



IN THE HIGH COURT OF ORISSA AT CUTTACK

CONTC No.2409 of 2025

Nirakar Sabat

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Petitioner

*Mr. Biplaba P.B. Bahali,
Advocate*

-versus-

***Prasanna Kumar Behera,
Registrar, Civil Courts,
Gajapati at
Paralakhemundi, Gajapati***

....

***Contemnor/
Opp. Party***

*Mr. Aurovinda Mohanty,
Additional Standing Counsel*

CORAM:

THE HON'BLE MR. JUSTICE S.K. SAHOO

THE HON'BLE MR. JUSTICE G. SATAPATHY

Order No.

**ORDER
31.10.2025**

I.A. No.208 of 2025

03. This matter is taken up through Hybrid arrangement (video conferencing/physical mode).

This interim application has been filed by the petitioner for condonation of delay in filing the contempt petition as the Stamp Reporter has pointed out that there is delay of ninety four days in filing the contempt petition.

When the matter was taken up on 17.10.2025, learned counsel for the petitioner took time to cite some decisions whether delay as shown by the Stamp Reporter



can be condoned. Today, Mr. Bahali, learned counsel for the petitioner placed reliance the case of **S. Tirupathi Rao -vrs.- M. Lingamaiah and others reported in A.I.R. 2024 Supreme Court 3738**, wherein relevant paragraphs are as follows:-

"28. The purpose of the law of contempt is to secure public respect and confidence in the judicial process. We have found the law on the question of applicability of the principle of "continuous wrong/breach/offence" for the purpose of section 20 of the Act not too certain; hence, we feel it expedient to give a brief overview of the law of contempt and how such law has evolved and developed as well as chart out the course of action to be followed by the High Courts while exercising contempt jurisdiction not only generally but also on the face of an objection as to maintainability of a time-barred action initiated by a party for civil contempt.

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41. In Pallav Sheth (supra), a three-Judge Bench of this Court had the occasion to consider whether the view taken by a two-Judge Bench in Om Prakash Jaiswal v. D.K. Mittal was correct. In Om Prakash Jaiswal



(supra), the Bench had taken the view that filing of an application or petition for initiating proceedings for contempt does not amount to initiation of proceedings by the court and initiation under section 20 of the Act can only be said to have occurred when the court forms the prima facie opinion that contempt has been committed and issues notice to the contemnor to show cause why he should not be punished. Such view did not find favour with the Bench in Pallav Sheth (supra). It was observed that a provision like section 20 has to be interpreted having regard to the realities of the situation, and that, too narrow a view of section 20 had been taken in Om Prakash Jaiswal (supra) which did not seem to be warranted;.....

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41..... Section 20, therefore, has to be construed in a manner which would avoid such an anomaly and hardship both as regards the litigants as also by placing a pointless fetter on the part of the court to punish for its contempt.

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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.

45. The role of such a party, who brings a petition for contempt and activates the court's machinery, is merely that of an informer.

46. In exercising its jurisdiction to punish for contempt, the courts in India do keep in mind the benefit that could accrue to the petitioning informer (if he is a party to the parent proceedings out of which the contempt arises) upon implementation of



the order alleged to have been wilfully disobeyed; but more than anything else, the endeavour is to uphold the majesty, dignity and prestige of the courts. Indubitably, the jurisdiction to punish for contempt is exercised when the alleged contemnor, by his action(s), shows extreme lack of solicitude in complying with an order of court, which has attained finality and is binding on him. So long a final order passed by a court is not set aside in appeal/revision or recalled in exercise of review jurisdiction or an interim order is vacated at a subsequent stage of the proceedings, it continues to bind the parties to the proceedings and it would amount to subversion of the rule of law if any party, in breach, were encouraged to continue such breach. An order of a court has to be complied with and it would not amount to a valid defence that in the contemnor's own understanding or because of legal opinion tendered to him, the order did not warrant compliance being erroneous. This Court in *Commissioner, Karnataka Housing Board v. C. Muddaiah* has held that once a direction has been issued by a competent court, it has



to be obeyed and implemented without reservation; the order of the court cannot be rendered ineffective on the specious plea that no such direction could have been given by the court. A party, though perceiving an order to be erroneous, allowing it to attain finality by reason of acceptance thereof cannot escape the rigours of compliance. He has to pursue his appellate or other remedy to escape the consequences that can visit him, should the high court hold him guilty of contempt. Such a compliance is insisted upon for securing the majesty, dignity and prestige of the Court.

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53. Reverting to the point of limitation, even in case of a petition disclosing facts constituting contempt, which is civil in nature, the petitioner cannot choose a time convenient to him to approach the Court. The statute refers to a specific time limit of one year from the date of alleged contempt for proceedings to be initiated; meaning thereby, as laid down in Pallav Sheth (supra), that the action should be brought within a year, and not beyond, irrespective of when the proceedings to punish for



contempt are actually initiated by the high court.

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55. The Act, which is a special law on the subject of contempt, does not expressly or by necessary implication exclude the applicability of sections 4 to 24 of the 1963 Act. This Court, in *State of West Bengal v. Kartick Chandra Das* has held that in terms of section 29(2) of the 1963 Act, provisions contained in section 5 of the 1963 Act can be called in aid by a party who seeks condonation of delay in presentation of an appeal under section 19(1) of the Act. Similarly, in exceptional cases, provisions like sections 12, 14, 17, 22, etc. of the 1963 Act could be invoked to seek exemption from the law of limitation, which is distinct from condonation of delay. In an appropriate case, it would be open to the party who has not petitioned the court within the period of one year, as stipulated in section 20 of the Act, to seek exemption from the law of limitation in line with the principle flowing from Order VII Rule 6, CPC, by showing the ground upon which such exemption is claimed. We have no hesitation to hold that



in a case where a civil contempt is alleged by a party by referring to a "continuing wrong/breach/offence" and such allegation prima facie satisfies the court, the action for contempt is not liable to be nipped in the bud merely on the ground of it being presented beyond the period of one year as in section 20 of the Act. Applicability of the principle underlying Order VII Rule 6, CPC for granting exemption would only be just and proper having regard to the object and purpose for which the jurisdiction to punish for contempt is exercised by the courts if, of course, the court is satisfied that benefit of such an exemption ought to be extended in a given case. At the same time, it must be remembered that the court cannot grant exemption from limitation on equitable consideration or on the ground of hardship. Inspiration in this regard may be drawn from the decision of the Privy Council in *Maqbul Ahmad v. Onkar Pratap Narain Singh*; AIR 1935 PC 85. However, as observed earlier, contempt proceedings being in the nature of original proceedings, akin to a suit, application of section 5 of the 1963 Act to seek condonation of delay is excluded.



56. A caveat needs to be added here. For a "continuing wrong/breach/offence" to be accepted as a ground for seeking exemption in an action for contempt, the party petitioning the court not only has to comprehend what the phrase actually means but would also be required to show, from his pleadings, the ground resting whereon he seeks exemption from limitation.....

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69. Despite the absence of any pleading as to "continuing wrong/breach/ offence", the Single Judge by placing reliance on the decision in Firm Ganpat Ram Rajkumar v. Kalu Ram proceeded to hold that the Tahsildar's inaction constituted a continuing wrong, thereby saving the petition from being barred by limitation. The Division Bench (review) approached the matter in a similar manner, and concluded that the contumacious conduct alleged was in the nature of a continuing wrong.

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71. First, it is trite that the court cannot traverse beyond the pleadings and make out a case which was never pleaded, such principle having originated from the



fundamental legal maxim secundum allegata et probate, i.e., the court will arrive at its decision on the basis of the claims and proof led by the parties. The assertion of the contumacious conduct being in the nature of a "continuing wrong/breach/offence" is factual and has to be borne from the pleadings on record. Law is, again, well-settled that when a point is not traceable in the pleas set out either in a plaint or a written statement, findings rendered on such point by the court would be unsustainable as that would amount to an altogether new case being made out for the party. Absent such pleading of there being a "continuing wrong/breach/offence", the finding returned by the Single Judge, since affirmed by the Division Bench (review), cannot be sustained in law.

72. Even if a point of "continuing wrong/breach/offence" is traceable in the pleadings, the court ought not to accept it mechanically; particularly, in entertaining an action for contempt, which is quasi-criminal in nature, the court should be slow and circumspect and be fully satisfied that there has indeed been a "continuing



wrong/breach/offence".

Learned counsel for the petitioner then referred to the pleadings in the interim application to justify that it is a case of continuing wrong/breach on the part of the opposite party/contemnor for non-compliance of the order of this Court dated 05.12.2023 passed by this Court in W.P.(C) No.35330 of 2023.

Issue notice to the opposite party/contemnor on the question of limitation.

Requisites for issuance of notice on the opposite party/contemnor by speed post with proof of delivery shall be filed within a week. The notice be made returnable within four weeks.

List this matter in the week commencing from 08.12.2025.

Objection, if any, to the delay condonation petition be filed in the meantime after serving a copy thereof on the learned counsel for the petitioner.

(S.K. Sahoo)
Judge

(G. Satapathy)
Judge