Contempt of court and Section 384 of the BNSS

Mains: *GS II | Judiciary*

Why in News?

The Supreme Court's November 2026 intervention in a Bihar contempt case highlighted the limited contempt powers of trial courts, clarified that disagreement, delay or non-compliance with a trial court order does not automatically constitute contempt of court, unlike the broader contempt jurisdiction of High Courts and the Supreme Court.

How contempt of court works in India?

- **Contempt of court** – It refers to behavior or acts that disrespect a court's authority, obstruct legal proceedings, or undermine public confidence in the administration of justice.
- **Constitutional "Courts of Record" -** The Constitution designates the **Supreme Court** (Article 129) and **High Courts** (Article 215) as "courts of record," giving them inherent constitutional power to punish for contempt of themselves.
- **Statutory Framework -** The **Contempt of Courts Act, 1971** regulates how constitutional courts exercise contempt powers, dividing contempt broadly into
    - **Civil contempt** (willful disobedience of a court judgment, decree, order, or undertaking) and
    - **Criminal contempt** (acts or publications that scandalize or lower a court's authority, prejudice or interfere with a judicial proceeding, or obstruct the administration of justice).
- **Free Speech vs. Contempt -** Under **Article 19(2)**, contempt of court is a recognized "reasonable restriction" on the fundamental right to freedom of speech and expression meaning free speech is protected, but attacks or acts that cross into obstructing justice or scandalizing the court are restricted.

What is section 384 of the BNSS?

- **Section 384 -** It came into force on July 1, 2024, replacing Section 345 of the old Code of Criminal Procedure (CrPC).
- It lays down a summary procedure for handling certain offences committed directly in the view or presence of a Civil, Criminal, or Revenue Court.
- **Narrow Scope of Offences -** Section 384 applies only when specific offences under the Bharatiya Nyaya Sanhita (BNS), 2023, namely Sections 210, 213, 214, 215, and 267 happen in the court's view or presence.
- These include situations such as refusing to answer authorized questions, refusing to sign a statement, or intentionally insulting or interrupting a judge sitting in a judicial proceeding.
- **Same-Day Action and Procedural Safeguards -** The court may detain the offender and take cognizance before the court rises on the same day, but it must give the person a reasonable opportunity to show cause and formally record the offence, any statement made, the finding,

and the sentence.

- **Limited Penalty -** Under Section 384(1) BNSS, the court can impose a fine of **up to Rs.1,000** and, in default of paying the fine, simple imprisonment for up to 1 month.

Comparing trial court powers

Dimension	Trial / Subordinate Courts (Section 384 BNSS)	Supreme Court & High Courts
Source of Power	Statutory summary procedure under Section 384 BNSS for specific BNS offences in the court's view/presence	Constitutional "court of record" status (Articles 129 & 215) read with the Contempt of Courts Act, 1971
Scope Covered	Limited to five specified BNS offences (Sections 210, 213, 214, 215, 267) occurring in the court's presence	Civil contempt (disobeying orders/undertakings) and criminal contempt (scandalizing, interfering, obstructing)
Punishment Limit	Fine up to **Rs.1,000** (and simple imprisonment up to one month in default), taken up before the court rises that day	Broader statutory/constitutional contempt punishments (including imprisonment or fine as governed by law/precedent)

Why restraint and clear boundaries matter?

- **Avoiding overreach by subordinate courts -** Treating every administrative delay, legal dispute, or non-compliance with a trial court order as courtroom contempt blurs legal boundaries and can invite strict rebuke from higher courts.
- **Judicial restraint even when provoked -** Even when serious disruptions or insults happen in court, judges often exercise restraint as seen when a Supreme Court bench declined to pursue criminal contempt.
- **Balancing authority with fairness-** Fast summary powers inside a courtroom help maintain order during live hearings, while safeguards like a hearing opportunity, proper record-keeping, and appellate review prevent arbitrary punishment.

What are the key challenges in applying contempt law?

- **Misunderstanding of trial court jurisdiction-** Confusing general disobedience or enforcement disputes with "contempt in the face of the court" under Section 384 BNSS can lead to legally unsustainable orders.
- **Inconsistent thresholds for action-** Because deciding whether to initiate or ignore contempt often rests with the presiding bench, responses to courtroom misconduct can vary across cases.
- **Protecting free expression and fair critique-** Drawing a clear line between legitimate legal argument or public criticism and actual obstruction of justice remains an ongoing constitutional balance.

What is the way forward?

- Trial courts should apply summary powers only to the specified BNS offences committed in their presence, following all recording and show-cause safeguards.
- Address delays or non-implementation of orders through established procedural and enforcement mechanisms rather than stretching contempt powers.
- Keep contempt reserved for genuine threats to the administration of justice, ensuring fairness, proportionality, and public confidence in the courts.

Reference

[Indian Express | Contempt of court]

