
SEDITION-IS IT A CURB TO EXPRESSION?

Ashika Seenivasan, Sastra Deemed To Be University

ABSTRACT

Sedition has been used as a tool to curb voice against government and politicians. This article briefly introduces you all about what is sedition and tracks its origin dating back to its introduction in India. The constitutional validity of sedition in modern post-independence India is discussed along with arguments in favour and against section 124A of Indian Penal Code. And I conclude this interesting piece of article with my view on it. Recently we would have come across words of Chief Justice of India, NV Ramana on sedition: “Sedition is a colonial law. It suppresses freedoms. It was used against Mahatma Gandhi, Tilak... Is this law necessary after 75 years of Independence?” This article speaks about the meaning of sedition its history in India and its necessity in modern India.

SEDITION- MEANING:

Origin of the word sedition is from Old French, or from Latin *seditio(n-)*, from *sed-* ‘apart’ + *itio(n-)* ‘going’ (from the verb *ire*) and in late Middle English (in the sense ‘violent strife’):

Sedition is a blatant act of any form speech, organization, visual representation, sign, etc. that tends to dissident the established order of state.

HISTORY:

Let’s decode the history of sedition law in India:

The law of sedition emerged with the “First War of Independence of India” also eminent as 1857 Revolt. This revolt was in contradiction of rule of East India Company when they commenced exercising sovereign power on behalf of British government. The revolt turned out to be a catastrophe and British government conquered the soil again. The repercussion of this decisive revolt is that in 1877 Queen Victoria took the designation of Empress of India on the counsel of then Prime Minister Benjamin Disraeli. In August 1858, by the Government of India Act 1858, the company was officially dissolved and its ruling supremacies over India were conveyed to the British Crown.

Subsequently British government commenced to promulgate laws in India. Indian Penal Code as drafted by Macaulay in 1860 encompassed nix provision apropos sedition. The concept of sedition law was pioneered by Sir James Stephen in 1870 amending the Indian Penal Code to quell the opinion of Indians against the British government.

The post-independence India incorporated the Indian Penal Code as such along with provision of sedition law as defined in Section 124A:

*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,^{2***} the Government established by law in³[India],^{4***} shall be punished with⁵[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 fine. ^[1]*

CASES ON SEDITION LAW:

The principal case of sedition law in India was **Queen-Empress Vs. Jogendra Chunder Bose and Ors. On 25 August, 1891**. In this case British government enacted the act “Age of consent act, 1891” with the intention towards social reform reducing violence against of women from child marriage which was most familiar during those times. The act increased the age of consent under section 375 of IPC from 10 to 12 years. A vernacular by the name of *Bangobasi* was a weekly newspaper which had a hefty transmission in Bengal; its name meant “Citizen of Bengal”. On 26 March 1891, the newspaper published the first of five articles attacking the Age of Consent Act as being opposed to Hindu traditions and morality. Justice Petheram summarised the charge to the jury and He further elucidated that the “*words ‘disaffection’ and ‘disapprobation’ in Section 124A were not synonymous as contended by the defence. He was of the opinion that whenever the prefix ‘dis’ is added to a word, the word formed conveys an idea which would be the opposite of whatever would be conveyed by the word without the prefix. Therefore, he believed that disaffection meant a feeling contrary to affection which would amount to dislike or hatred. On the other hand, he believed that disapprobation meant mere disapproval*”. The retrial never took place because the accused issued an apology for the articles, due to which the prosecution was terminated.

The Queen-Empress Vs. Bal Gangadhar Tilak and Keshav Mahadev Bal (1897)

Two articles written by Tilak got published in Marathi weekly *Kesari*. A week after these articles, the British Plague Commissioner of Pune Walter Rand and his military escort Lieutenant Charles Ayerst were shot dead. Subsequently Tilak was arrested. Judge Sir Arthur Strachey’s interpretation on sedition helped to outline to which Tilak was to be charged with:

– *not only “having excited feelings of disaffection towards the Government established by law in British India”*

– *but also “having attempted to excite feelings of disaffection towards the Government established by law in British India”*.

In pre-independence period MK Gandhi, Tilak and Jawaharlal Nehru were also tried under sedition law.

Gandhi was tried under sedition law for first time in 1922 with imprisonment of six years even though he was released in two years of his arrest due to medical reason.

CONSTITUTIONAL VALIDITY OF SEDITION IN POST INDEPENDENCE INDIA:

Tara Singh Gopi Chand Vs. State, 1950

It is the first case in post- independence India challenging the constitutional validity of section 124A. Master Tara Singh was prosecuted under Section 124A and Section 153A, Penal Code and Section 54 (a), East Punjab Public Safety Act for two of his speeches one made in Karnal district and another at Ludhania. Punjab High Court declared both section 124A IPC and Section 54(a) of East Punjab Public Safety Act as unconstitutional and void as they infringe the fundamental rights guaranteed under constitution.

Soon afterwards Constitutional First Amendment was passed in 1951 with a major change stating that fundamental rights guaranteed under constitution can be reasonably restricted and hence claiming section 124A valid.

Kedar Nath Singh Vs State of Bihar, 1962^[2]

In this case the appellant was charged with sedition law and inciting public mischief. The appellant made speech criticizing Congress which was then the ruling party in India. His appeal in High Court was struck down. He further appealed to Supreme court arguing that sedition law is unconstitutional as it violates the fundamental right of freedom of speech and expression as provided under art 19(1)(a) of Indian Constitution.

Supreme Court bench constituted of Chief Justice B.P. Sinha and Justices A.K. Sarkar, J.R. Mudholkar, N. Rajagopala Ayyangar and S.K. Das held that fundamental right under art 19(1)(a) of Indian Constitution is subject to reasonable restriction. Sedition Law was held valid as it was reasonable restriction on the protection of public interest.

Balwant Singh Vs State of Punjab^[3]

Assistant in the office of DPI Punjab, Balwant Singh, was prosecuted under sedition law for raising slogan near Neelam Cinema moments after assassination of Smt Indira Gandhi. The following slogans were raised by him,

"1. Khalistan Zindabad

2. Raj Karega Khalsa, and

3. Hinduan Nun Punjab Chon Kadh Ke Chhadange, Hun Mauka Aya Hai Raj Kayam Karan Da."

The first slogan was raised five to six times, second one was raised three to four times and the last slogan was raised once or twice.

The Supreme Court held that raising slogan once or twice doesn't incite public against government and can't create hatred towards government and the charge of sedition law was not proved beyond reasonable doubt. So the accused was granted bail.

ARGUMENTS IN FAVOUR:

Sedition law helps to punish anti –nationals and remove terrorist rudiments.

Countries like United States, Canada, Hong Kong, etc. have included sedition to their domestic laws.

In a country like India where contempt of court is punishable offense why can't contempt of government be punishable.

Sedition law is used as a tool to protect elected government against people who upheaval the government.

Sedition law is used as a weapon to punish rebel groups against government and insurgency.

EXPLOITATION OF SEDITION:

Earlier during colonial period this section was introduced to curb the opposition towards British government.

Even the British who introduced sedition for India has repealed in their own domestic laws and they also averred sedition law did not endure in their common laws.

Sedition law execution in post-independence seems disturbing. The law is retained to punish anti nationals nevertheless it's used to arrest person showing dissent or criticism against government even criticism or questioning politician.

This section has been grossly misused and arrests are made even for raising voice against politicians. Even youths and teenagers are being arrested for raising their voice out through strike, etc.

The expression “disaffection” in section 124 A of Indian Penal code is vague and ample number of interpretation is possible.

Twenty First law Commission under the Chairmanship of former Supreme Court judge Balbir Singh Chauhan made a report questioning the use of sedition.

The requirement of sedition became unnecessary with Unlawful Activities {Prevention} Act, 1967 and National Security Act 1980 the objective of which is to prevent terrorist activity and maintain public peace and harmony.

CONCLUSION:

As said earlier the object of introducing sedition by British was to suppress our rights. It's been 151 years of the existence of this law and 75 years in post-independence India. I feel that now it's time to repeal the sedition law. The fundamental right of speech and expression is guaranteed under article 19 of Indian Constitution being violated by sedition. Though this freedom is not absolute and restrictions have been introduced by first amendment of constitution. The restriction “public order” which is often used as a ground in sedition is not distinct.

Both the National Security act 1980 and Unlawful Activities [Prevention] Act 1967 has no provision regarding sedition so sedition law cannot be repealed until such amendment to include essentials of sedition in the above stated acts.

I feel that sedition law can be amended to include explanation to the vague term “disaffection” found in section 124A IPC in order to reduce ample number of misinterpretation.

ENDNOTES

1. https://www.indiacode.nic.in/show-data?actid=AC_CEN_5_23_00037_186045_1523266765688§ionId=45863§ionno=124A&orderno=133
2. <https://indiankanoon.org/doc/111867/>
3. <https://indiankanoon.org/doc/123425906/>