

Jakir hussain

UNIT - 2

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Q 1. Define the term contempt and contempt of court, what are defences available to a contemnor in civil and criminal contempt under the contempt act 1971?



Justice
depends on
Respect for Court

Introduction :-

The administration of justice depend on maintaining the dignity and authority of the courts. When a person acts in a manner that lowers the authority or prestige of the court or obstruct the due course of justice, it amount to contempt of court. To protect the judicial system from such interference, the contempt of court act 1971 defines contempt and prescribes procedure and defences.

Importance of Contempt Law

Maintains dignity and authority of Courts

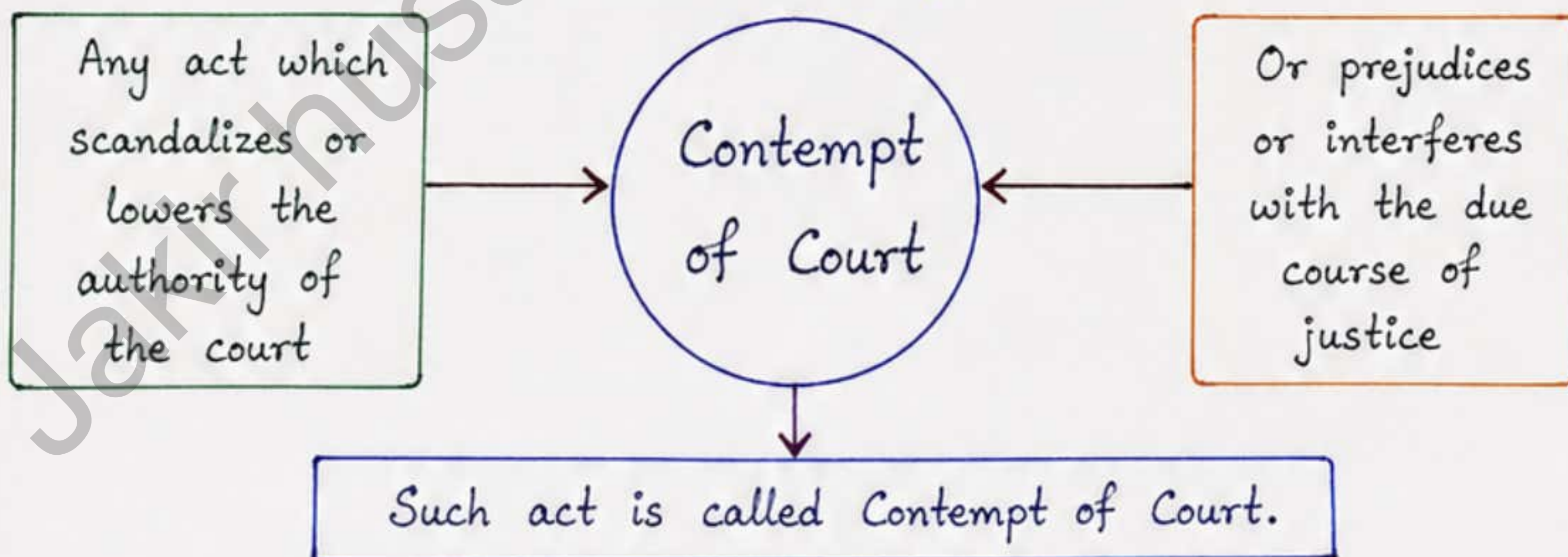
Ensures proper administration of justice

Protects judicial system from interference

Upholds rule of law and public confidence

Meaning of Contempt :-

The term "contempt" means



any act as conduct which disobeys, disregards or shows disrespect towards the authority, justice, or dignity of a court.

Definition of contempt of court (Sec-2)

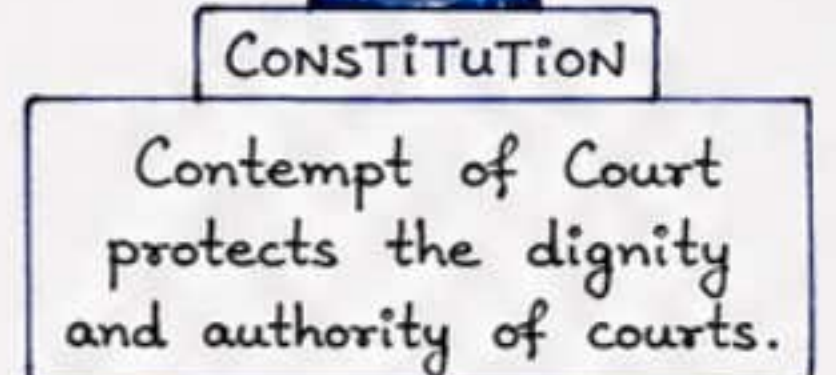
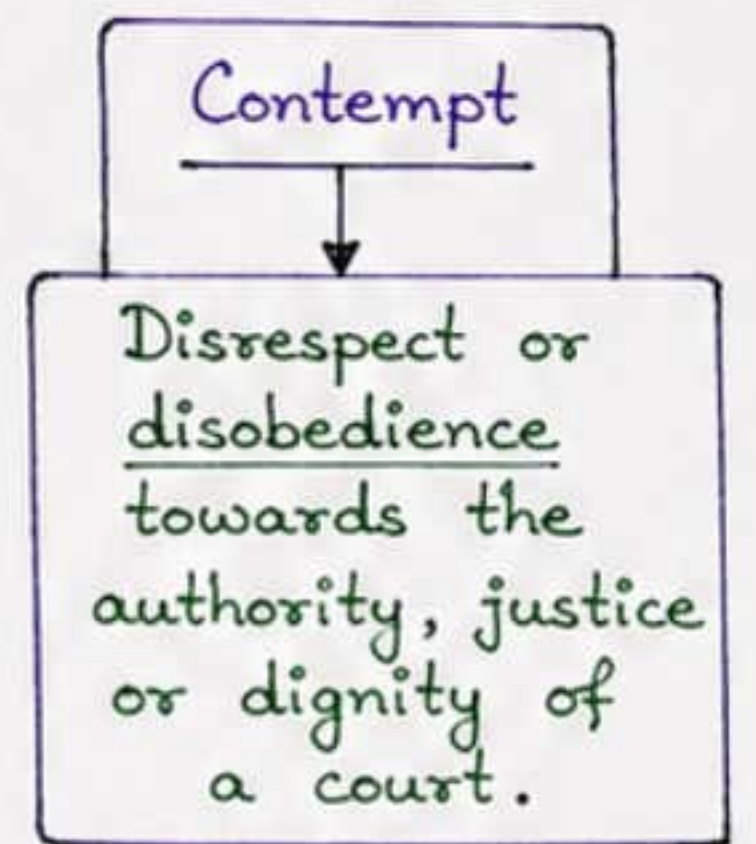
According to section 2 of the contempt of court act 1971, contempt of court means —

① Civil contempt (Sec-2(b))

Civil contempt means wilful disobedience to any judgement, decree, direction, order, writ or other process of a court or wilful breach of an undertaking given to a court.

② Criminal contempt (Sec-2(c))

Criminal contempt means the publication (whether by words, spoken, or written, or by sign or by visible representation, or otherwise) of any matter that—



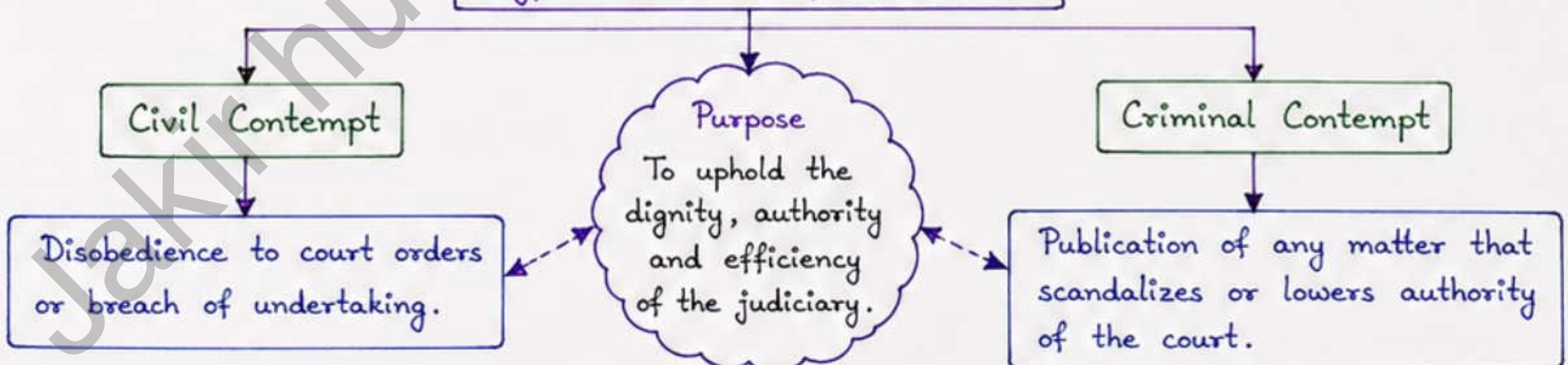
Civil Contempt

Examples	Purpose
• Disobedience of court orders • Violation of undertakings • Non-compliance with decree	• To ensure obedience to court orders • To uphold authority of courts

Criminal Contempt

Examples	Purpose
• Scandalising the court • Lowering the authority of the court • Criticising judgments in a scandalous manner	• To maintain dignity and prestige of the judiciary • To protect public confidence

Types of Contempt of Court

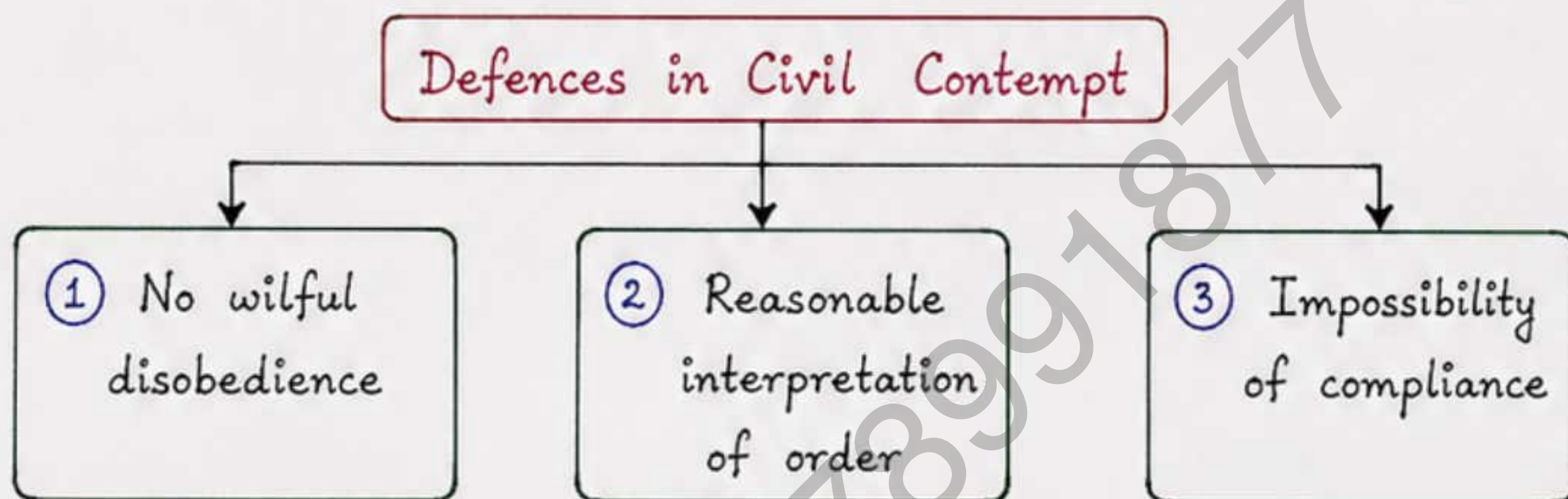


matter of the doing of any other act whatsoever which —

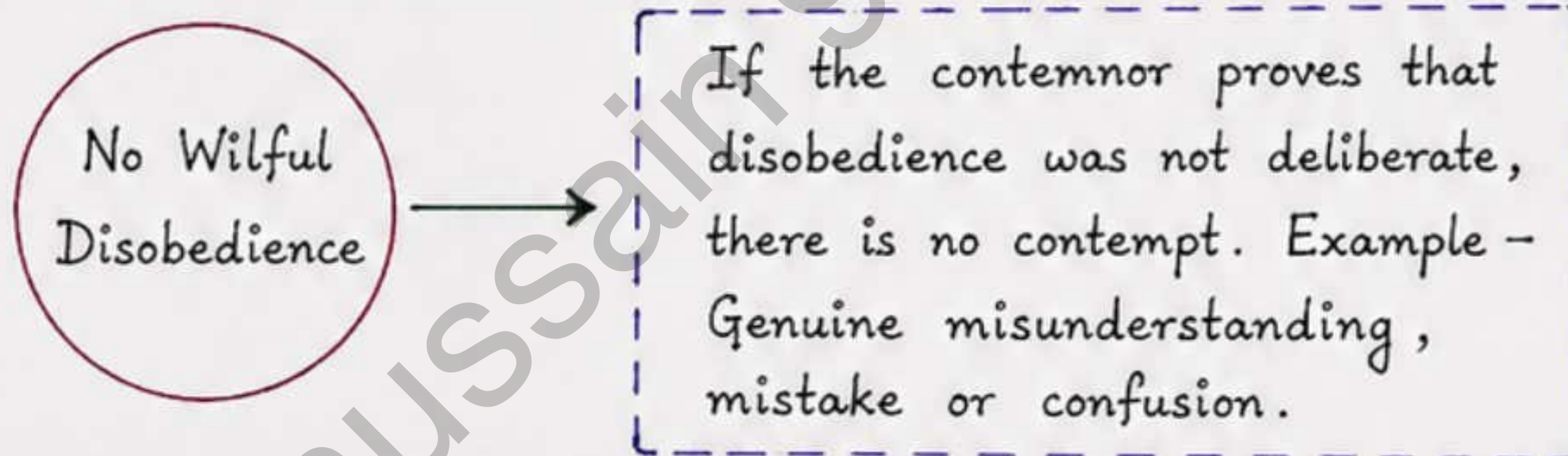
- (a) scandalise or tends to scandalise or lower the authority of any courts.
- (b) prejudices, or. interferes, the due course of any judicial proceeding.
- (c) interfere or tends to interfere, the administration of justice in any other manner.

These acts amount to contempt of court

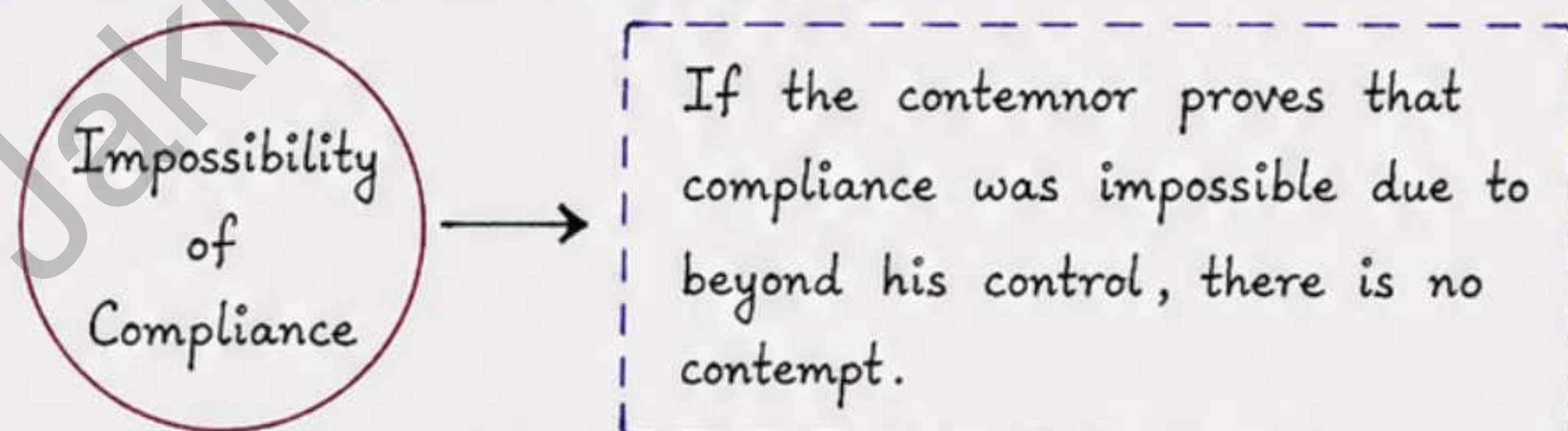
Defences in Civil Contempt



① No wilful disobedience :-



② Impossibility of compliance :-



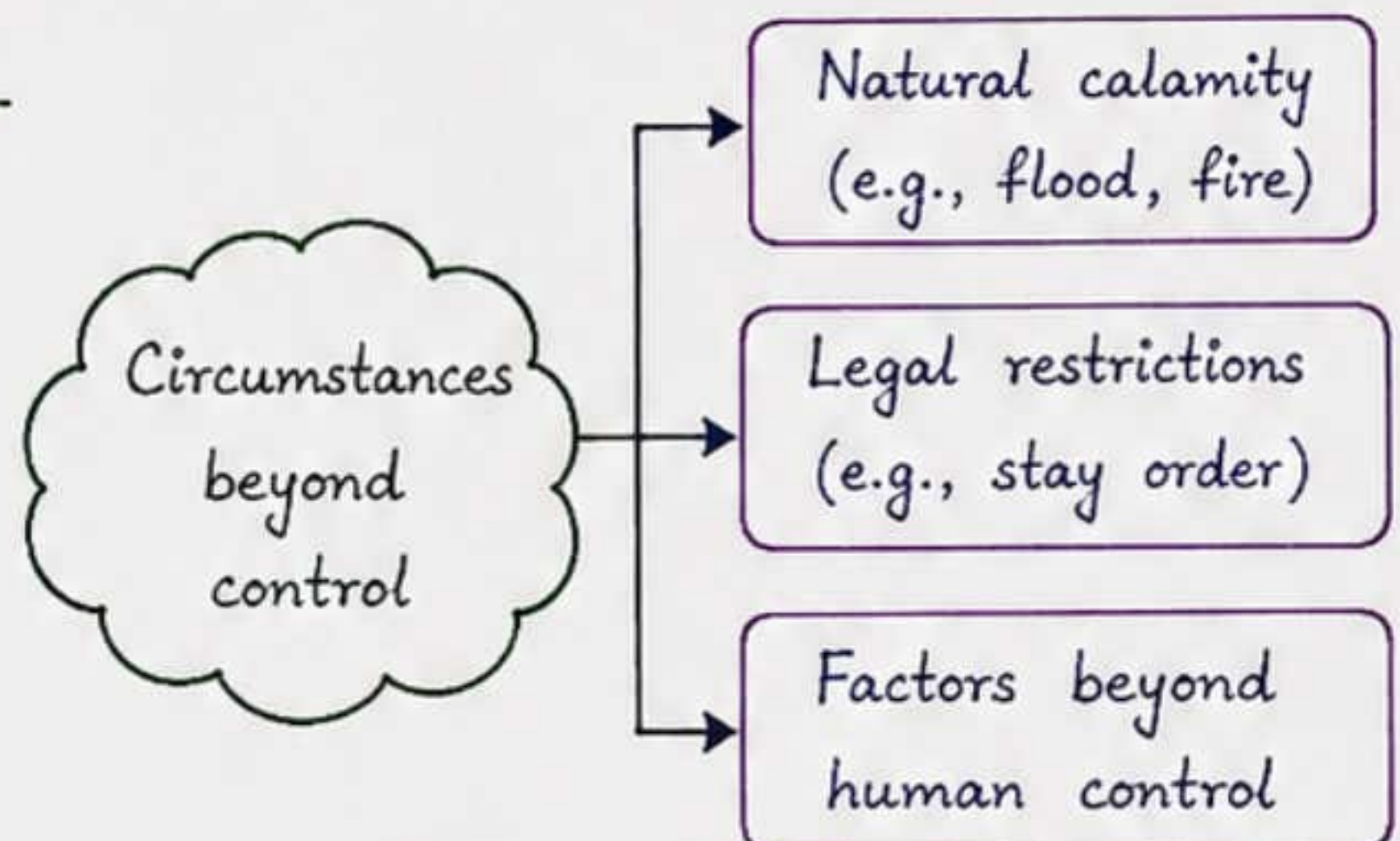
Examples :-

- Natural calamity
- Legal restriction
- Factors beyond control

If it was impossible to comply with the courts orders due to circumstances beyond control, it is a valid defence.

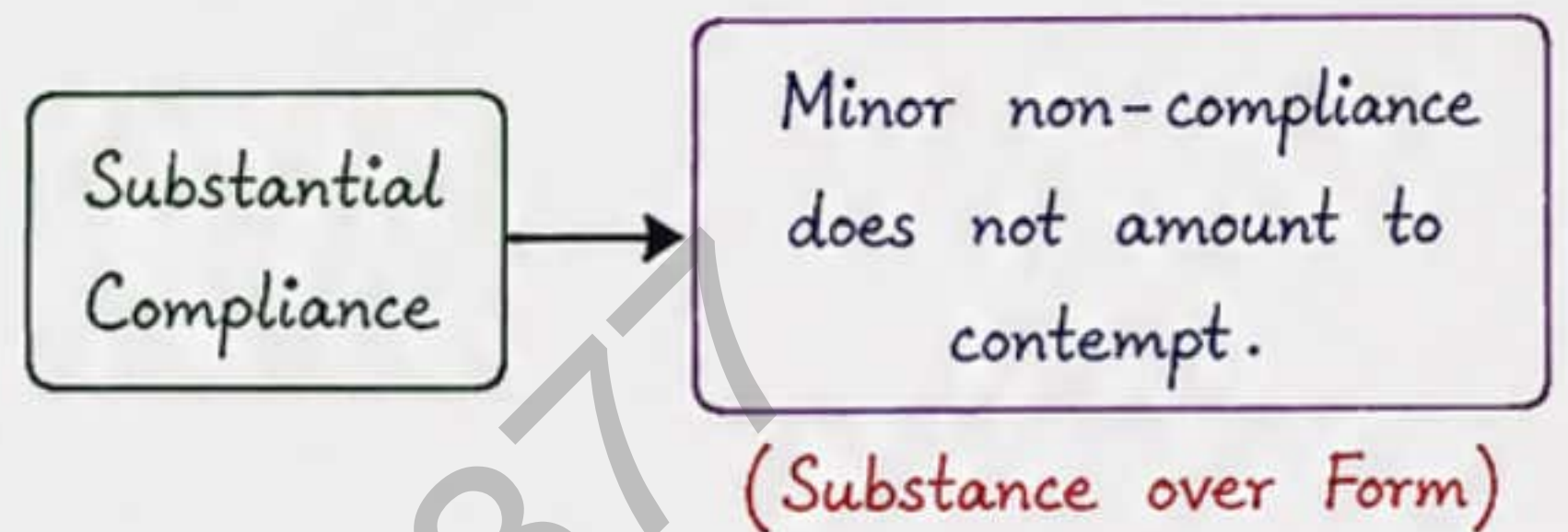
iii) Impossibility of compliance :-

If it was impossible to comply with the courts orders due to circumstances beyond control, it is a valid defence.



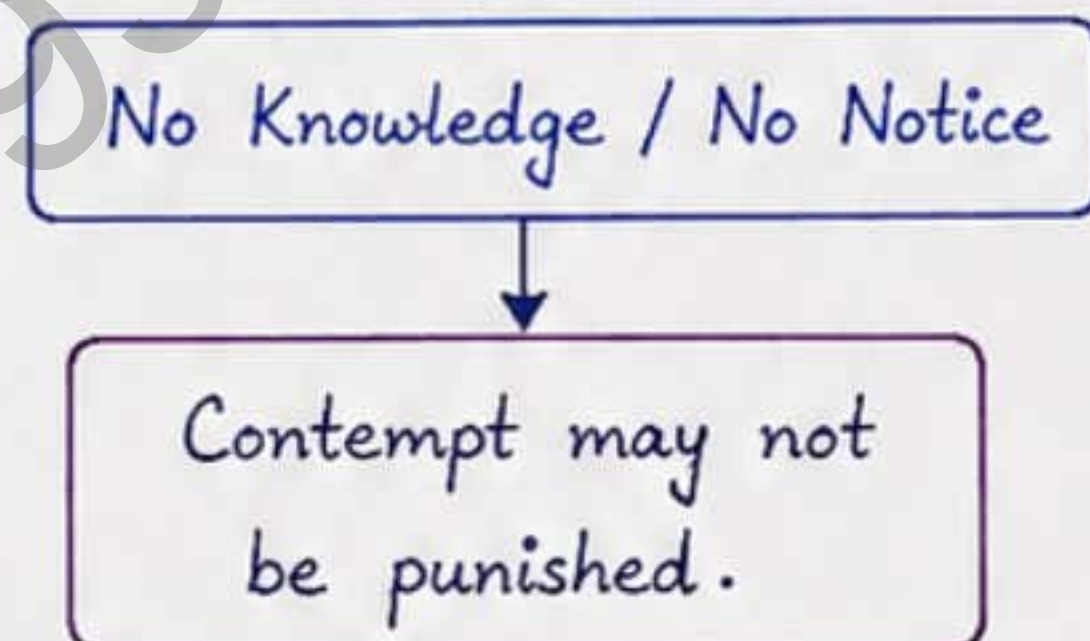
iv) Compliance in substantial manners :-

If the order was complied with substantially, minor non-compliance does not amount to contempt.



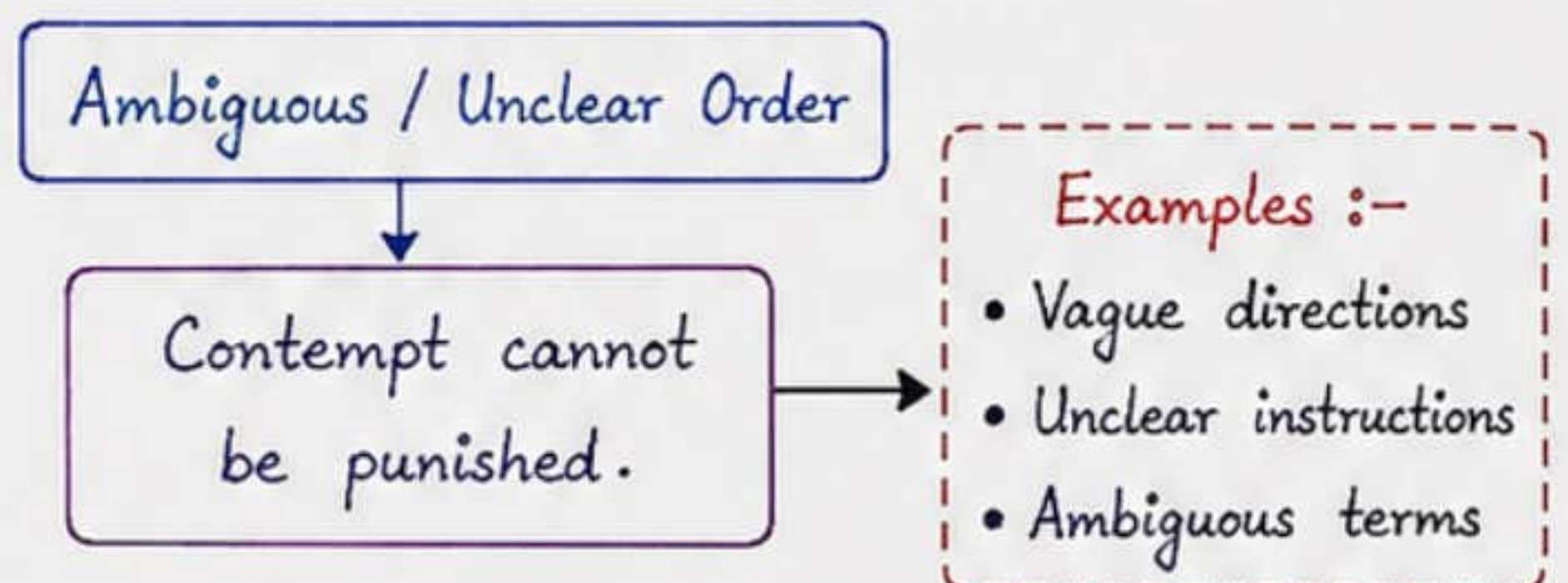
v) Lack of knowledge of courts order :-

If the contemnor had no knowledge or notice about the order, then the contempt may not be punished.



vi) Ambiguous orders :-

If the court's order is vague, unclear or ambiguous, the contemnor cannot be punished for further.



Key Point :-

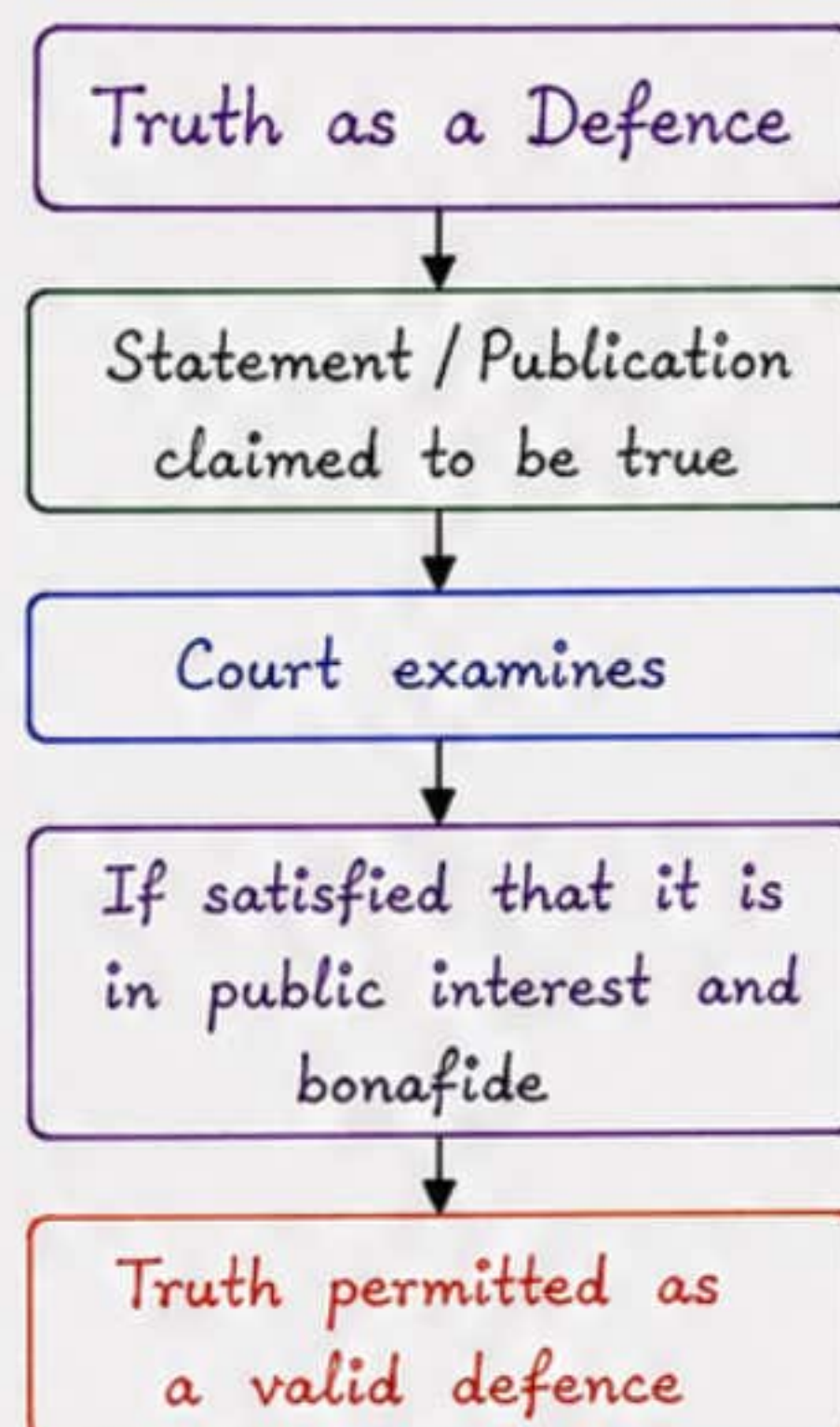
The burden is on the contemnor to prove that non-compliance was not willful and was due to a valid reason.

vii) Bonafide intention :-

Defences in Criminal Contempt

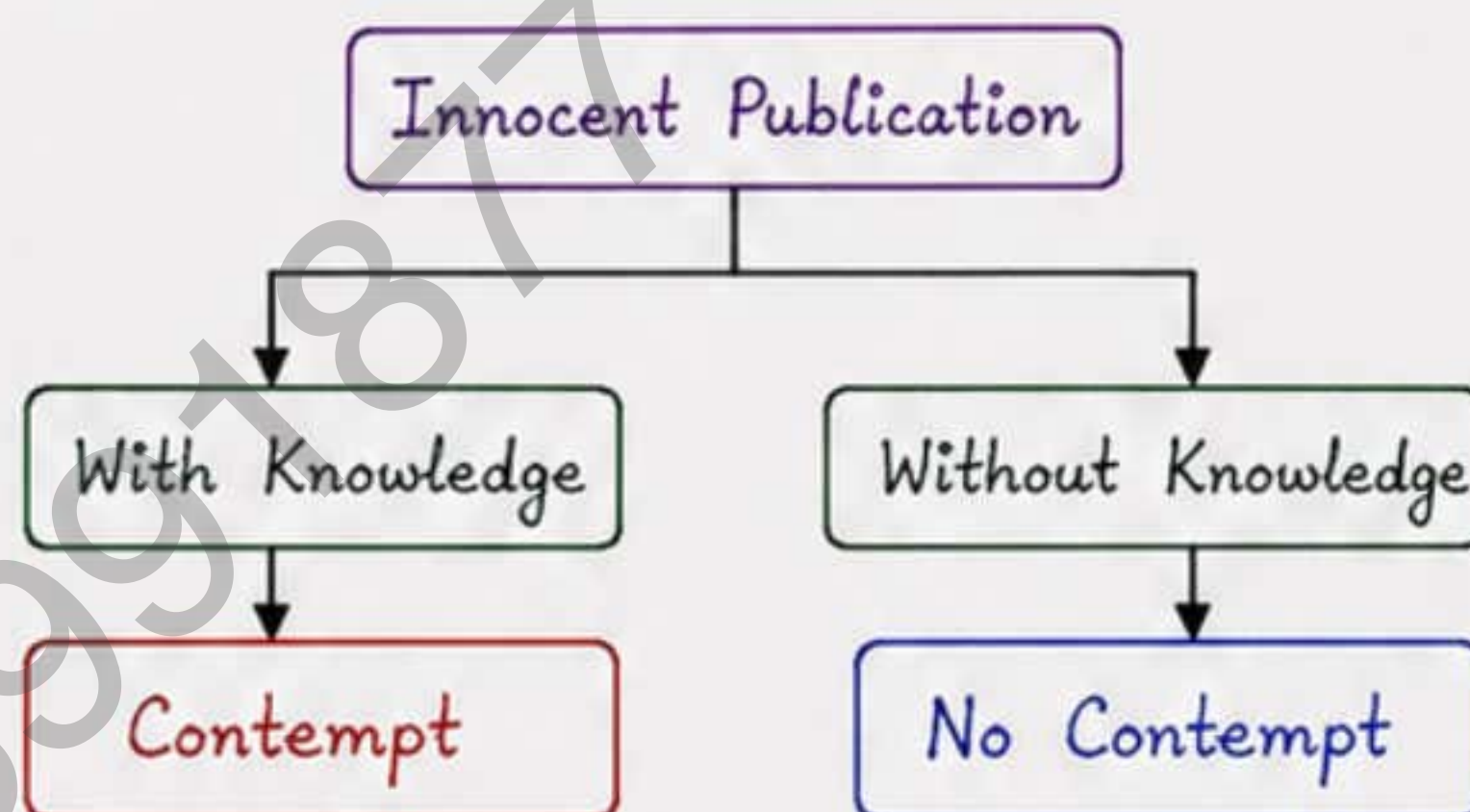
① Truth / Justification (Sec-13(b)) :-

The court may permit in any proceeding for contempt of court, justification by truth as a valid defence if it is satisfied that it is in public interest and the request for invoking the said defence is a bonafide.



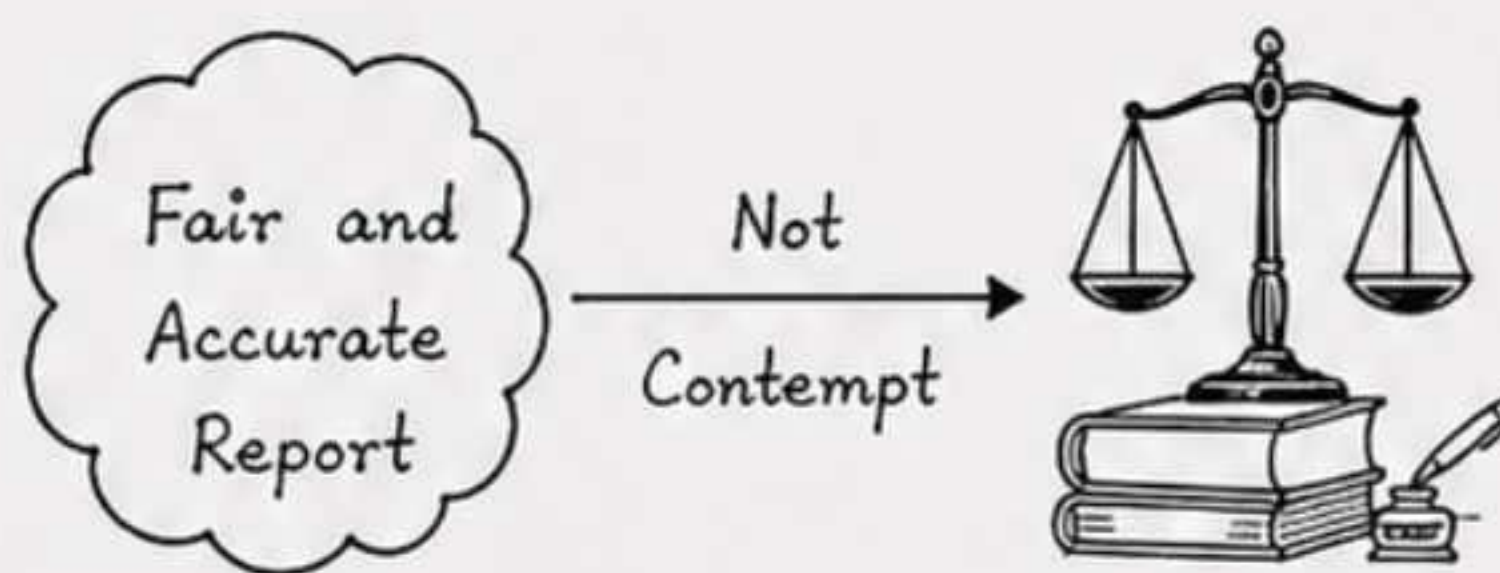
② Innocent Publication (Section 3) :-

If the publication is made without knowledge that the matter is pending (sub-judice) there is no contempt.



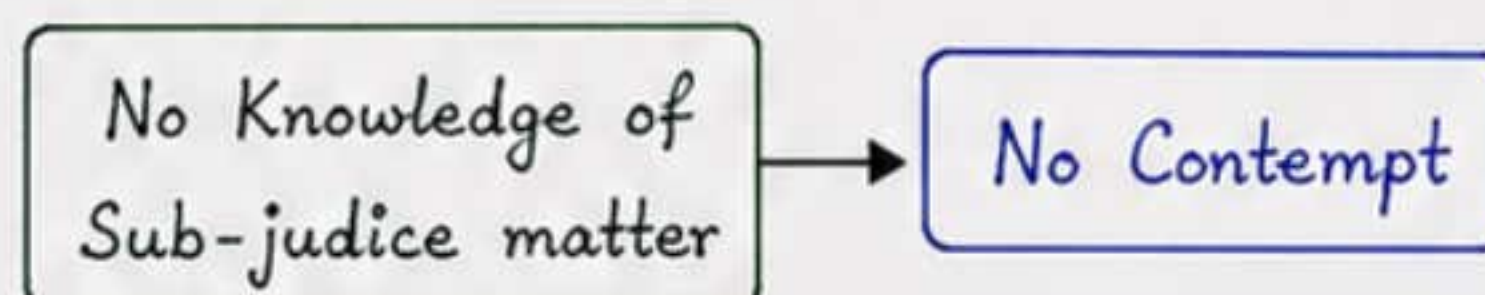
③ Fair and Accurate Reporting (S-4)

A fair and accurate report of judicial proceedings is not contempt.



④ Innocent Publication (Section 3)

If the publication is made without knowledge that the matter is pending (sub-judice) there is no contempt.



Key Point :-

The defence is available only when the act is done bonafide, in public interest, without malice and within legal limits.

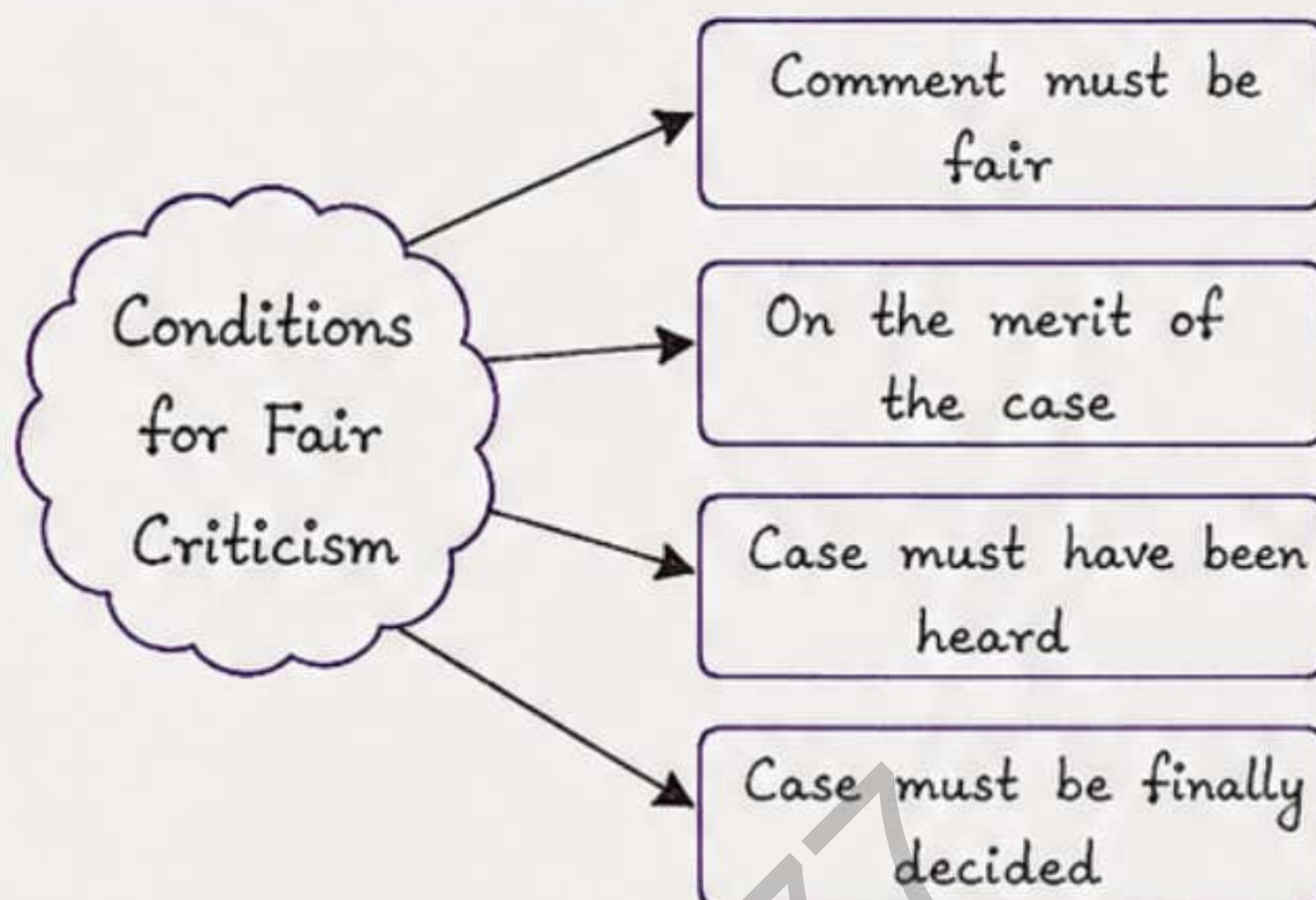
a person shall not be guilty of contempt of a court for publishing a fair and accurate report of a judicial proceeding at any stage thereof.

Fair & Accurate Report



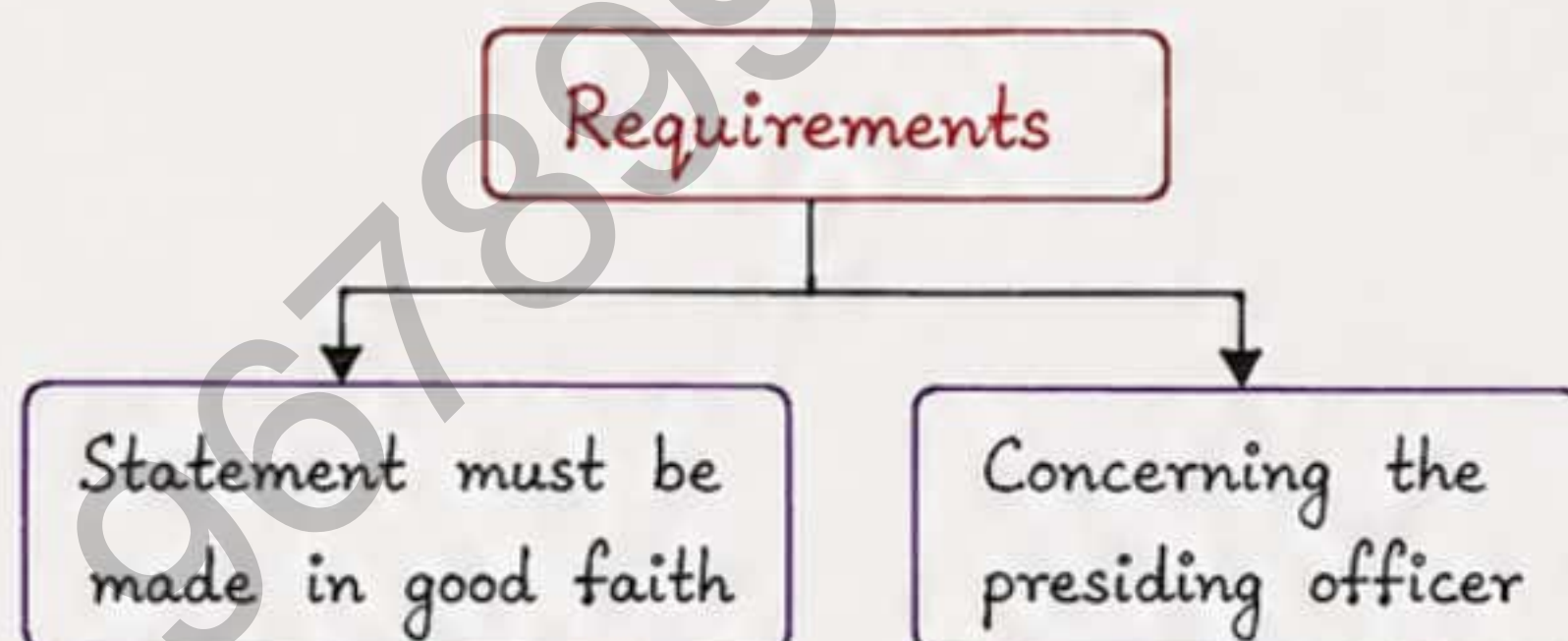
(iv) Fair criticism of judicial act (Sec-5) :-

A person shall not be guilty of contempt of court for publishing any fair comment on the merit of any case which has been heard and finally decided.



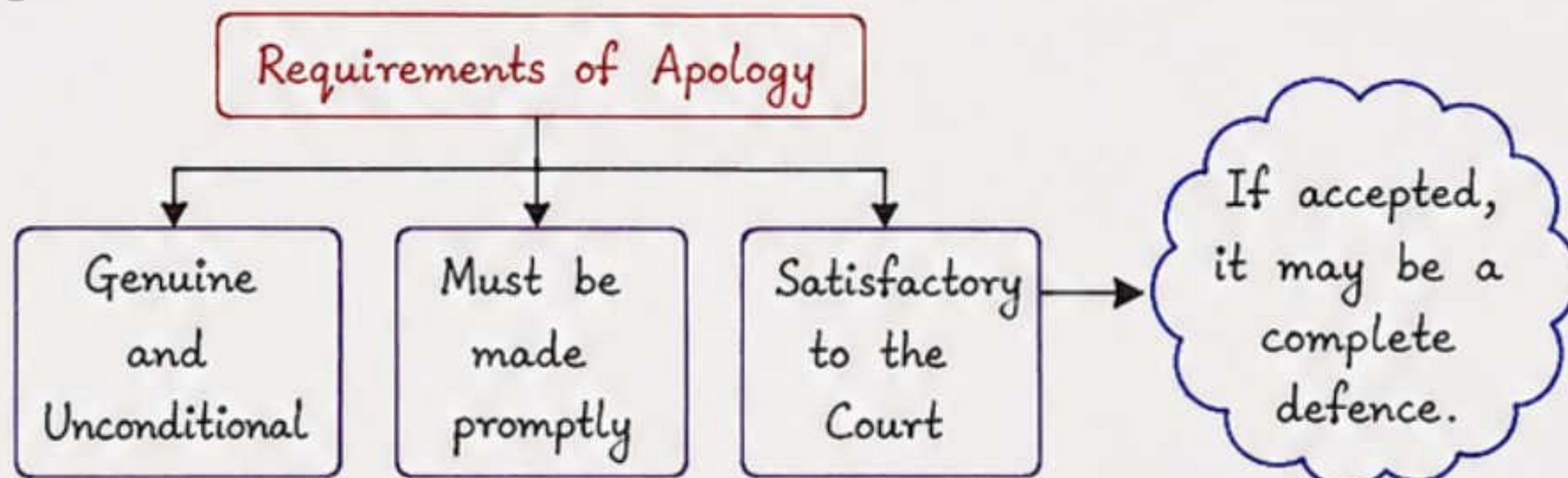
(v) Compliant against judicial presiding officer (Sec-6) :-

A person shall not be guilty of contempt of court in respect of any statement made by him in good faith concerning the presiding officer.



(vi) Apology (Sec-12) :-

An apology may be accepted by the court as a defence in a contempt of court proceeding.



Key Point :-

These defences are recognized to ensure freedom of speech and fair expression while maintaining the dignity and authority of courts.

Case Law

Arundhati Roy 2002

In this case writer Arundhati Roy made statements that alleging bias and misuse of contempt powers by the S.C. The court held that her remarks were not fair criticism, but an attack on the dignity of court.

State of Bihar
v.
Rani Sonabati Kumari 1961

In this case contemnor failed to obey a court orders due to circumstances beyond control. Court held that civil contempt requires wilful disobedience. If compliance is physically or practically impossible the person cannot be punished.



S.C. has power
to punish for
Contempt

Attack on dignity
of court is not
fair criticism

Remarks were
held to be
Contempt

Principle Laid Down

Court Order Not Obeyed

But due to circumstances
beyond control

No Wilful Disobedience

No Civil Contempt

Compliance Impossible

Cannot be Punished



Key Point :-

Civil contempt requires wilful disobedience.

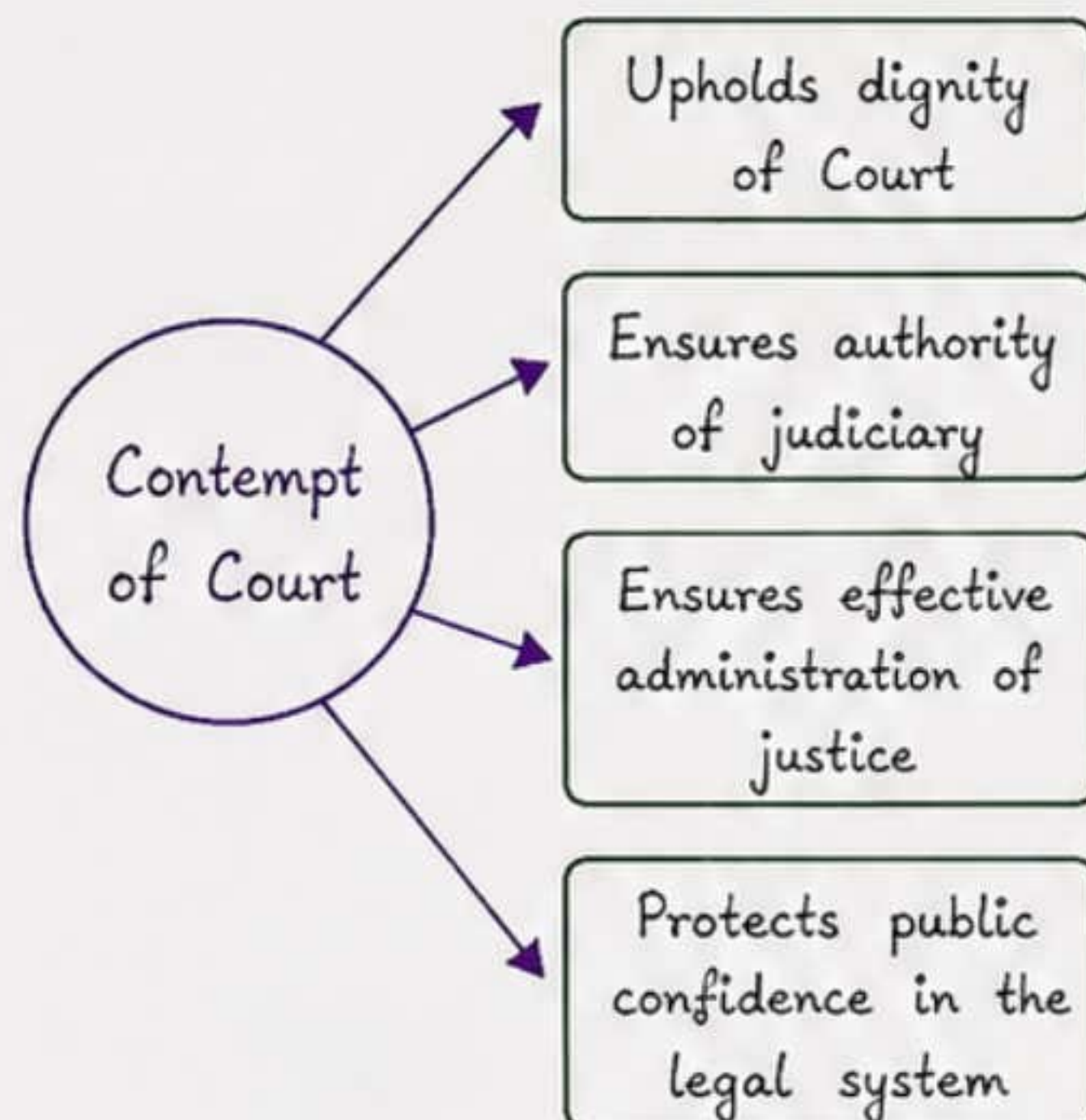
If obedience is impossible due to circumstances beyond control, the person cannot be punished.

Q 2. Discuss the power of the S.C & H.C to punish an advocates for contempt of court.

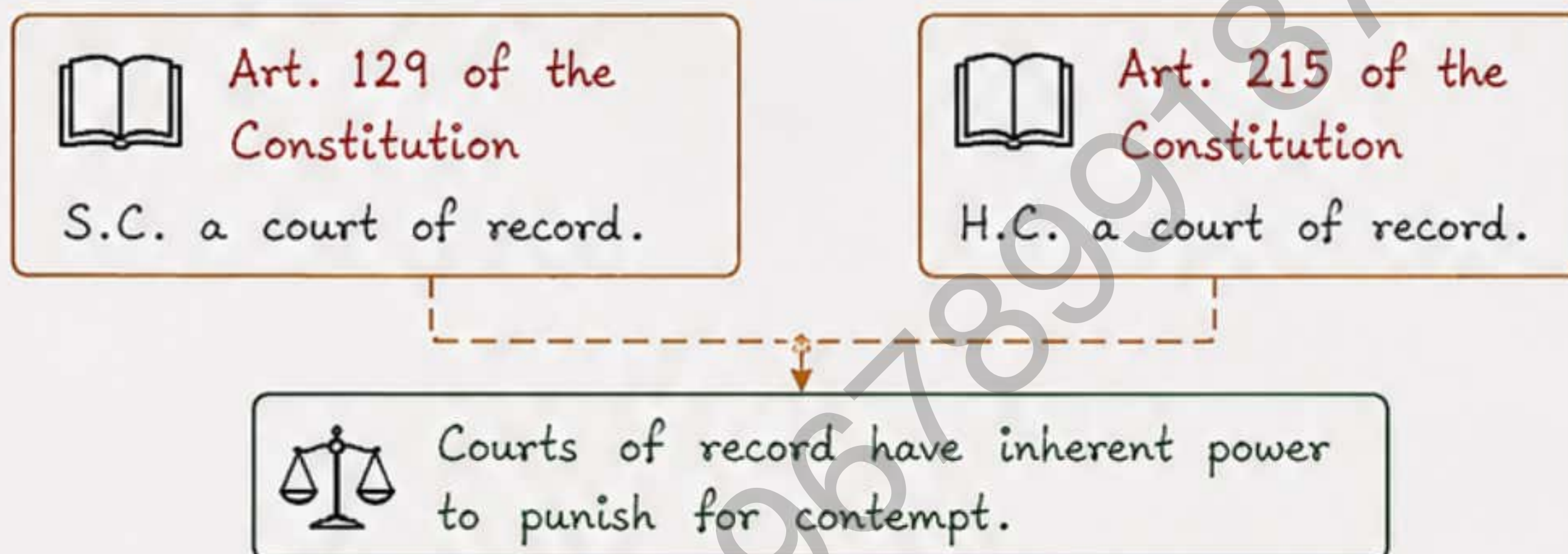
Introduction :-

Concept of Contempt of Court

In India, contempt of court is rooted in the need to uphold the dignity, authority and impartiality of the judiciary, ensuring the effective administration of justice. It prevents interference with judicial proceedings and protects public confidence in the legal system.

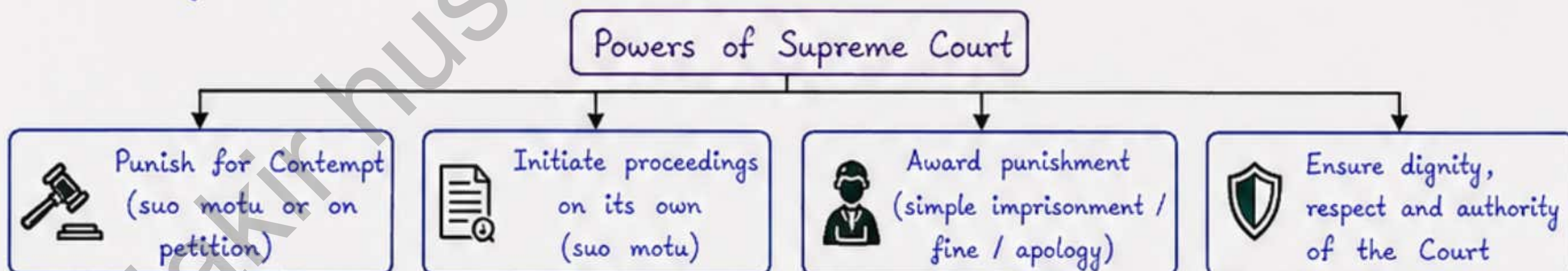


The S.C & H.C derives their power to punish for contempt primarily from the Contempt of Courts Act, 1971, supplemented by constitutional provision.



Powers of Supreme Court

The Supreme Court, as the apex judicial body, enjoys inherent and statutory power to punish contempt.



Key Point :-

The power is exercised to maintain the majesty of law and not for personal vindication.

① Constitution Basis (Art 129) :-

The Supreme court is a court of record and has the power to punish for contempt of itself. This is not merely statutory but an inherent jurisdiction to protect its functioning.

Art 129 of the Constitution

Supreme Court is a Court of Record

Inherent power to punish for contempt



Key Point

Not merely statutory, but an inherent jurisdiction.

② Statutory framework (CCA 1971) :-

Section 12 prescribes punishment -

- Simple imprisonment up to 6 months
- Fine up to ₹2000 or both.
- The court may also accept an apology if bonafide (Sec-12(1))

Types of Contempt

Civil Contempt

Willful disobedience of any judgment, decree, direction, order etc.

Criminal Contempt

Scandalises or tends to scandalise the authority of the court or interferes with judicial proceedings.

③ Procedure and limitation :-

Contempt proceeding can be initiated :



Suo motu by the Court



On motion by the Court (own motion)



On motion by any person

Limitation

- Usually within a reasonable time.
- Delay may defeat the purpose.

Objective

To uphold the authority and dignity of the Court.

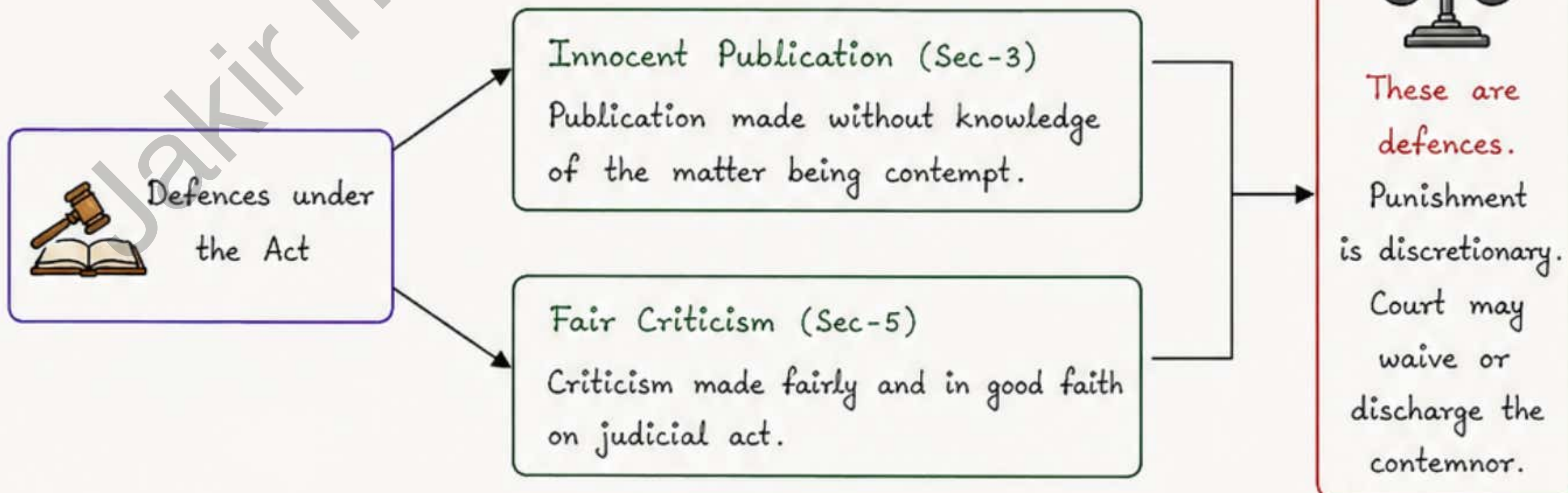


Key Point :-

Contempt power is exercised to uphold the dignity, authority and impartiality of the judiciary, ensuring effective administration of justice and maintaining public confidence in the legal system.

4. Attorney General / Solicitor General (S-15)

The act provides defences like innocent publication (Sec-3) and fair criticism (Sec-5).



Vinay chandra mishra 1995

In this case – The Supreme Court asserted its inherent power u/A 129 to punish an advocate for criminal contempt (& using abusive language in court).

In this case –



Key Takeaway

The S.C. cannot suspend an advocate licence u/contempt power. This power is not to be used beyond its limits.



Key Point :-

- Attorney General / Solicitor General provides defences like innocent publication and fair criticism.
- Innocent publication, fair criticism and lack of intent are important defences.

Powers of H.C.

① Constitutional Basis (Art 215) :-

Every H.C. is a **court of record** with powers to **punish for contempt** of itself.

Co-existence with S.C.
This is co-existence with the Supreme Court powers.



② Statutory Framework (Contempt CA 1971)

Identical to S.C. - punishment u/s 12.

Same types of contempt

Civil Contempt

Wilful disobedience to any judgment, decree, direction, order etc.

Criminal Contempt

Scandalising or tends to scandalise the court, or lowers / interferes with judicial proceedings.

Court (S-10)

H.C. can punish contempt of subordinate courts located in its territories.

③ Procedure and Scope :-

Initiation *Suo motu*



By Advocate General



With court consent



By Advocates in lower courts

Scope

H.C. often deal with contempt by advocates in lower courts or media interference in state level cases.



Key Point :-

- Every H.C. is a court of record with inherent power to punish for contempt of itself.
- H.C. has the same powers as S.C. to punish civil & criminal contempt, including for subordinate courts in its territories.

D.C. Sarena
v.
CJI 1996



In this case S.C. (exercising appellate jurisdiction over H.C. contempt) held that **scandalising** the court by imputing **bias** to judges amounts to **criminal contempt**.



Key Idea

Scandalising the court undermines public confidence and the administration of justice.

Comparative Analysis and Judicial Trends

① Scope :-



Scope

- S.C. power extends nationwide and includes appellate review of H.C. contempt orders (Art. 136).
- H.C. focus on state judiciary but cannot punish contempt of S.C.

② Advocates as contemnors :-



Advocate

Both courts treat advocates strictly due to their officer-of-court status.

③ Comparative Focus :-

H.C.	S.C.
• Focus on state judiciary. • Can punish contempt of S.C. • Jurisdiction limited to state.	• Jurisdiction nationwide. • Includes appellate review of H.C. orders. • Cannot punish contempt of S.C.



Key Takeaway :-

- S.C. has wider powers (nationwide + appellate review under Art. 136).
- H.C. cannot punish contempt of S.C.
- Advocates, as officers of the court, must maintain dignity and not scandalise the court.