

## <sup>1</sup>[CHAPTER LVIII

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

**1028. Title** – These Rules shall be called the Contempt of Courts (Bombay High Court) Rules, 1994.

**1029. Commencement** – They shall come into force on the date of publication.

**1030. 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 designated Court;
- (e) “Registrar” means the Registrar of the High Court and shall include Additional Registrar at Nagpur, Aurnagabad 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

**1031** (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 forth with 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

**1032.** In case contempt of Court other than the contempt referred to in Rule 1031, the Court may take action

- (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.

## COGNIZANCE AND PROCEDURE

### 1033. 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.

### 1034. (a) Every Petition or Reference under Rule 1032 (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 1032 (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.

**1035.** (1) Every Petition or Reference under Rule 1032 (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, alongwith issue of Notice, also issue aailable or non-ailable warrant for arrest of the Contemnor.

**1036.** (1) Notice to the person charged shall be in Form I. 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 of by the Order of the Court.

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

**1037.** 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.

**1038.** No. further Affidavit or document shall be filed except with the leave of the Court.

**1039.** (a) Reference under section 15(2) of the Act may be made by subordinate Courts either *suo motu* or on 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.

**1040.** 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.

**1041.** 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 summaries the relevant material justifying filing of the Petition

**1042.** 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 book 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 off 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.

**1043.** The Court may direct the Advocate General to appear and Assist the Court.

**1044.** 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 or 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.

**1045.** 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.

**1046.** (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 the 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.

**1047.** Whenever the High Court or Designated Court issued 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 proceeding, direct the personal attendance of such person, and, if necessary, enforce such attendance in the manner hereinabove provided

**1048.** When an 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**

**1049.** (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 refuses to plead guilt 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 charge either on the Affidavits filed or after taking such further evidence as it deems fit.

**1050.** The Rules contained in the Bombay High Court Rules pertaining to grant of copies, process fees and translation of documents and such other matter in respect of which no provision is made in the Rule shall *mutatis mutandis* apply to the proceedings in the High Court and designated Court

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<sup>2</sup>[**1051(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.

**1051(ii)**. Every Petition or reference in respect of Civil Contempt of Subordinate Court shall be heard and disposed of by a Single Judge.

**1051(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.

**1051(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.]

2. Substituted vide Notification No. G/Amend/392 dt. 29<sup>th</sup> November, 2014 published in M.G.G., Part 4-C, dt. 01<sup>st</sup> December, 2014.

**1052. (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**

**1053.** 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. ]

1. Rule 1028 to 1053 inserted by G.N. No.G/Amend/3515, dated,30-3-1996, published in M. G. G. Part IV-Ka.p-369-373

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