

Sedition Law: It is not seditious to disagree with the Government

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Sedition law is back in controversy again with the Supreme Court reiterating that taking a stand against the government's policies is not sedition. The Supreme Court junked a petition that sought action against former Jammu & Kashmir chief minister Farooq Abdullah for his comments on the scrapping of Article 370 and the bifurcation of the state into two Union territories.

In news: Disagreeing with govt is not sedition, says Supreme Court

Placing it in syllabus: Law & Policy

Dimensions

- SC ruling Highlights
- Sedition Law, History and Provisions
- Punishment if Convicted
- Use and Misuse
- Importance of the SC judgement

Content:

SC ruling Highlights:

- Former Jammu & Kashmir chief minister Farooq Abdullah for critical comments on the scrapping of Article 370 and the bifurcation of the state into two Union territories were challenged in Supreme Court.
- The petitioners argued, "the statements clearly amount to seditious act and therefore he is liable to be punished under section 124-A of the India Penal Code."

- The petitioner submitted that Abdullallah had completely failed in abiding by his constitutional duties as provided under **Article 51 A (to uphold the Constitution)**.
- The petitioners also sought for the leader's membership of Parliament to be declared null and void.
- The **petitioners failed to provide proof** of when and where Abdullah issued the alleged statement.
- However **Supreme Court dismissed the PIL** as being misused as a "publicity interest litigation", and **imposed a fine** of Rs 50,000 on the joint petitioners
- The Supreme Court said that expressing views that are different from government opinion will not attract the offence of sedition under Section 124-A of Indian Penal Code (IPC)
- "Not only that the petitioners have nothing to do with the subject matter and this is clearly a case of publicity litigation interests for the petitioners only to get their names in the press. We must discourage such endeavours," the bench added.

Sedition Law, History and Provisions

- The word sedition is not mentioned anywhere in the IPC or the Indian Constitution.
- **Section 124A of the Indian Penal Code (IPC)** deals with sedition in India.
- Section 124A has been challenged in various courts in specific cases. The validity of the provision itself was upheld by a **Constitution Bench in 1962, in Kedarnath Singh vs State of Bihar**.

History of Section 124A:

- The law was originally drafted in **1837 by Thomas Macaulay**, the British historian-politician, but was **inexplicably omitted when the IPC was enacted in 1860**.
- **Section 124A was inserted in 1870** by an **amendment**

introduced by **Sir James Stephen** when it felt the need for a specific section to deal with the offence.

- It was one of the many draconian laws enacted to stifle any voices of dissent at that time.
- The sedition law has been in debate ever since it was brought into force by the colonial British rulers.
- Several top freedom movement leaders including Mahatma Gandhi and Jawaharlal Nehru were booked under the sedition law.
- Mahatma Gandhi described it as the “prince among the political sections of the Indian Penal Code designed to suppress the liberty of the citizen.”
- Nehru had described it as “highly objectionable and obnoxious” which “should have no place in any body of laws that we might pass”. Nehru said, “The sooner we get rid of it the better.”

Provisions of Section 124A:

- Section 124A IPC states: “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 Government established by law in India, shall be punished with imprisonment for life, to which a fine may be added; or, with imprisonment which may extend to three years, to which a fine may be added; or, with fine.”

Punishment if Convicted:

- Sedition is a non-bailable offence. Punishment under the law varies from imprisonment up to three years to a life term and fine.
- A person charged under this law can't apply for a government job.
- They have to live without their passport and must present themselves in the court as and when required.

Viewpoint of the Law Commission of India:

- In August 2018, the Law Commission of India published a consultation paper recommending that it is time to re-think or repeal the Section 124A of the Indian Penal Code that deals with sedition.
- In its 39th Report (1968), the Law Commission had rejected the idea of repealing the section.
- In its 42nd Report (1971), the panel wanted the scope of the section to be expanded to cover the Constitution, the legislature and the judiciary, in addition to the government to be established by law, as institutions against which 'disaffection' should not be tolerated.
- In the recent consultation paper on the sedition, the Law Commission has suggested invoking 124A to only criminalize acts committed with the intention to disrupt public order or to overthrow the Government with violence and illegal means.

Use and Misuse:

Defining Sedition:

- In law, sedition is certainly an act of spreading disaffection against the government. But it is not so simple
- There is a thin line between criticizing the government, making false propaganda against the government and trying to destabilize the government.
- Destabilising a democratically elected government through violence means certainly falls under the purview of sedition law.

The law of sedition was introduced by the Colonial Government to suppress the voices of Indians against them.

In recent times, there has been an increase in the instances in which sedition charges were pressed against intellectuals,

human rights activists, filmmakers, university teachers, students, and journalists.

Often the governments are criticized for using the law – Section 124-A of the Indian Penal Code (IPC) – against vocal critics of their policies.

In the popular narrative, sedition is taken as “deshdroh” or an anti-national act as against “rajdroh” or an anti-government act.

Arguments in support of Section 124A:

- Section 124A of the IPC has its utility in combating anti-national, secessionist and terrorist elements
- It protects 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
- If contempt of court invites penal action, contempt of government should also attract punishment
- Many districts in different states face a Maoist insurgency and rebel groups virtually run a parallel administration. These groups openly advocate the overthrow of the state government by revolution
- Against this backdrop, the abolition of Section 124A would be ill-advised merely because it has been wrongly invoked in some highly publicized cases

Arguments against Section 124A:

- Section 124A is a relic of colonial legacy and unsuited in a democracy. It is a constraint on the legitimate exercise of constitutionally guaranteed freedom of speech and expression.
- Dissent and criticism of the government are essential ingredients of robust public debate in a vibrant democracy. They should not be constructed as sedition.

Right to question, criticize and change rulers is very fundamental to the idea of democracy.

- The British, who introduced sedition to oppress Indians, have themselves abolished the law in their country. There is no reason why India should not abolish this section.
- The terms used under Section 124A like 'disaffection' are vague and subject to different interpretations to the whims and fancies of the investigating officers.
- The sedition law is being misused as a tool to persecute political dissent. A wide and concentrated executive discretion is inbuilt into it which permits the blatant abuse.

NCRB Data on Sedition:

- The **National Crime Records Bureau (NCRB)** published the sedition data for the first time in 2014 under 'Offences against the state' category.
- The data released by NCRB for the year between 2014 and 2016 reflect the disutility of the law for the criminal justice system.
- Under the title 'offences against the State' the report shows a total of 179 arrests for sedition. However, no charge sheets were filed by the police in over 70% of the cases, and only two convictions during this time period.
- According to the data from the National Crime Records Bureau (NCRB), uploaded on its website, cases of sedition and under the stringent UAPA for terror cases showed a rise in 2019, but only 3% of the sedition cases resulted in conviction.
- The year 2019 saw a 25% increase in the number of sedition cases and a 41% increase in arrests over the previous year. A total of 93 cases of sedition were reported in 2019, with 96 arrests and charge sheets filed in 76 cases, as against 70 cases, 56 arrests and

27 charge sheets the previous year.

- This data belies the claim for retaining the Section 124A of IPC.

Importance of the SC judgement:

Criticism against the government policies and decisions within a reasonable limit that does not incite people to rebel is consistent with freedom of speech and expression.

This judgement is important because:

- It upholds the right of a citizen to criticise the actions of government under Article 19 of Indian Constitution.
- It draws the line between criticizing the government, making false propaganda against the government to destabilize the government.
- It also discourages frivolous use of PIL to gain publicity and curb freedom of speech of an individual.

Mould your thought: Discuss the issues surrounding the provisions related to sedition in India.

Approach to the answer:

- Introduction
- Discuss provisions of Section 124A and its applicability
- Discuss the history of this law briefly
- Write about the punishments
- Discuss the use and misuse of this law
- Conclusion