

# HC NOTICE TO CENTRE ON PIL CHALLENGING CONTEMPT ACT

Relevant for: Indian Polity | Topic: Judiciary in India: its Structure, Organization & Functioning, Judges of SC & High Courts, Judgments and related Issues

The Karnataka High Court on Tuesday ordered issue of notice to the Union government on a PIL petition filed by four eminent personalities challenging the constitutional validity of a provision of the Contempt of Courts Act, 1971, that makes “scandalising or tends to scandalising courts” as a ground for contempt.

A Division Bench comprising Chief Justice Abhay Shreeniwas Oka and Justice Sachin Shankar Magadum passed the order on the petitions filed by Krishna Prasad, senior journalist and former Editor of *Outlook* magazine; N. Ram, veteran journalist and former Editor-in-Chief of *The Hindu*; Arun Shourie, former Union Minister, and Prashant Bhushan, senior advocate. All the four petitioners have narrated the proceedings faced by them under the Contempt of Courts Act at different point of time before the High Courts and the apex court.

Three of the petitioners, Mr. Ram, Mr. Shourie and Mr. Bhushan, had filed a similar petition before the Supreme Court, which in August last year had permitted them to withdraw the petition by giving them liberty to move a High Court.

The petitioners have contended in their present petition that Section 2(c)(i) of the Act violates the right to free speech and expression guaranteed under Article 19(1)(a) and does not amount to a reasonable restriction under Article 19(2).

The Section 2(c)(i) fails the test of overbreadth, abridges the right to free speech and expression in the absence of tangible and proximate harm, and it creates a chilling effect on free speech and expression, said the petition filed through advocate Maitreyi Krishnan.

The offence of “scandalising the court” cannot be considered to be covered under the category of “contempt of court” under Article 19(2), the petitioners contended, claiming that even if Section 2(c)(i) were permissible under the ground of contempt in Article 19(2), it would be disproportionate and therefore unreasonable. “The offence of ‘scandalising the court’ is rooted in colonial assumptions and objects, which have no place in legal orders committed to democratic constitutionalism and the maintenance of an open robust public sphere,” the petition said.

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