Anil Kumar Dubey v. Pradeep Kumar Shukla [2017 (2) KLT SN 55 : 2017 Cri.LJ 1315]**. Registry has listed the unnumbered Contempt Appeal before this Bench, for orders on the question of maintainability.

3. Heard the learned Senior Counsel for the appellant-alleged contemnor and also the learned Panel Counsel for the respondent High Court of Kerala.

4. The sole issue that requires consideration is whether the appellant can invoke the provisions under sub-section (1) of Section 19 of the Contempt of Courts Act, in order to challenge

the impugned order dated 07.07.2025 of the learned Single Judge.

5. The learned Senior Counsel for the appellant-alleged contemnor would contend that the procedure adopted by the learned Single Judge is contrary to the express provisions contained in Section 15 of the Contempt of Courts Act and Rules 7 and 9 of the Contempt of Courts (High Court of Kerala) Rules and also the law laid down in the decisions of the Apex Court and this Court on the point. In the impugned order dated 07.07.2025, the learned Single Judge arrived at a finding that a *prima facie* case of criminal contempt has been made out against the appellant, framed charges specifying the contempt of which the appellant is alleged to be guilty, directed Registry to number a *suo motu* contempt case, issued notice to the appellant requiring him to appear in Court on 23.07.2025, before the appropriate Bench, as per the orders of the Hon'ble Chief Justice. Such an order is an order appealable under sub-section (1) of Section 19 of the Contempt of Courts Act.

6. On the other hand, the learned Panel Counsel for the respondent High Court would contend that the impugned order dated 07.07.2025 of the learned Single Judge is not an order appealable under sub-section (1) of Section 19 of the Contempt of Courts Act.

7. Section 19 of the Contempt of Courts Act deals with appeal. As per sub-section (1) of Section 19, an appeal shall lie as of right from any order or decision of the High Court in the exercise of its jurisdiction to punish for contempt (a) where the order or decision is that of a Single Judge, to a Bench of not less than two Judges of the Court; (b) where the order or decision is that of a Bench, to the Supreme Court. As per the proviso to sub-section (1) of Section 19, where the order or decision is that of the Court of the Judicial Commissioner in any Union territory, such appeal shall lie to the Supreme Court. As per sub-section (2) of Section 19, pending any appeal, the appellate court may order that (a) the execution of the punishment or order appealed against be suspended; (b) if the appellant is in confinement, he be released on bail; and (c) the appeal be heard notwithstanding that the appellant has not purged his contempt. As per sub-section (3) of Section 19, where any person aggrieved by any order against which an appeal may be filed satisfies the High Court that he intends to prefer an appeal, the High Court may also exercise all or any of the powers conferred by sub-section (2). As per subsection (4) of Section 19, an appeal under sub-section (1) shall be filed (a) in the case of an appeal to a Bench of the High Court, within thirty days; (b) in the case of an appeal to the Supreme

Court, within 60 days from the date of the order appealed against.

8. In **Baradakanta Mishra v. Justice Gatikrushna Misra [(1975) 3 SCC 535]** a Three-Judge Bench of the Apex Court noticed that under the law, as it stood prior to the enactment of the Contempt of Courts Act, 1971, no appeal shall lie at the instance of a party moving the High Court for taking action for contempt, if the High Court in the exercise of its discretion refused to take action on the motion of such party. Even if the High Court took action and initiated a proceeding for contempt and in such proceeding, the alleged contemnor, being found guilty, was punished for contempt, the order being one made by the High Court in the exercise of its criminal jurisdiction, was not appealable under Clause 15 of the letters patent, and therefore, no appeal shall lie against it from a Single Judge to a Division Bench and equally, there was no appeal as of right from a Division Bench to the Apex Court. The result was that in cases of criminal contempt, even a person punished for contempt has no right of appeal and he could impugn the order committing him for contempt only if the High Court granted the appropriate certificate under Article 134 of the Constitution of India, in fit cases, or on the refusal of the High Court to do so, the Apex Court intervened by granting special leave under Article 136. This was a highly unsatisfactory

state of affairs, and it was largely responsible for the criticism against the large powers of the court to punish for contempt. This unsatisfactory feature of the law of contempt was adversely commented upon by the Sanyal Committee in its report dated 28.02.1963 submitted to the Government of India. In para 3.1 in Chapter XI of the Report, the Sanyal Committee recommended that against an order of a Single Judge, punishing for contempt, the appeal should lie, in the High Court, to a Bench of Judges and against a similar order of a Bench of Judges of a High Court, the appeal should lie as of right to the Apex Court. Chapter XII of the Report contained the recommendations of the Sanyal Committee and Clause 25 of the recommendations was in the following terms:

“Provision may be made for an appeal as of right from any order or decision of a High Court in the exercise of its jurisdiction to punish for contempt. The appeal should lie to a Bench of Judges of the High Court where the order or decision is of a Single Judge. Where the order or decision is of a Bench, the appeal should lie to the Supreme Court.”

(underline supplied)

The Apex Court noticed that it was in pursuance of the above recommendation made by the Sanyal Committee that the Parliament, while enacting the Contempt of Courts Act, 1971, introduced Section 19, sub-section (1) in that Act, conferring an appeal as of right ‘from any order or decision of a High Court in

the exercise of its jurisdiction to punish for contempt’.

8.1. In **Baradakanta Mishra [(1975) 3 SCC 535]**, the Apex Court noticed that, as per sub-section (1) of Section 15 of the Contempt of Courts Act, in a case of criminal contempt other than contempt in the face of the Court, the Supreme Court or the High Court may take action on its own motion or on a motion made by the Advocate General or any other person with the consent in writing of the Advocate General, and sub-section (2) of Section 15 says that in case of criminal contempt of any 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 in relation to Union Territories, by such law officer as the Central Government may specify in this behalf. Section 17 of the Act lays down the procedure to be followed by the Court when it decides to take action and initiates a proceeding for contempt under Section 15. Sub-section (1) of Section 17 provides that notice of every proceeding under Section 15 shall be served personally on the person charged and according to sub-section (2) of Section 17, such notice shall be accompanied, in case of a proceeding commenced on a motion, by a copy of the motion as also copies of the affidavits, if any, on which such motion is founded, and in case of a proceeding commenced on a reference by a subordinate

court, by a copy of the reference. Section 20 of the Act prescribes a period of limitation by saying that no court shall initiate any proceeding for contempt either on its own motion or otherwise after the expiry of a period of one year from the date on which the contempt is alleged to have been committed.

8.2. In **Baradakanta Mishra [(1975) 3 SCC 535]**, the Apex Court noticed that, as can be seen from the provisions under Sections 15, 17, 19 and 20 of the Contempt of Courts Act, the scheme adopted by the legislature is that the Court may initiate a proceeding for contempt *suo motu* or on a motion made by the Advocate General or any other person with the consent in writing of the Advocate General or on a reference made by a subordinate court. Where the Court initiates a proceeding for contempt *suo motu* , it assumes jurisdiction to punish for contempt and takes the first step in exercise of it. On the question as to whether the Court enters upon the jurisdiction to punish for contempt and act in exercise of it when it considers a motion is made by the Advocate General or any other person with the consent in writing of the Advocate General or a reference is made by a subordinate court, for the purpose of deciding whether it should initiate a proceeding for contempt, the Three-Judge Bench held that the motion or reference is only for the purpose of drawing the attention of the

Court to the contempt alleged to have been committed and it is for the Court, on a consideration of such motion or reference, to decide, in exercise of its discretion, whether or not to initiate a proceeding for contempt. The Court may decline to take cognizance and to initiate a proceeding for contempt either because, in its opinion, no contempt *prima facie* appears to have been committed or because, even if there is *prima facie* contempt, it is not a fit case in which action should be taken against the alleged contemner. The exercise of contempt jurisdiction being a matter entirely between the Court and the alleged contemner, the Court, though moved by motion or reference, may, in its discretion, decline to exercise its jurisdiction for contempt. It is only when the Court decides to take action and initiates a proceeding for contempt that it assumes jurisdiction to punish for contempt. The exercise of the jurisdiction to punish for contempt commences with the initiation of a proceeding for contempt, whether *suo motu* or on a motion or on a reference. That is why the *terminus a quo* for the period of limitation provided in Section 20 is the date when a proceeding for contempt is initiated by the Court. Where the Court rejects a motion or a reference and declines to initiate a proceeding for contempt, it refuses to assume or exercise jurisdiction to punish for contempt, and such a decision

cannot be regarded as a decision in the exercise of its jurisdiction to punish for contempt. Such a decision would not, therefore, fall within the opening words of sub-section (1) of Section 19 of the Act, and no appeal would lie against it as of right under that provision. This, of course, does not mean that there is no remedy available where the High Court, on an erroneous view of the law or unreasonably and perversely refuses to take action for contempt on a motion or a reference. Though no appeal lies under sub-section (1) of Section 19, as of right against such order or decision of the High Court, the Advocate General or any other person who has with the consent in writing of the Advocate General moved the High Court, can always approach the Apex Court by a petition for special leave to appeal and the power of the Court to interfere with such order or decision in the exercise of its extraordinary jurisdiction under Article 136 of the Constitution of India is unfettered. The Apex Court can always, in suitable cases, set right any order or decision of the High Court refusing to take action for contempt against the alleged contemner, if the larger interests of administration of justice so require.

8.3. In **Baradakanta Mishra [(1975) 3 SCC 535]**, on the facts of the case at hand, the Apex Court noticed that the order

made by the Full Bench of the Orissa High Court rejecting the motion made by the appellant and refusing to initiate a proceeding for contempt against the Chief Justice and other Judges was not appealable under sub-section (1) of Section 19 of the Contempt of Courts Act. The Three-Judge Bench made it clear that, in the facts of the case at hand, it is unnecessary to consider whether an appeal under sub-section (1) of Section 19 is confined only to a case whether the High Court after initiating a proceeding for contempt finds the alleged contemner guilty and punishes him for contempt as contended by the learned Additional Solicitor General or it extends also to a case where after initiating a proceeding for contempt, the High Court finds that the alleged contemner is not guilty of contempt and exonerates him, or even if he is found guilty of contempt, declines to punish him. A question may well arise whether in the latter case the Advocate General or any other person who has, with the consent in writing of the Advocate General, moved the High Court can appeal as of right against the order or decision of the High Court. As that question does not arise in the case at hand, the Three-Judge Bench did not express any opinion upon it, though the Bench pointed out that in England a right of appeal is given to a disappointed applicant under sub-sections (1) and (2) of Section 13 of the Administration of Justice

Act, 1960.

9. In **Purshotam Das Goel v. Justice B.S. Dhillon [(1978) 2 SCC 370]**, the challenge before a Two-Judge Bench of the Apex Court, in an appeal filed under sub-section (1) of Section 19 of the Contempt of Courts Act, was against an order dated 02.04.1975 of the High Court of Punjab and Haryana issuing notice to the appellant to show cause, in accordance with the procedure prescribed under Section 17 of the Act, why he should not be proceeded against for committing contempt of the High Court punishable under Section 15 of the Act. A preliminary objection was raised by the learned Solicitor General of India, on behalf of the respondents, that no appeal lies to the Apex Court under Section 19 of the Act from an order issuing notice, as nothing yet has been decided by the High Court. Upholding the preliminary objection, the Apex Court noticed that, as would appear from a plain reading of Section 19 of the Act, an appeal shall lie to the Apex Court as a matter of right from any order or decision of a Bench of the High Court if the order has been made in the exercise of its jurisdiction to punish for contempt. No appeal can lie as a matter of right from any kind of order made by the High Court in the proceedings for contempt. The proceeding is initiated under Section 17 of the Act by issuance of a notice.

Thereafter, there may be many interlocutory orders passed in the said proceeding by the High Court. It could not be the intention of the legislature to provide for an appeal to the Apex Court, as a matter of right, from each and every such order made by the High Court.

9.1. In **Purshotam Das Goel [(1978) 2 SCC 370]**, in the context of Section 19 of the Contempt of Courts Act, the Apex Court held that, to maintain an appeal, the order or the decision must be such that it decides some bone of contention raised before the High Court affecting the right of the party aggrieved. Mere initiation of a proceeding for contempt by the issuance of the notice on the *prima facie* view that the case is a fit one for drawing up the proceedings does not decide any question. The Apex Court, for the first time, cannot be asked in such an appeal to decide whether the person proceeded against has committed contempt of the High Court or not. The matter has to be decided either finally or, may be, even at an earlier stage, an order is made, which decides a contention raised by the alleged contemnor asking the High Court to drop the proceedings. It is neither possible nor advisable to make an exhaustive list of the type of orders which may be appealable to the Apex Court under Section 19 of the Act. A final order, surely, will be appealable. If the alleged contemnor,

in response to the notice, appears before the High Court and asks to drop the proceedings on the ground of it being barred under Section 20 of the Act, but the High Court holds that the proceeding is not barred, it may well be that an appeal would lie to the Apex Court under Section 19 from such an order although the proceedings has remained pending in the High Court.

9.2. In **Purshotam Das Goel [(1978) 2 SCC 370]**, the Apex Court made it clear that, it was not called upon to express its final opinion in regard to such an order, but it merely mention this type of order by way of an example to show that even orders made at some intermediate stage in the proceedings may be appealable under Section 19 of the Act. On the facts of the case at hand, the Apex Court held that an order merely initiating the proceedings without anything further does not decide anything against the alleged contemnor and cannot be appealed against as a matter of right under Section 19 of the Act. In a given case, special leave may be granted under Article 136 of the Constitution of India from an order initiating the proceedings. But that is entirely a different matter. In the decision of the Three-Judge Bench in **Baradakanta Mishra [(1975) 3 SCC 535]**, there are no observations by the Court, nor on the facts of that case there can be any, to show that an appeal would lie to the Apex Court

from an order of the High Court merely initiating the proceedings by issuance of a notice. It may be a different matter if the order decides some dispute raised before it by the contemnor, asking it to drop the proceedings on one ground or the other. But unless and until there is some order or decision of the High Court adjudicating upon any matter raised before it by the parties, affecting their right, the mere order issuing the notice is not appealable.

10. In **R.N. Dey v. Bhagyabati Pramanik [(2000) 4 SCC 400]** a Two-Judge Bench of the Apex Court was dealing with appeals filed under sub-section (1) of Section 19 of the Contempt of Courts Act against the judgment of the High Court of Calcutta, whereby the Court accepted unqualified apology tendered by the appellants in compliance with the orders of the Court for not paying the balance award money due to the respondents. The Court further directed the appellants to deposit with the Registrar (Appellate Side) the compensation money determined in terms of the order of the Land Acquisition Judge, in respect of the lands acquired by the State, as mentioned in the order and decree, within two weeks from the date of the order without prejudice to the rights and contentions of the parties in such proceedings. Further, the Court did not pass any orders on the application filed

by the Collector for vacating the rule issued in the contempt proceedings, holding that the Collector cannot go behind the award passed by him as provided under the Land Acquisition Act, 1894. Before the Apex Court, the learned counsel for the respondents submitted that after issuance of notice in the contempt proceedings initiated by the respondents, the Court has only issued a rule, and the matter is not finally decided; therefore, the appeal against such order is not maintainable. It was submitted that the respondents want to take undue advantage of the pending contempt proceedings and coerce the officers of the State in making payment on the basis of the award, even though they are not entitled to recover the same as the property had already vested in the State, and that the appellants were required to pay in all approximately Rs.50 lakhs to the claimants. The Apex Court found that the aforesaid contention of the learned counsel for the respondents requires to be rejected on the ground that, after receipt of the notice, officers concerned tendered unconditional apology and after accepting the same, the High Court rejected the prayer for discharge of the rule issued for contempt action. When the court either *suo motu* or on a motion or a reference decides to take action and initiate proceedings for contempt, it assumes jurisdiction to punish for contempt. The

exercise of jurisdiction to punish for contempt commences with the initiation of a proceeding for contempt, and if the order is passed not discharging the rule issued in contempt proceedings, it would be an order or decision in exercise of its jurisdiction to punish for contempt. Against such order, appeal would be maintainable.

10.1. In **R.N. Dey [(2000) 4 SCC 400]** the Apex Court noticed that in **Purshotam Dass Goel [(1978) 2 SCC 370]** it was observed that if the alleged contemnor in response to the notice appears before the High Court and asks the Court to drop the proceedings on the ground of its being barred under Section 20 of the Act, but the High Court holds that the proceeding is not barred, it may well be that an appeal would lie to the Apex Court under Section 19 from such an order although the proceeding has remained pending in the High Court. The Apex Court further observed that if the order decides some disputes raised before the Court by the contemnor asking the Court to drop the proceedings on one ground or the other, the appeal against the said order is maintainable. On the facts of the case at hand, the Apex Court noticed that the question whether an appeal under Section 19 of the Act is maintainable or not is not required to be decided finally by the Court, as the facts of the case are grossly inadequate and

the contempt proceedings were not required to be initiated at all. In any case, the unconditional apology tendered could have been accepted and further proceedings dropped and the rule ought to have been discharged.

11. In **V.M. Manohar Prasad v. N. Ratnam Raju [(2004) 13 SCC 610]**, the Apex Court was dealing with a matter in which the Division Bench of the High Court of Andhra Pradesh held that no appeal would lie against the order of the learned Single Judge dealing with contempt matters, since no one was punished for contempt. In the said case, the learned Single Judge, while disposing of the contempt matters, issued directions to the authorities in the Andhra Pradesh Scheduled Caste Finance Corporation and the State Government to sanction posts, thereby granting substantive relief to the employees who moved the contempt petitions. The Apex Court noticed that in contempt proceedings, no further directions could be issued by the Court. In case it is found that there is any violation of the order passed by the Court, the Court may punish the contemnor; otherwise, the notice of contempt is to be discharged. An order passed in the contempt petition could not be a supplemental order to the main order granting relief. If the direction is given by a Court without jurisdiction, against such an order, an appeal would lie to the Court

normally exercising the appellate jurisdiction.

12. In **Midnapore Peoples' Co. Op. Bank Ltd. v. Chunilal Nanda [(2006) 5 SCC 399]**, after referring to the law laid down in **Baradakanta Mishra [(1975) 3 SCC 535]**, **Purshotam Dass Goel [(1978) 2 SCC 370]**, **State of Maharashtra v. Mahboob S. Allibhoy [(1996) 4 SCC 411]** and **J.S. Parihar v. Ganpat Duggar [(1996) 6 SCC 291]** the Apex Court summarised the legal position emerging from those decisions regarding appeals filed under Section 19 of the Contempt of Courts Act against orders in contempt proceedings.

Paragraph 11 of that decision reads thus;

"11. The position emerging from these decisions, in regard to appeals against orders in contempt proceedings may be summarised thus:

(I) An appeal under Section 19 is maintainable only against an order or decision of the High Court passed in exercise of its jurisdiction to punish for contempt, that is, an order imposing punishment for contempt.

(II) Neither an order declining to initiate proceedings for contempt, nor an order initiating proceedings for contempt nor an order dropping the proceedings for contempt nor an order acquitting or exonerating the contemnor, is appealable under Section 19 of the Contempt of Courts Act. In special circumstances, they may be open to challenge under Article 136 of the Constitution.

(III) In a proceeding for contempt, the High Court can

decide whether any contempt of court has been committed, and if so, what should be the punishment and matters incidental thereto. In such a proceeding, it is not appropriate to adjudicate or decide any issue relating to the merits of the dispute between the parties.

(IV) Any direction issued or decision made by the High Court on the merits of a dispute between the parties, will not be in the exercise of "jurisdiction to punish for contempt" and, therefore, not appealable under Section 19 of the Contempt of Courts Act. The only exception is where such direction or decision is incidental to or inextricably connected with the order punishing for contempt, in which event the appeal under Section 19 of the Act can also encompass the incidental or inextricably connected directions.

(V) If the High Court, for whatsoever reason, decides an issue or makes any direction, relating to the merits of the dispute between the parties, in contempt proceedings, the aggrieved person is not without remedy. Such an order is open to challenge in an intra-court appeal (if the order was of a learned Single Judge and there is a provision for an intra-court appeal), or by seeking special leave to appeal under Article 136 of the Constitution of India (in other cases)."

(underline supplied)

13. In **Suni B.T. [2025 (1) KLT 287]**, the appellant therein relied on the decision of a Full Bench of the Chhattisgarh High Court in **Anil Kumar Dubey v. Pradeep Kumar Shukla [2017 (2) KLT SN 55 : 2017 CrI.LJ 1315]**. The Full Bench of this Court did not agree with the majority view of the Full Bench of the Chhattisgarh High Court on the question as to whether an

order framing charges would be appealable under Section 19 of the Contempt of Courts Act. Paragraph 30 of the decision in **Suni B.T. [2025 (1) KLT 287]** reads thus;

"30. The Appellant then relied upon the decision of the Full Bench of the Chhattisgarh High Court, in the case of **Anil Kumar Dubey v. Pradeep Kumar Shukla [2017 (2) KLT SN 55]**. Full Bench considered whether an order framing charges would be appealable under Section 19 of the Act of 1971. The issue before the Full Bench was similar to the one at hand, and therefore, we have carefully analysed the said decision. The decision of the Full Bench was rendered by majority opinion of two learned Judges holding that an appeal against the framing of charges would be maintainable under Section 19(1). The minority view of one learned Judge, however, held that such an appeal is not maintainable. The minority opinion held that there is only one statutory right of appeal under Section 19(1) of the Act of 1971, and an order framing charges is not appealable as it does not decide any bone of contention between the parties or affect their substantive rights for the following reasons. The majority decision, after framing the issue, undertook a review of earlier decisions from paragraphs (7) to (38). In paragraph (40) the Full Bench observed that the words "decision" and "order" are presumed to have different meanings. In paragraph (41), there is a reference to the principle of statutory interpretation that each word must be given its distinct meaning. This observation is contrary to the law laid down by the Hon'ble Supreme Court in the case of **State of Maharashtra v. Mahboob S. Allibhoy [(1996) 4 SCC 411]**, which we have reproduced earlier.

The decision of the Hon'ble Supreme Court in Mahboob S. Allibhoy [(1996) 4 SCC 411] was noted by the Full Bench but was not relied upon, on the ground that it pertained to a case where the High Court had dropped the contempt proceedings. According to us, on the principle of statutory interpretation, the decision in the case of Mahboob S. Allibhoy [(1996) 4 SCC 411] is binding. Paragraphs (42) and (44) also refer to principles of statutory interpretation, and in paragraphs (45) and (46), the Full Bench made the following observations:-

"45. Similarly, the phrase 'in exercise of the jurisdiction to punish for contempt' not only includes an order actually imposing any punishment but also any order or direction which may be prejudicial to the contemnor and which, if not passed, may terminate the proceedings. As held by the Bombay High Court, these may not be actually orders punishing the contemnor for contempt but may be a direction prejudicial to the contemnor and passed in exercise of contempt jurisdiction. Supposing a contemnor files an application that the contempt petition itself has been initiated beyond the period of limitation. As held by the Apex Court, if the order passed on this application is only that this issue shall be decided at the time of final hearing, no appeal may lie. However, if the Court hears the application and decides the matter against the contemnor and holds that the contempt petition is within limitation, that will vitally affect his

rights. In our view, an appeal under Section 19 of the Act, 1971 would lie against such an order as it is passed in exercise of the jurisdiction to punish for contempt. As held by the Apex Court, it would not be appropriate to make a list of such orders. Each case will have to be decided on its own facts.

46. As far as framing of charge is concerned, such an order has to be passed after hearing the parties and the Court, after hearing the parties, considers the material on record and feels that there is sufficient material to frame charge against the contemnor. While framing the charge, the Court applies its mind. It comes to the conclusion that the proceedings should not be dropped and there is sufficient material to proceed with the case. The Court can also come to the conclusion that there is not sufficient material to frame charges and the proceedings could be dropped. Therefore, an order framing charge decides that there is sufficient material to continue with the contempt proceedings. In our considered view, this would be an order passed in exercise of the jurisdiction to punish for contempt. Therefore, an appeal would lie against such order."

(emphasis supplied by the FB)

In paragraph (45), reliance is placed on the decision of the Bombay High Court in the case of **Savitry Sippy v. Shashikant Ghorpade [(2009) 4 Mah.LJ 376]** to hold that there may not necessarily be an order punishing the

contemnor for contempt, but there could be directions prejudicial to the contemnor. As to which the directions can be said to be prejudicial, the Full Bench gave an example of the bar of limitation under Section 20 of the Act of 1971. After referring to this contingency, the Full Bench concluded that various such instances could arise, requiring the facts of each case to be examined to determine whether an appeal is maintainable. However, aside from the example of the bar of limitation under Section 20, no other examples were provided. This is significant because an objection based on limitation stands on an entirely different footing. It may be argued that this objection goes to the root of the Court's jurisdiction to proceed further. There is a distinction between an objection to the inherent lack of jurisdiction of the Court and an argument based on the merits. By relying on the example of the bar of limitation, which is an exception and a standalone situation, it will not be permissible to broaden the scope of Section 19, suggesting that various orders could be also prejudicial. The example of Section 20 of the Act is not appropriate for drawing the conclusion regarding the maintainability under Section 19(1). Further, we find that the decision of the Division Bench of the Bombay High Court in the case of Savitry Sippy [(2009) 4 Mah.LJ 376] relied upon by the Full Bench does not provide any guidance on the issue. This was a case where an appeal was filed against the decision of the learned Single Judge declining to take any contempt action against the respondents. The Appeal Bench of the Bombay High Court, after considering the law on the subject, dismissed the appeal as not maintainable. Furthermore, the Bench on merits found that there was no violation of any undertaking

and that the learned Single Judge had correctly discharged the contempt proceedings. For these reasons, with due respect, we are unable to persuade ourselves to agree with the majority view of the Full Bench of the Chhattisgarh High Court in **Anil Kumar Dubey [2017 (2) KLT SN 55]**.”

13.1. In **Suni B.T. [2025 (1) KLT 287]** a Full Bench of this Court considered the issue of maintainability of an appeal under sub-section (1) of Section 19 of the Act, and it was held that for an appeal to lie under sub-section (1) of Section 19, the impugned order must be inextricably connected with the order punishing for contempt and cannot be independent of it. It must flow from the order punishing for contempt. All procedural steps leading to the order of punishment cannot be termed as incidental to the order punishing for contempt. For the second part of clause (IV) in **Midnapore Peoples' Co. Op. Bank Ltd. [(2006) 5 SCC 399]** to apply, there must be first an order punishing for contempt. This position of law is expounded also by earlier decisions on the subject by the Apex Court referred to in the decision of the Full Bench. An order proceeding to frame and framing charges being merely a stage prior to the order of punishment cannot be considered as inextricably connected to or incidental to the order punishing for contempt. The order inextricably connected to such orders can be direction to purge the contempt, which also can be

challenged under sub-section (1) of Section 19 along with the order punishing for contempt. It also has to be kept in mind that the judge decides whether contempt of the 'court' is committed. The contempt proceedings are between the court and the contemnor and are not a lis between the parties. When the court declares that contempt is committed and passes an order in its contempt jurisdiction, an appeal will lie. The contempt proceedings are not complete or final until the punishment is rendered. The proceedings are concluded only after the Court renders a final decision, which includes determining a sentence upon finding the party guilty of contempt. If any positive direction is given that is incidental to and connected with the order punishing for contempt, then an appeal under Section 19 can be filed challenging both the order of punishing for contempt and the order that is incidental to it. When any issue is decided or a direction is issued on the merits of the matter, independent of the contempt proceedings, then an intra-court appeal (wherever such a provision exists) would be maintainable. Hence, the scheme of Section 19 of the Contempt of Courts Act, 1971, the Rules framed thereunder, and the decisions of the Apex Court, particularly in the case of **Midnapore Peoples' Co. Op. Bank Ltd. [(2006) 5 SCC 399]**, indicate that only those orders which are inextricably

connected to and incidental to the order of punishment can be the subject matter of an appeal along with the order imposing punishment. To reiterate, the phrase inextricably connected or incidental 'to the order imposing punishment' means that there must first be an order of punishment. Proceeding to framing charges for contempt is thus not appealable under sub-section (1) of Section 19 of the Act.

13.2. In **Suni B.T. [2025 (1) KLT 287]**, the Full Bench answered the reference as under;

"An appeal filed under Section 19(1) of the Contempt of Courts Act, 1971, challenging the order when the Court, after forming a prima facie opinion, proceeds to frame a charge under Rule 14(b) of the Contempt of Courts (High Court of Kerala) Rules framed under the Contempt of Courts Act, 1971 is not maintainable."

14. As already noticed hereinbefore, the recommendation made by the Sanyal Committee in para 3.1 in Chapter XI of its report dated 28.02.1963 submitted to the Government of India was that against an order of a Single Judge, punishing for contempt, the appeal should lie, in the High Court, to a Bench of Judges and against a similar order of a Bench of Judges of a High Court, the appeal should lie as of right to the Apex Court. In **Baradakanta Mishra [(1975) 3 SCC 535]**, the Apex Court

noticed that it was in pursuance of the above recommendation made by the Sanyal Committee that the Parliament, while enacting the Contempt of Courts Act, 1971, introduced Section 19, sub-section (1) in that Act, conferring an appeal as of right 'from any order or decision of a High Court in the exercise of its jurisdiction to punish for contempt'.

15. in **D.N.Taneja v. Bhajan Lal [(1988) 3 SCC 26]**, the Apex Court held that right of appeal is a creature of the statute and the question whether there is a right of appeal or not will have to be considered on an interpretation of the provision of the statute and not on the ground of propriety or any other consideration. There was no right of appeal under the Contempt of Courts Act, 1952. It is for the first time that under sub-section (1) of Section 19 of the Contempt of Courts Act, 1971, a right of appeal has been provided for. Contempt is a matter between the Court and the alleged contemnor. Any person who moves the machinery of the Court for contempt only brings to the notice of the Court certain facts constituting contempt of Court. After furnishing such information, he may still assist the Court, but it must always be borne in mind that in a contempt proceedings, there are only two parties, namely, the Court and the contemnor. It may be one of the reasons which weighed with the Legislature

in not conferring any right of appeal on the petitioner for contempt. The aggrieved party under sub-section (1) of Section 19 of the Act can only be the contemnor who has been punished for contempt of Court.

16. As held by the Apex Court in **Baradakanta Mishra [(1975) 3 SCC 535]**, where the Court rejects a motion or a reference and declines to initiate a proceeding for contempt, it refuses to assume or exercise jurisdiction to punish for contempt. Such a decision cannot be regarded as a decision in the exercise of its jurisdiction to punish for contempt, which would not fall within the opening words of sub-section (1) of Section 19 of the Contempt of Courts Act, and no appeal would lie against it as of right under that provision. In **Purshotam Dass Goel [(1978) 2 SCC 370]**, while upholding the preliminary objection raised as to maintainability of an appeal filed under sub-section (1) of Section 19 of the Act, challenging the notice issued to the appellant under the provisions of Section 17, to show cause why he should not be proceeded against for committing contempt of the High Court under Section 15, the Apex Court has stated that, as it would appear from a plain reading of Section 19, an appeal shall lie to the Apex Court as a matter of right from any order or decision of a Bench of the High Court if the order has been made in the

exercise of its jurisdiction to punish for contempt. In view of the law laid down by the Apex Court in **Purshotam Dass Goel [(1978) 2 SCC 370]**, no appeal shall lie as a matter of right from an order passed by the High Court issuing notice to the alleged contemnor, under Section 17 of the Act, to show cause why he should not be proceeded against for committing contempt of the High Court under Section 15.

17. In **Midnapore Peoples' Co. Op. Bank Ltd. [(2006) 5 SCC 399]**, the Apex Court has stated in categorical terms that an appeal under Section 19 of the Contempt of Courts Act is maintainable only against an order or decision of the High Court passed in exercise of its jurisdiction to punish for contempt, i.e., an order imposing punishment for contempt. Neither an order declining to initiate proceedings for contempt, nor an order initiating proceedings for contempt, nor an order dropping the proceedings for contempt, nor an order acquitting or exonerating the contemnor, is appealable under Section 19 of the Contempt of Courts Act. In special circumstances, they may be open to challenge under Article 136 of the Constitution of India. The said decision of the Apex Court is one rendered after taking note of the law laid down in its earlier decisions in **Baradakanta Mishra [(1975) 3 SCC 535]**, **Purshotam Dass Goel [(1978) 2 SCC**

370], Mahboob S. Allibhoy [(1996) 4 SCC 411] and J.S. Parihar [(1996) 6 SCC 291].

18. On the maintainability of an appeal under sub-section (1) of Section 19 of the Contempt of Courts Act, in **Suni B.T. [2025 (1) KLT 287]**, a Full Bench of this Court has laid down that for an appeal to lie under sub-section (1) of Section 19, the impugned order must be inextricably connected with the order punishing for contempt and cannot be independent of it. It must flow from the order punishing for contempt. All procedural steps leading to the order of punishment cannot be termed as incidental to the order punishing for contempt. For the second part of clause (IV) in **Midnapore Peoples' Co. Op. Bank Ltd. [(2006) 5 SCC 399]** to apply, there must be first an order punishing for contempt.

19. Viewed in the light of the law laid down in the decisions referred to supra, the conclusion is irresistible that the impugned order dated 07.07.2025 of the learned Single Judge is not an order appealable under sub-section (1) of Section 19 of the Contempt of Courts Act.

20. In such circumstances, the defect noted by Registry on the maintainability of this Contempt Appeal is sustained.

The contentions raised by the appellant-alleged contemnor,

other than the question of maintainability of the Contempt Appeal,
are left open to be raised in the contempt case, before the
appropriate Bench.

Sd/-

ANIL K. NARENDRAN, JUDGE

Sd/-

MURALEE KRISHNA S., JUDGE

SMF

