
CASE ANALYSIS: SITA SOREN V. UNION OF INDIA

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INTRODUCTION

In a significant ruling, on March 4, the Supreme Court overturned the 1998 PV Narasimha Rao judgment, which previously allowed members of parliament and legislative assemblies to claim immunity under Articles 105(2) and 194(2) of the Constitution for accepting bribes in anticipation of casting a vote or delivering a speech in the legislature. The constitutional provisions outlined in Articles 105 and 194, known as parliamentary privilege, play a crucial role in nurturing deliberative democracy, particularly in the context of a parliamentary system of governance. This privilege ensures that elected representatives, who have been entrusted with the confidence of the citizens, can freely express their opinions and perspectives within the legislative chambers without any intimidation or bias. Under the safeguard of parliamentary privilege, legislators from marginalized political parties can confidently participate in voting procedures, regardless of their minimal electoral support. Similarly, representatives from remote regions are empowered to address issues relevant to their constituencies without the fear of facing legal repercussions. Additionally, parliamentary privilege enables legislators to hold authorities accountable without the fear of being unjustly accused of defamation.

FACTS

The Criminal Appeal stems from a ruling dated February 17, 2014, issued by the High Court of Jharkhand. A Rajya Sabha election took place on March 30, 2012, to elect two representatives from the state of Jharkhand. The appellant, affiliated with the Jharkhand Mukti Morcha, served as a member of the Legislative Assembly of Jharkhand at the time. It was alleged that the appellant received a bribe from an independent candidate to vote in his favor. However, during the public balloting for the Rajya Sabha seat, she did not vote for the alleged bribe giver but instead cast her vote for a candidate from her own party. Subsequently, the election round in question was declared invalid, and a new election was conducted, during

which the appellant once again voted for the candidate from her own party. The appellant petitioned the High Court to dismiss the chargesheet and the ensuing criminal proceedings lodged against her. She cited Article 194(2) of the Constitution, referencing the precedent set by the Constitution bench in the case of PV Narasimha Rao v. State (CBI/SPE),¹ for her defense. However, the High Court, drawing from the Supreme Court's ruling in PV Narasimha Rao, declined to dismiss the criminal proceedings, asserting that since the appellant did not vote for the alleged bribe giver, she did not qualify for protection under Article 194(2). Upon appealing to the Supreme Court, a two-judge panel of the Court determined that the matter warranted referral to a larger bench. Eventually, on September 20, 2023, a five-judge bench of the Court expressed initial doubts regarding the accuracy of the decision in PV Narasimha Rao and referred the case to a larger seven-judge bench for further consideration.²

ISSUES

Whether legislators are protected by parliamentary privilege if they accept a bribe to vote in a specific manner or address particular subjects?

LAW

Article 105(2) of the Constitution of India deals with the powers, privileges, and immunities of the members of Parliament and Parliamentary committees and the equivalent provision in Article 194(2) of the Constitution which confers a similar immunity to the members of the State Legislatures.

“Art. 105. Powers, privileges, etc., of the Houses of Parliament and of the members and committees thereof

(2) No Member of Parliament shall be liable to any proceedings in any court in respect of anything said or any vote given by him in Parliament or any committee thereof, and no person shall be so liable in respect of the publication by or under the authority of either House of Parliament of any report, paper, votes or proceedings.”³

¹ AIR 1998 SC 2120

² Sita Soren v. Union of India, 2024 SCC OnLine SC 229.

³ INDIA CONST. art. 105, cl. 2.

“Art.194. Powers, privileges, etc., of the House of Legislatures and of the members and committees thereof

(2) No Member of the Legislature of a State shall be liable to any proceedings in any court in respect of anything said or any vote given by him in the Legislature or any committee thereof, and no person shall be so liable in respect of the publication by or under the authority of a House of such a Legislature of any report, paper, votes or proceedings.”⁴

ANALYSIS

The constitution bench held that a member of parliament or the state legislature cannot claim immunity from prosecution on charge of bribery in a criminal court by virtue of Articles 105(2) and 194(2) of the Constitution. The highest court also observed that, unlike the House of Commons in the United Kingdom, India does not possess "ancient and unquestionable privileges" established through historical conflicts between Parliament and the monarchy. Prior to independence, privileges in India were regulated by statute due to resistance from the colonial government. These statutory privileges evolved into constitutional privileges following the enactment of the Constitution. However, a lawmaker cannot seek exemption from prosecution for bribery allegations related to voting or speeches by invoking these constitutional provisions. This is because such privileges do not meet the dual criteria of being integral to the collective operation of the legislative body and essential for the fulfillment of a legislator's fundamental duties.

The bench further emphasized that Articles 105 and 194 of the Constitution aim to uphold an atmosphere conducive to discussion and exchange of ideas within the legislative body. This objective is undermined when a member is influenced to vote or speak in a specific manner due to bribery. Bribery is not shielded under Articles 105 or 194 because it involves a criminal activity that is not intrinsic to the process of voting or delivering a speech in the legislature. Corruption and bribery among legislators corrode integrity in public affairs. Therefore, we affirm that bribery does not enjoy protection under Parliamentary privileges. Moreover, the court also held that the claims for protection under the privileges enshrined under the Constitution of India is subject to judicial review.

⁴ INDIA CONST. art. 194, cl. 2.

The Court determined that under the Prevention of Corruption Act, the act of bribery is considered complete as soon as the unlawful payment is accepted. It does not matter whether the legislator subsequently votes or speaks in the house regarding the bribe. The act of bribery is independent of the subsequent action taken by the recipient and is established at the moment illegal payment is exchanged. Whether the vote aligns with the bribe or is even cast does not affect the completion of the bribery offense. According to Chief Justice DY Chandrachud's authored judgment, the offense of bribery reaches its conclusion when the legislator accepts the bribe. The Court further determined that the PV Narasimha judgment created a contradictory scenario. It protected a legislator who accepts a bribe and votes accordingly while subjecting a legislator who, despite taking a bribe, votes independently to prosecution. This interpretation contradicts both the explicit language and the intended purpose of Articles 105 and 194 of the Constitution.

CONCLUSION

The Court has thus, corrected this anomaly in the law related to parliamentary privileges by holding that there can be no immunity for a Member of Parliament or a State legislature against a bribery charge in connection with a vote or speech in the legislature. Henceforth, in overruling the majority verdict in P.V. Narasimha Rao vs State (CBI/SPE) (1998), a seven-member Constitution Bench has foregrounded probity as the main aspect of parliamentary functioning.