When he was a judge of the High Court Division, Justice ABM Khairul Haque in a verdict on contempt of court ordinance in 2008 said the power to punish anybody for contempt of court was created to ensure litigants the benefit of verdicts for the sake of fair justice. The power was not created for the personal purpose of judges.

Justice Haque, who was later appointed as the chief justice of the Supreme Court, in his 2008 verdict that scrapped the contempt of court ordinance, described briefly the history of the contempt of court.

Undermining the King's order was considered a grave offence in ancient times. Since then people who defied the King's orders were tried summarily and put behind bars. During the regime of King Henry III [1216-1272] judges imposed fines on employees of courts and others for their activities beyond the court's orders.

CONTEMPT

SHAKHAWAT LITON

The King of England was considered the fountain of justice and he had inherent power of holding any sort of trials. When the King sat to hold trial, it was known as King's Bench. He was the owner of all the supreme power. And he was also above the law literally.

No one dared to defy any order or verdict delivered by the King since such an act was considered as a grave offence and for which death penalty was the only punishment.

Later, judges empowered by the power of the King carried out judicial proceedings and their supremacy was like the King of England. They were also empowered with the inherent power of the King to hold trials.

During the British colonial regime in the Indian sub-continent, the Supreme Court was set up in Fort William in 1774 with the same and all powers including the contempt of court power of the King Bench.

Following a series of developments, the British regime enacted the contempt of court act in 1926.

In view of Professor Shah Alam, who teaches law at the University of Chittagong and now a member of Bangladesh Law Commission, the motive behind the contempt of court act made by British colonial rulers in 1926 was to gag all sort of criticism against judiciary in the Indian sub-continent.

They were in favour of the judiciary not for the sake of independence of judiciary. They rather used to abuse the judiciary against people of this sub-continent to rule them. But people and media could not criticise the judiciary's role due to the contempt of court law.

"That was an abnormal law. It did not have any definition of contempt. But the law had lasted for around a century as all the successive ruling classes accepted it," sates Prof Shah Alam.

Professor Sarkar Ali Akkas, dean of law faculty of Jagannath University, says the law of contempt of 1926 curbed the role of media in scrutinising judges. That was an insufficient law. The principles of contempt of court were not specifically provided by that law. There was no definition of contempt of court.

Therefore, contempt of court was a barrier to the role of the media in scrutinising judges, although, freedom of the press is an important fundamental right in Bangladesh. Since the law of contempt of court itself was uncertain, freedom of the press was always at risk, he states.

Around a decade ago, Prof Akkas in his book styled 'Independence and Accountability of Judiciary: A critical review' described in detail the situation.

"For the sake of ensuring the public accountability of judges, the law of contempt of court should be changed providing detailed principles including a clear definition of contempt of court," he wrote in his book.

The past caretaker government led by Fakhruddin Ahmed moved to make a new law of contempt. To make the law, then president promulgated an ordinance in 2008. But a High Court Division bench consisting of Justice Khairul Haque and Justice Abul Tarique declared the ordinance unconstitutional and void.

Later, the present Awami League-led government again moved to enact a new law on the contempt of court and placed a bill in parliament on June 14, 2011. The parliament repealed the Brit-