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Sedition

Published On: 24-11-2023

Why is in news? Supreme Court to hear in January pleas challenging constitutional validity of sedition in IPC

The Supreme Court will hear a **batch of petitions challenging the constitutional validity of section 124A** that deals with sedition, in January next year.

Chief Justice of India D Y Chandrachud, presiding over a three-judge bench, said he would constitute a bench to hear it soon. Hearing it last on September 12, 2023, the SC had said the matter needed to be heard by a five-judge Constitution bench and directed that they be placed before the CJI for this.

The court also rejected the Centre's plea to defer the hearing until Parliament took a final decision on the Bill to replace the IPC with The Bharatiya Nyaya Samhita. It said that the latter, being a penal statute, will have only prospective application and, therefore, the fate of cases registered under Section 124A be decided separately.

About:

Sedition is a crime against the state and is dealt with in **Section 124A** of the Indian Penal Code.

Sedition **punishes any content** that has the **potential to incite violence or public disruption** in the country by inciting hatred, contempt, or disaffection for the government.

Sedition Law refers to a body of law that **criminalizes speech or conduct** that is deemed to be a threat to the stability of the state or to the authority of the government.

Background:

Sedition laws were **enacted in 17th century England** when lawmakers believed that only good opinions of the government should survive, as bad opinions were detrimental to the government and monarchy.

The law was **originally drafted in 1837 by Thomas Macaulay**, the British historian-politician, but was inexplicably omitted when the Indian Penal Code (IPC) was enacted in 1860.

Section 124A was inserted in 1870 by an amendment introduced by James Stephen when it felt the need for a specific section to deal with the offence.

Today the **Sedition is a crime under Section 124A** of the Indian Penal Code (IPC).

In 1890, sedition was included as an offence under section 124A IPC through the Special Act XVII.

The punishment prescribed then, transportation "beyond the seas for the term of his or her natural life", was amended to life imprisonment in 1955.

The provision was extensively used to **curb political dissent** during the Independence movement.

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Several pre-independence cases involving Section 124A of the IPC are against celebrated freedom fighters, including Bal Gangadhar Tilak, Annie Besant, Shaukat and Mohammad Ali, Maulana Azad and Mahatma Gandhi.

It is during this time that the most notable trial on sedition — Queen Empress v. Bal Gangadhar Tilak — took place in 1898.

Courts largely followed a literal interpretation of the provision holding that “... the disapprobation must be ‘compatible’ with a disposition to render obedience to the lawful authority of the Government and to support the lawful authority of the Government against unlawful attempts to subvert or resist that authority.”

The Constituent Assembly debated including sedition as an exception to the fundamental right to freedom of speech and expression, guaranteed in the Constitution, but several members vehemently disagreed and the word is not included in the document.

Cases related to sedition:

As early as 1950, the Supreme Court in **Romesh Thapar v State of Madras** held that “criticism of the government exciting disaffection or bad feelings towards it, is not to be regarded as a justifying ground for restricting the freedom of expression and of the press, unless it is such as to undermine the security of or tend to overthrow the state.”

Justice Patanjali Shastri cited the Constituent Assembly’s deliberate omission of the word sedition from the Constitution for the liberal reading of the law.

The Punjab and Haryana High Court in **Tara Singh Gopi Chand vs. The State (1951)**, and the Allahabad High Court in **Ram Nandan vs. State of Uttar Pradesh (1959)** — declared that Section 124A of the IPC was primarily a tool for colonial masters to quell discontent in the country and declared the provision unconstitutional.

However, in 1962, the issue came up before the Supreme Court in **Kedarnath Singh v State of Bihar**.

To the Supreme Court’s decision in **Kedarnath Singh v. State of Bihar (1962)**, **sedition is only a crime if it is coupled with incitement or a call to violence.**

As a result, Section 124A must be interpreted in light of Kedarnath Singh’s ruling, and sedition will only be considered to be an offence if it causes or is likely to cause “public disorder” or “violence.”

Section 124A itself does not contain but was read into it by the court.

The court also issued **seven “guidelines”, underlining when critical speech cannot be qualified as sedition.**

In its guidelines on using the new, restrictive definition of sedition law, the court said not all speech with “disaffection”, “hatred,” or “contempt” against the state, but **only speech that is likely to incite “public disorder” would qualify as sedition.**

In the **Balwant Singh vs State of Punjab (1995)** case, SC held that merely shouting slogans, in this case Khalistan Zindabad, does not amount to sedition.

In subsequent rulings — **Dr. Vinayak Binayak Sen v. State of Chhattisgarh (2011)**, — the court also held that a person can be convicted for sedition even if she is not the author of the seditious speech but has merely circulated it.

In 2016, in **Arun Jaitley v State of Uttar Pradesh**, the Allahabad High Court held that criticism of the judiciary or a court ruling — former Union minister Arun Jaitley in a blog post had criticised the Supreme Court’s 2016 ruling declaring the National Judicial Appointments Commission unconstitutional — would not amount to sedition.

Successive **reports of the Law Commission of India** and even the Supreme Court, have underlined the rampant misuse of the sedition law.

The Kedar Nath guidelines and a textual deviation in law puts the onus on the police who register a case to distinguish between legitimate speech from seditious speech.

Just last year, in **Vinod Dua v Union of India**, the Supreme Court quashed FIRs with charges of sedition against the journalist for criticising Prime Minister Narendra Modi's handling of the Covid-19 crisis and cautioned against unlawful application of the provision.

Data related to sedition:

The **National Crime Records Bureau** (NCRB) has started compiling data on sedition since 2014 and 399 sedition cases have been filed across the country, including a high of 93 in 2019, and 73 in 2020.

The **conviction rate** in cases filed under the sedition law has **fluctuated between 3% and 33%** over the years, and the pendency of such cases in court reached a high of 95% in 2020.

The **charge sheeting rate of police** to has been low.

As many as 23 cases were found to be false or a mistake of law and 58 were closed for lack of evidence.

The **pendency of cases with police rose** from 72% in 2016 to 82% in 2020.

In 2019, when the highest number of sedition cases were registered in the country, Karnataka had the most at 22, followed by Assam, J&K, Uttar Pradesh, and Nagaland.

Law Commission of India on sedition law:

The sedition law is a **reasonable restriction** on the right to free speech.

Repealing the legal provision can have serious adverse ramifications for the security and integrity of the country.

Mere fact that a particular legal provision is colonial in its origin does not validate the case for its repeal.

Jurisdictions like the **US, UK, etc.**, have actually merged their sedition law with counter-terror legislations.

Sedition Law Section 124A of IPC:

According to IPC Section 124 A, "Whoever brings or attempts to bring into hatred or contempt, or excites or attempts to excite disaffection towards the Government established by law in India shall be punished.

According to Section 124A, sedition carries one of the following penalties: Prison for **up to three years**; A **life sentence** in prison; A life sentence in **prison and a fine**; Up to three years in **jail and a fine**; **Just fine**

The judge presiding over the trial processes makes the choice regarding the severity of punishment to be meted out to the convicted party.

It is a **non-bailable offence**. A person charged under this law is **barred from a government job**.

They have to **live without their passport and must appear in court at all times** as and when required.

Significance of Sedition Law:

The Constitution of India guarantees the freedom of speech and expression to its citizens.

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However, this right is **not absolute**, and the government **can restrict it under certain circumstances** to ensure that it is not abused. These restrictions are **considered reasonable** and are laid out in Article 19(2) of the Constitution.

Sedition law helps the government in **combating anti-national, secessionist and terrorist elements**.

It helps in protecting the elected government from attempts to overthrow the government with violence and illegal means. The continued existence of the government established by law is an essential condition of the stability of the State.

Criticisms of sedition law:

It is a **colonial relic** and a preventive provision that should only be read as an emergency measure.

Law poses a **threat to freedom of expression** guaranteed by the Indian Constitution.

The law is **vague and overly broad** – the words like disaffection towards the government, visible representation etc, are vague and provide enough scope for its misuse.

The law has been **misused** to silence critics and target political opponents. E.g., In 2021, sedition FIR was filed against journalist Vinod Dua for a video in which he remarked against the Prime Minister on his handling of the COVID crisis. It was later quashed by the Apex Court.

Though police are charging more people with sedition, **few cases actually result in a conviction**. Since 2016, only four sedition cases have seen a conviction in court which indicates that sedition as an offence has no solid legal grounding in India.

Reasons to retain the sedition law:

India is currently going through a transition period. Where regionalist approaches prevail over national interests. In such a situation, many experts support this law due to the **establishment of the unity and integrity** of the nation mentioned in the Preamble of the Constitution.

India is prone to **organized crime, terrorism, the operators** of which continuously challenge the existence of India. Undoubtedly, some Indians are also involved in this process, which increases the relevance of the law to address the challenges posed.

Social, economic, political inequality in the country gives rise to chaos in the country. And as long as there are anti-national slogans like 'Bharat tere tukde honge', the condition of laws like treason will continue to be strong.

The Law Commission simply states that the existence of anti-terror legislations does not by implication cover all elements of the offence and envisaged under Section 124A of IPC.

In the absence of a provision like 124A of IPC, any expression that incites violence against the government, would invariably be tried under the special laws and counter terror legislation. These laws, in turn, contain much more stringent provisions.

Way Forward:

There are enough laws in our country to deal with external and internal threats to India and there is **no need to continue with the sedition law**.

Thus, there is a need to abolish the sedition law on the ground that it is used to curb freedom of expression and speech.

Until the sedition law is scrapped by the parliament, the **higher judiciary should use its supervisory powers** to sensitize the magistracy and police to the constitutional provisions protecting free speech.

Further, to avoid overuse of sedition law, the higher judiciary **can narrow down the definition of sedition**, to include only the issues pertaining to the territorial integrity of India as well as the sovereignty of the country.

Civil society must take the lead to **raise awareness** about the arbitrary use of Sedition law.