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Law of Sedition in India: An Analysis

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ABSTRACT

The sedition law has been attracting criticism since the colonial period. The purpose of implementing the sedition law by the British was to suppress the voice of the people and the nationalist movements. After the independence of the country, this law seems unclear because free speech is the soul of a democratic country. Apart from this, the government has been misusing and implementing this law in the name of national security and integrity for years. This law is being used to suppress dissent. The law of sedition is being considered a violation of freedom of speech and expression though a balance was struck between them in the judgement of Kedarnath case. The paper henceforth focuses on this issue and tries to provide suggestions for the same.

Keywords: Freedom of Speech and Expression, Section 124A, Sedition.

I. INTRODUCTION

India is progressing successfully in every field (like social, economic and cultural field) since last few years. Still the citizens of India are not happy with some government actions.

People claim that the government is misusing the laws and shaping it on the basis of its convenience and interest. This paper is based on the study of the law of sedition in India. The objective of this paper is to analyze Section 124-A of the Indian Penal Code, 1860 and its applicability in contemporary times. This paper throws light on its history before presenting the recent scenario of this law. Then it goes on to explain the concept of sedition with various judicial pronouncements. The paper also describes relevant incidents when the government used the law of sedition arbitrarily. This paper also analyzes whether the sedition law comes under the restrictions provided under Article 19 (2) of the constitution of India or is actually violating the right provided under Article 19 (1) (a) of the Indian constitution. The following questions are to be answered in this paper-1. Whether the applicability of sedition law have been misused by the government; 2. Whether the sedition law violate the right provided under Art.19(1)(a) of Indian constitution; and 3. Whether the sedition law is valid in the present time.

Meaning of Sedition:-

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Sedition is covered under section 124-A of the IPC. However, the section only gives a marginal note on the law of sedition. While, it covers the crimes that come under the law it does not give a precise definition of the term „sedition“ itself. The offence of sedition is against the state and is aimed at promoting hatred or ill will against the government. Section 124- A of the Indian Penal Code defines Sedition as “Whoever, by words, either spoken or written, or by signs, or by visible representation, or otherwise, brings or attempts to bring into hatred or contempt, or excites or attempts to excite disaffection towards, the Govt. established by law, shall be punished, with imprisonment for life, to which fine may be added, with imprisonment which may extend to three years, to which fine may be added, or with fine.”

II. HISTORY OF LAW OF SEDITION IN INDIA

IPC was brought into force in colonial India in 1860 but had no section concerning sedition. The sedition law(S.124A IPC) was introduced by british government in IPC in 1870 to tackle dissent against colonial rule.

The penal provision came in handy to muzzle nationalist voices and demands for freedom. The long list of India’s national heroes who figured as accused in cases of sedition includes Bal Gangadhar Tilak, Mahatma Gandhi, Bhagat Singh and Jawaharlal Nehru.

Bal Gangadhar Tilak was the first person to be convicted of sedition in colonial India. In 1897, Tilak was punished by the Bombay high court for sedition under Section 124A and was sentenced to 18 months in prison.

After Independence, “sedition” was dropped from the Constitution in 1948. KM Munshi moved an amendment to remove the word “sedition” that was included in the draft Constitution. The word “sedition” thus disappeared from the Constitution when it was adopted on November 26, 1949, and Article 19(1)(a) gave absolute freedom of speech and expression. However, Section 124A continued to stay in the IPC.

In 1951, Jawaharlal Nehru brought in the first amendment of the Constitution to limit the freedom under Article 19(1)(a) and enacted Article 19(2) to empower the State put curbs in the form of “reasonable restrictions” on right to free speech.

In 1974, Indira Gandhi govt makes Section 124A a cognisable offence that authorises police to make arrests without a warrant.

III. LAW RELATING TO SEDITION IN INDIA

Indian Penal Code (IPC), 1860, Sec. 124A forms the principle section that deals with sedition inside the Indian Penal Code. This sec. contains with it a most sentence of imprisonment for life.

CrPC, 1973 -The CrPC incorporates sec. 95 which gives the authorities the energy and the right to declare positive courses forfeited and thereby forfeit such material punishable underneath phase 124A but which may be accomplished best if the conditions for validity of an order of forfeiture is fulfilled¹⁰ - (i) that the government has fashioned an opinion that the regarding record or cloth carries any count and the booklet of that is punishable beneath the noted sections and (ii) that the government has said within the order the grounds which has brought about the formation of the opinion¹¹ . Similarly to this power, the authorities has the proper to trouble seek warrant for the functions concerning the forfeiture of such ebook.

Unlawful Activities (Prevention) Act (UAPA), 1967 helping claims of secession, thinking or disrupting territorial integrity and causing or intending to reason disaffection in opposition to India fall in the ambit of illegal hobby that is provided for and highlighted beneath phase 2(o). Similarly, sec. thirteen gives for the punishment of illegal activities and prescribes imprisonment extending to seven years together with a first-rate.

Prevention Of Seditious meetings Act, 1911- The Seditious conferences Act, which was enacted with the aid of the British a century in the past to control dissent by using criminalizing seditious conferences, is still on our statute books. Sec. five of the Act empowers a District magistrate or Commissioner of Police to prohibit a public assembly in a proclaimed vicinity if, in his/ her opinion, such assembly is possibly to promote sedition or disaffection or to purpose a disturbance of the general public tranquility.

IV. SEDITION AND FREEDOM OF SPEECH

Article 19 clause (a) of clause (1) of the Indian constitution gives the right to freedom of speech and expression.and Clause (2) imposes reasonable restrictions on the said right.The sedition law has been in conflict with the right to freedom of speech and expression from the very beginning.After independence, the constitution framers did not agree with the existence of the sedition law as it restricted the right to freedom of speech and expression.

In case of *Romesh thappar vs State of Madras* AIR 1950 SC, the Supreme Court held that an act will come within the purview of Art.19(2) of the Indian Constitution only if freedom of speech and expression is intended to endanger the 'security of state' be a trend.For this purpose,

'friendly relations with state' and 'public order' were added in Art.19(2) of Indian constitution. After this, only those actions were not given security under freedom of speech and expression, which had a tendency to threaten 'public disorder and national security'.

The Punjab High Court in the case of 'Tara Singh Gopi Chand vs State AIR 1951 Punjab' and the Allahabad High Court in the case of 'Ram Nandan vs State AIR 1959 All' had declared Section 124A of the Indian penal code unconstitutional on the ground that it violates the 'right to freedom of speech and expression' under Art.19(1)(a) of Indian Constitution.

In the case of *Kedarnath vs State of Bihar AIR 1962 SC*, the court said that Section 124A of the Indian penal code is constitutional. The court observed that 'stability of state' is an essential condition of the existence of the sedition law. Right to freedom of speech and expression is essential to the democratic form of government and hence must be protected. But it is also necessary to protect this right against censure of the government established by law (which incites violence or tends to create public disorder).

Therefore, impartial criticism of the policies and actions of the government, no matter how harshly worded, without the tendency to incite violence, was not punishable under this offense. In the case of *Shreya Singhal vs Union of India 2015 SCC*, the court said that if any act comes under the purview of incitement, it is not protected under Art.19(1)(a) of the Indian Constitution and the case falls under reasonable restrictions under Art.19(2) of Indian Constitution.

V. MISUSE OF SEDITION LAW

Though the sedition law (Sec.124A IPC) was declared constitutional in *Kedarnath* case, it still works as a tool of the government to curb the liberties of citizens and suppress dissent.

In contemporary times, any person can be charged with sedition on minor grounds. For example, Mohammed Ali, a native of Eloor, was charged under 124A IPC for liking a picture saying 'I LOVE PAKISTAN'. Congress leader Digvijay Singh was charged for sedition for criticizing Ramdev Baba. Sedition was charged against the students group for raising 'Pakistan Jindabad' slogans in the cricket match.

The case of *Sanskar Marathe vs The State of Maharashtra 2015 CrLJ* shows the arbitrary use of sedition law by the police. A famous cartoonist Aseem Trivedi published cartoons about the then Chief Minister of the state. Police registered a case of sedition against Trivedi and arrested him. But the court acquitted him and said that a citizen has the right to say and write whatever he feels about the government, unless it incites any sort of violence or creates public order.

According to the data from NCRB, 356 cases of sedition under 124A of the Indian Penal Code 1860 were registered and 548 persons arrested between 2015 and 2020. However, just 12 persons arrested in seven sedition cases were convicted in this six-year period. The conviction rate of sedition cases was 33.3% in 2020; 3.3% in 2019; 15.4% in 2018; 16.7% in 2017 and 33.3% in 2016. Although, the conviction rate in the year 2020 is higher than the previous years, but the number of acquittals is also more in the year 2020.

The above data shows that the conviction rate in sedition cases is very low. A person who is accused of treason has to bear social condemnation and is deprived of many rights. The person may be acquitted by the court, but the process of proving oneself innocent is a punishment in itself. The courts have time and again tried to draw the line between free speech and the offence of sedition, trying their best to balance it out. But in reality, the law is being misused for political purpose and fulfilling the personal agenda of the political class.

VI. CONCLUSION

The above analysis concludes that Section 124A of the Indian Penal Code 1860 is needed to maintain 'public order and national integrity'. By abolishing this section, people will abuse the freedom of speech. But yes, under this section, the provisions need to be reconsidered and implemented in such a way that it is not misused by the government or the police and the freedom of speech of the people is also maintained.

The author believes that arrests in alleged cases of sedition should be made on concrete grounds after preliminary inquiry into the incident. And the scope of section 124A of the IPC should be narrowed so that the government does not misuse it arbitrarily.

Further, the government has laws like 'Section 505 of the Indian Penal Code and the Prevention of Damage to Public Property Act 1984' by which the requirement of Section 124A of the IPC has been diluted. Should be done only in the rarest of rare cases.

Thus we can say that Section 124A of the IPC does not infringe the rights of citizens as it is checked by Art 19 of the Constitution of India. It prevents excessive use of 'right to freedom of speech and expression' but there is a need to stop its misuse by the government.

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