

Time to Abolish Sedition Law in India

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Abstract: *We are living in the world's largest democratic country. We are going to celebrate 76th independent day on this 15th August. Our country is known for the freedom of speech and expression. It is necessary for a country to abolish that law which curtails the freedom of people, sedition is one of those laws which curtails freedom of speech and expression, it is a colonial law, we are now independent, so we must remove this law, there are lots of provisions that can replace the Sedition law. The drafting committee was not in the favour of Sedition that was headed by Dr. B.R. Ambedkar, the nation's father, Mahatma Gandhi, was also against this colonial law. Sedition law is being used to suppress the voice of people. So Sedition law must be repealed from the law of our country.*

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1. History

Sedition law is a colonial law because at that time India was under the administration of Britain. The offence of sedition has been known in Britain for centuries. Sedition law was added to the Indian penal code in 1870 that time it was in a different form. The sedition law was first time amended in 1891 and explanations were also added to it.[1]

(1.1) According to section 124A of the Indian penal code, 1860 sedition means 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 excite or attempts to excite this disaffection towards

A government established by law in India shall be punished with imprisonment for life, to which fine may be added, or with imprisonment which may extend to three years to which fine may be added, or with both fine.

Explanation (1) expression "disaffection" includes disloyalty and feelings of enmity.

Explanation (2) comment expressing disapprobation of the measures of the government with a view to obtain their alteration by lawful means, without exciting or attempting to excite hatred, contempt or disaffection do not constitute an offence under this section.

Explanation (3) comments expressing disapprobation of the administrative or other action of the government without exciting or attempting to excite hatred, contempt or disaffection, do not constitute an offence under the section [2]

(1.2) The word disaffection was also understood in the case of Queen versus Jogendra Chandra Bose in this case disaffection means a feeling contrary to affection, in simple words disaffection means dislike or hatred, simply disapproval, one person may disapprove another person's sentiments or actions. [3]

2. Famous cases on sedition law

2.1 Queen empress vs Bal Gangadhar Tilak 1867

In this case it was held that a person may be charged not only with excitement but also with attempting to excite and both successful and unsuccessful attempts to excite disaffection. If a person had only tried to excite the feeling he could be convicted.[4]

2.2 Kedar Nath versus State of Bihar 1962

In the landmark 1962 Kedarnath Singh case the Supreme Court upheld the constitutional validity of the sedition law, it attempted to restrict its scope for misuse, the court held that unless accompanied by an incitement or call for violence, criticism of the government cannot be labelled sedition.[5]

2.3 Balwant Singh bhati date of Punjab 1984

It was held that the casual rousing of slogans by two random individuals without any other overt activity attached, like carrying out a procession, which did not lead to any disruption of public order and no intention of causing violence cannot be said to be invoking an offence as serious sedition.[6]

2.4 Naurang Singh versus state of Punjab 1986

Punjab high court held that even though the accused had not directed or incited anyone to commit violence, the tendency of his speech was to bring the government into contempt and there was every likelihood of violence and public disorder erupting as a result of the speech. [7]

2.5 Bilal Ahmed kaalu vs state of Andhra Pradesh 1997

The offence of sedition is the doing of certain acts which would bring the government established by law in India into hatred or contempt or create disaffection against the government. [8]

2.6 Pankaj Butaliya versus Central board of film certificate 2015

In this case the Delhi high Court said if any person has spoken something or has written something, then the police should look at that particular writing comprehensively or

whole stickly rather than focusing upon the isolated passage and isolated speech. [9]

Stand of law Commission of India

In August 2018, the Law Commission of India published a consultation paper recommending that it is time to rethink, or repeal the we (section 124A) of the Indian penal code, 1860.

3. Stand of Current Central Government on Sedition Law

The central government said in a written statement in the Rajya Sabha in June 2019, that the present government has no plan to modify or repeal the sedition law after an order of the Supreme Court in S.G. Vombatkere versus Union of India on 11 May, 2022, the union government said that it will reconsider the law, and also said that future FIRs under sedition law be registered only after scrutiny by a superintendent of police level officer or above. Mahatma Gandhi was also convicted under sedition law in 1922 and was in favour of its abolition. The constituent assembly did not agree to include sedition in the constitution .The members of constituent assembly felt that it would curtail freedom of speech and expression article 19 (1) of the Constitution.[10]

4. Sedition cases that were filed against individuals, journalists and also TV channels from 2020 to 2022

4.1 Sedition case on V. Dua

FIR was registered against journalist Vinod dua for sedition on the complaint filed by Ajay Shyam,a local BJP leader in Himachal Pradesh "that the prime minister use used deaths and terror attacks to garner votes and garnered votes through act of terrorism" in Hindi talk show uploaded on march 2020.The Supreme Court quashed the FIR against Vinod dua and said that "a citizen has a right to criticize or comment upon measures undertaken by the government and its functionaries, so long as he does not incite people to violence against the government established by law and journalist entitled to protection under Supreme Court ruling.[11]

4.2 Sedition case on ABN

AndhraJyothi and TV5 News Channel in May, 2021, the FIRs were registered against TV 5 news and ABN Andhra Jyothi news channels on charges of sedition for publishing the press statements of YSRCP MP K. Raghuram Krishna Raju. In which the Supreme Court restrained the Andhra Pradesh police from taking any coercive action against the news channels in connection with the suggestion case and the Supreme Court also said that the court must settle its contours and remit to prevent wanton misuse. [12]

4.3 Sedition case on film maker Aisha Sultana

A sedition case was filed against Lakshadweep Islander and filmmaker Ayesha sultana on the complaint filed by Abdul

khadar Haji, President of BJP's Lakshadweep unit on a Malayalam TV news channel show she said that centre government was using UT Administrator Prafull k. Patel as a "Bio weapon".[13]

4.4 Sedition case on Navneet Rana and Ravi Rana

An independent MP from Maharashtra's Amravati and her MLA husband threatened to chant the Hanuman chalisa in front of Chief Minister Udhav Thakrey's house were booked under the sedition (section 124A of Indian penal code 1860).[14]

4.5 A private bill for abolition of sedition law

A private bill was introduced by current general secretary of CPI party in 2011 in the Rajya Sabha to abolish the sedition on the ground that it is used to curb the freedom of expression and speech, and said that 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.[15]

4.6 Recent order of Supreme Court on sedition law

In S.G. Vombatkere vs. Union of India, the supreme court said that it will be appropriate not to use the provisions of sedition law till further re-examination is over. The Supreme Court hopes that the centre and state governments will desist from registering any FIR under section 124A. If fresh cases are filed, concerned parties may approach court and court to expeditiously dispose of the same. The Supreme Court said that the Union government is at liberty to pass directives to States to prevent misuse of the law. [16]

(5) Figures of sedition law from 2014 to 2020[17]

Year	Cases registered	Cases charge sheeted	Cases convicted	Trial completed	Conviction rate
2014	47	14	1	4	25%
2015	30	6	0	4	0%
2016	35	16	1	3	33.30%
2017	51	27	1	6	16.70%
2018	70	38	2	13	15.40%
2019	93	40	1	30	3.30%
2020	73	33.30%

Since 2010 there are over 800 cases of sedition filed across India,1300 people are in prison, according to National Crime Records Bureau, (NCRB)356 cases were registered and 548 people were arrested between 2015 to 2020,out of 548 persons, 290 persons belonged to the 18-30 year age group, while the remaining are in the 30- 35 age bracket.

5. Conclusion

We have seen the opinion of different leaders, individuals, experts and courts on the sedition law .when England can scrape the sedition law, then why we cannot scrape the sedition law in India. There are several other laws like Unlawful Activities Prevention Act, other provisions of Indian Penal Code 1860, National Security Act, 1980, if any person becomes derogatory to the nation and nation's security then such person can be charged by the provisions

aforesaid laws. We live in a democratic India if we don't oppose, criticize the policies and agendas, schemes, projects, bills of the government which are derogatory to the nation, then there will be no difference between mughal era and democratic India. The Allahabad High court also declared in 1958 the sedition law as unconstitutional, stated it restricts the fundamental right of freedom of speech and expression. Now time has come to end/ abolish this colonial law that is misused on the name of National Security.

References

- [1] Professor S.N. Mishra's book on Indian Penal Code, 1860.
- [2] Section 124A of the Indian Penal Code, 1860.
- [3] I.L.R. 19 Cal.35
- [4] I.L.R. 22 BOM.112.
- [5] A.I.R. 1962 S.C. 955
- [6] CrI. 266 of 1985
- [7] 1986 Cri. L.J. 846(P. and H.)
- [8] CrI. A. No,81/97
- [9] WP(c) 675/2015
- [10] S.C.order in S.G.Vombatkere vs Union of India on 11May,2022.
- [11] See the Indian express newspaper page number 1, SC underlines its own ruling to protect journalists against abuse of sedition law on June 4,2021,
- [12] See the Indian express newspaper page number 6, Judging Sedition on 2 June,2021.
- [13] See the Indian express newspaper page numbers 1,2 sedition case: BJP leaders, workers in lakshadweep quit in protest on 13 June, 2021.
- [14] See the Hindustan times on 24 April, 2022.
- [15] See the Indian express newspaper, why sedition law must go, 12 June, 2021.
- [16] SC order in S.G. Vombatkere versus Union of India on 11 May, 2022
- [17] The National Crime Records Report (NCRB)"Crime in India 2020".