

CHAPTER XVII
Rules to Regulate Contempt Proceedings

In exercise of the powers conferred by section 23 of the Contempt of Court Act, 1971 (Act 70 of 1971), the High Court of Orissa hereby makes the following rules :-

1. These rules may be called the Contempt of High Court of Orissa and Courts Subordinate to it (Regulation of Proceedings) Rules, 1975.

PART - I

2. In respect of contempt other than the contempt referred to in sub-section (1) of section 14 of the Contempt of Courts Act, 1971 (Act 70 of 1971), the High Court may take cognizance of contempt :-

- (a) *suo motu*;
- (b) upon a petition made by the Advocate-General of the State of Orissa;
- (c) upon a petition presented by any other person with the consent in writing of the Advocate-General;
- (d) upon a reference made by a Court a subordinate to it relating to contempt of such subordinate Court.

3. (a) Every petition under Rule 2(b) and (c) shall contain-

- (i) the name, description and place of residence 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 any petition had been previously made by him on the same facts and the result thereof.

(b) Every such petition shall be supported by affidavit.

(c) No court-fee shall be charged on any such petition.

(d) Where the petitioner relies upon any document or documents in his possession or power, he shall file such document or documents or true copies thereof along with the petition.

4. (1) Every petition under Rule 2(b) and (c) shall be 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, shall direct issue of notice to the contemner either to show cause why proceedings under the Act may not be initiated against him or to show cause why the contemnor may not be

suitably, punished, and when no prima facie case is found, the petition shall be dismissed.

(2) ^[1] In matters covered by Rule 2(a), if the Court is satisfied that there is a prima facie case it shall issue notice to contemner either to show cause as to why a proceeding under the Act may not be initiated against him or why he may not be suitably punished.

5. (a) All reference made by the subordinate Courts under rule 2(d) shall contain the particulars as mentioned in rule 3(a)(i) and (ii).

(b) The subordinate Courts shall transmit all relevant document or copies thereof along with the letter of reference.

(c) All references made under rule 2(d) by the subordinate Courts except the Courts of District and Sessions Judges shall be forwarded to the respective District and Sessions Judges for report who shall transmit the same to the High Court expeditiously.

6. ^[2] Matters covered by Rule 2 (d) shall be placed by the Registrar before a Division Bench presided over by the Hon'ble Chief Justice and in his absence before a Division Bench presided over by the senior most Puisne Judge who will take such decision regarding initiation of the proceeding as may be deemed fit and proper and the same will be dealt with in accordance with the provisions contained in Rule-4, as far as practicable.

7. (a) All proceedings under the Act in respect of criminal contempts only shall be heard by a Division Bench of the Court.

(b) ^[3] Cases of Civil contempt shall be heard by a Single Bench when it arises out of the proceedings before a Single Judge or by a Division Bench when it arises out of the proceedings before a Division Bench.

8. (a) All proceedings under the Contempt of Courts Act, 1971 shall be registered as Original Criminal Miscellaneous Cases.

(b) The Registrar shall cause the notice to be served to the person charged in Form I as appended hereto. The person charged shall, unless otherwise ordered, appear in person before the Court on the date fixed for hearing of the proceeding, and shall continue to remain present during hearing unless otherwise directed.

[1] Inserted vide C.S. No.32

[2] Substituted vide C.S. No.33.

[3] Inserted vide C.S. No.64.

- (c) ^[4] Notice to the contemnor to show cause why proceedings under the Act may not be initiated against him shall be issued in Form-IV as appended hereto and the contemnor may, unless otherwise ordered by the Court, appear through Advocate or Agent.
- (d) When action is initiated on a petition, a copy of the petition along with the annexures and affidavits shall be served upon the person charged.
- (e) In all proceedings started suo motu or on a reference made by a Court subordinate to the High Court, a copy of the notice in Form I shall be sent to the Advocate General.
9. In all cases, cognizance of which has been taken suo motu or on a reference made by the subordinate Court, the State of Orissa shall be described as the petitioner and the Advocate General shall conduct prosecution for contempt in such cases.
 Provided that in a case where cognizance has been taken suo motu, the Court may direct that the Registrar or any other Officer of the Court shall be the prosecutor.
10. The person charged shall file his reply duly supported by an affidavit or affidavits and shall enclose all documents on which he proposes to rely.
11. No further affidavit or document shall be filed except with the leave, or under direction, of the Court.
12. (a) The Registrar may issue fresh notice if he considers that the service of notice is not sufficient.
 (b) If the Registrar considers service to be sufficient and the person charged with contempt does not appear on the date fixed, the matter shall be posted for orders of the Court.
- 13.(a) If the Court is satisfied that the service of notice is sufficient or 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 continues to remain absent in spite of notice, it may direct issue of a warrant bailable or non-bailable for his arrest, addressed to one or more police officers or may order attachment of property. The warrant shall be issued under the signature of the Registrar. The warrant shall be in Form II and shall be executed, as far as may be, in the manner provided for execution of warrants under the Code of Criminal Procedure, 1973.
- (b) The warrant shall be executed by the officer or officers to whom it is directed and may also be executed by any other police officer whose name is endorsed upon the warrant by the officer to whom it is directed or endorsed.

[4] inserted vide c.s. No.55

- (c) Where a warrant is to be executed outside the State of Orissa, the Court may, instead of directing such warrant to a Police Officer, forward it to the Magistrate of the district or the Superintendent of Police or the Commissioner of Police of the district within which the person charged is believed to be residing. The Magistrate or the Police Officer to whom the warrant is forwarded shall endorse his name thereon and shall cause it to be executed.
- (d) Every person who is arrested and detained shall be produced before the nearest Judicial Magistrate or the Metropolitan Magistrate, as the case may be, within a period of 24 hours of such arrest excluding the time necessary for the journey from the place of arrest to the Court of the said Magistrate and no person shall be detained in custody beyond the said period without the authority of either a Judicial Magistrate or a Metropolitan Magistrate, as the case may be.
14. The Court may, either suo motu or on motion made for that purpose, order the attendance for cross-examination of a person whose affidavit has been filed in the matter.
15. The Court may make order for the purpose of securing the attendance of any person to be examined as a witness and for discovery or production of any document.
16. The Rules of the High Court of Orissa, as amended from time to time, shall apply to matters not specifically provided for in this part of the Rules.

P A R T – II

17. In all proceedings under the Act, at least five copies of the paper book shall be prepared one for the prosecutor and another for the contemner and the remaining for the use of the Court. The paper book in each case shall be prepared at the exercise of the State. The Paper book shall contain the following papers: -
- i) Petition and affidavit filed by the petitioner and where the charge of contempt is based on the content of a document/documents, the same;
 - ii) A copy of a statement relating to the matter constituting the alleged contempt;
 - iii) Notice to show cause containing the particulars of the alleged contempt against the contemner;
 - iv) Affidavit or other documents intended to be relied upon as evidence by the contemner in support of his case which are received or produced in the Court;
 - v) Any other document which the Court directs for inclusion.

PART - III

18. If a person charged with contempt is adjudged guilty and is sentenced to suffer imprisonment, a warrant of commitment and detention shall be made out in Form III under the signature of the Registrar. Every such warrant shall remain in force until it is cancelled by order of the Court or until it is executed. The Superintendent of Jail

shall, in pursuance of the warrant, detain the contemnor in custody for the period specified therein subject to such further direction as the Court shall give.

19. (a) The Court shall fix the subsistence allowance when the contemner is committed to Civil Prison in accordance with his status.

(b) In cases of suo motu proceedings and proceedings under reference where the State of Orissa is the prosecutor, such subsistence allowance shall be borne by the State.

(c) In other proceedings where the prosecutor is a private party, the contemner shall not be arrested unless and until the subsistence allowance, as fixed by the Court, is deposited into Court.
20. If the Court awards a sentence of fine and the fine amount is not paid at once for within such time as may be granted by the Court. The Registrar shall take action in any one of the ways as provided in section 421 of the Code of Criminal Procedure, 1973.
21. (a) The Court may award such cost as it may deem fit in the circumstances of the case.
(b) Where the costs are awarded in a proceeding relating to criminal contempt, the same shall be recoverable as if it were fine.
(c) Where the costs are awarded in a proceeding relating to civil contempt, the order shall be deemed to be a decree under the code of Civil Procedure, 1908 and may be recovered by execution in the manner provided under Chapter XXV, Part.V of the Rules of the High Court of Orissa, Volume I.

F O R M – I

Notice to a person charged with Contempt of Court.
IN THE HIGH COURT OF ORISSA, CUTTACK
ORIGINAL CRIMINAL MISC CASE NO. _____ OF

... Petitioner.

-Versus-

... Opp. Party

To

WHEREAS

WHEREAS it appears that you by your acts, conduct, utterances and writings committed contempt of Court in the facts and circumstances stated herein below :-

(Briefly state the facts and circumstances and the nature of contempt).

YOU SHRI are hereby required to appear in person (or by advocate, if the Court has so ordered) and show cause before the Court at Cuttack on theday of 200 at.....A.M. why you shall not be punished or other appropriate order be not passed against you for contempt of the High Court of Orissa/Subordinate Court (name of the Court).

You shall attend the Court in person onday of.....at.....A.M. and shall continue to attend the Court on all dates thereafter to which the case may stand adjourned and until final orders are passed on the charge against you.

Herein fail not.

Given under my hand and the seal of the Court, this the.....day of.....200

Registrar

FORM II

IN THE HIGH COURT OF ORISSA, C U T T A C K.
ORIGINAL CRIMINAL MISC. CASE NO. OF

To

(Name and designation of the persons who is or are to execute the warrant)

WHEREASof.....is charged with committing contempt of this Court, you are hereby directed to arrest the saidand to produce him before this Court.

Herein fail not.

(If the Court has issued aailable warrant, the following endorsement shall be made on the warrant)

If the said.....shall give bail in the sum of Rs. with one surety in the sum of Rs.....(or two sureties each in the sum of Rs.....) to attend before this Court on theday of.....20 and to continue so to attend until otherwise directed by this Court, he may be released.

Dated this the.....day of.....200.....

Registrar.

FORM No. III

Warrant of Commitment for Contempt
IN THE HIGH COURT OF ORISSA, CUTTACK.

ORIGINAL CRIMINAL MISC. CASE NO. OF

To

The Superintendent (of Keeper) of the Jail at.....

WHEREAS this Court on this theday of.....20adjudged
(name of the contemner with address).....guilty of willful contempt of Court, and he has
been sentenced to suffer imprisonment for a term of(here specify the term) and/or
to pay a fine of rupees.....

This is to authorise and require you, the Superintendent (or Keeper) of the said Jail to
receive the said (name of the cotemner) into your custody, together with this warrant, and
him safely to keep in the said Jail for the said period of (term of imprisonment) or for such
shorter period as may hereafter be fixed by order of this Court and intimated to you. You are
directed to return this warrant with an endorsement certifying the manner of its execution.

You are further directed that while the said.....is in your custody, produce the
said....., before the Court, at all times when the Court shall so direct.

Given under my hand and the seal of the Court, this the.....day
of.....20.....

Registrar.

FORM – IV

**NOTICE TO A PERSON TO SHOW CAUSE
IN THE HIGH COURT OF ORISSA, CUTTACK**

Original Criminal Miscellaneous Case No. _____ of _____
... Petitioner.

-Versus-

... Opp. Party

To

.....
.....

Whereas(i) a petition has been filed before this Court (a copy whereof is enclosed) to initiate a proceeding against you for contempt, or, (ii) organization of contempt has been taken by the Court suo mottu (vide enclosure).

Your (name and address)
..... are hereby required to show cause before the Court at Cuttack on.....atA.M. either in person or through advocate or agent as to why a proceeding shall not be initiated against you under the contempt of Courts Act.

In default of your showing cause this Court will proceed to consider the matter and pass suitable orders in accordance with law.

Given under my hand and the seal of the Court,this day of 20.....

By Order of the Court.