

Theatre of the absurd



The article analysis the sedition law under IPC section 124A and the Supreme Court judgement relating to its constitutional validity.

- No fundamental right in our Constitution is absolute. Freedom of speech and expression guaranteed by Article 19(1)(a) can be reasonably restricted on the grounds specified in Article 19(2).
- It is significant that during the debates in the Constituent Assembly, the founding fathers, in view of their bitter experience of the application of the sedition law by the British colonial regime, deliberately omitted “sedition” as one of the permissible grounds of restriction under Article 19(2) on freedom of speech and expression.
- However, sedition as a criminal offence remains in the IPC under Section 124A and provides for inter alia sentence of life imprisonment and fine upon conviction.
- Gandhiji described “sedition” as the prince of the Indian Penal Code (IPC).
- Section 124A was challenged in the Supreme Court as unconstitutional. In its celebrated judgment in the case of *Kedarnath vs State of Bihar*, the Supreme Court explained the scope of sedition law.
- It ruled that “vigorous words in writing and very strong criticism of measures of government or acts of public officials, would be outside the scope of Section 124A”.
- The Supreme Court further observed: “A citizen has a right to say or write whatever he likes about the government, or its measures, by way of criticism or comment, so long as he does not incite people to violence against the government established by law, or with the intention of creating public disorder.”
- The Supreme Court did not approve of the Privy Council’s judgments according to which any speech or writing which evinced disloyalty or ill feelings towards the government could be regarded as sedition. Many freedom fighters were prosecuted and punished for sedition by the British colonial regime.
- The Supreme Court limited the application of Section 124A to acts involving incitement to violence, which is the essential ingredient of the offence of sedition.

- Therefore the question whether certain speech or acts constitute sedition are questions of fact which have to be determined by a court of law keeping in mind the principles enunciated by the Supreme Court in Kedarnath.
 - Recently sedition law has been invoked against Amnesty International on the ground that certain slogans insulting to India were uttered at its recent event in Bengaluru.
 - If that be so, it is certainly deplorable and may expose Amnesty to civil and criminal proceedings. One can certainly criticise and condemn the alleged anti-India slogans.
 - But mere utterance of slogans by itself does not constitute sedition unless there is exhortation to overthrow the government of the day by recourse to violence, which is the prerequisite for invoking the sedition section. Surely our country is strong and mature enough to take in its stride alleged insulting slogans without rushing to invoke the law of sedition.
 - It is opined by some that Section 124 should be deleted. But, Section 124A “sedition” as interpreted by the Supreme Court is necessary.
 - There may be cases where Section 124A can be legitimately invoked. Therefore, retain the section but strike down actions not in conformity with the section.
 - It is high time that appropriate penalties are imposed on those, including lawyers, who invoke Section 124A wantonly and cause pain and harassment to those who honestly express their opinion and who are intimidated by invocation of Section 124A.
 - One would expect judicial officers not to entertain manifestly ill-founded complaints. It is the need of the hour to contain the forces of bigotry and intolerance which pose a grave threat to our democratic secular republic.
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Question:

It is the need of the hour to contain the forces of bigotry and intolerance which pose a grave threat to our democratic secular republic. But invoking ‘sedition law’ is not the answer to this problem. In the light of this statement, do you think India still needs a sedition law.

Suggested Approach:

1. Why do we need a sedition law.
 2. Restraints imposed by Supreme Court judgement over using this section.
 3. How we can contain intolerance in the society.
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Link: <http://indianexpress.com/article/opinion/columns/ramya-pakistan-comment-sedition-law-amnesty-international-freedom-speech-supreme-court-2994652/>

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