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Sedition Law in India

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ABSTRACT

This paper explains the section 124A of sedition law in India. Section 124A of the India Penal Code defines sedition as , “Whoever, 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 fine may be added or with imprisonment which may extend up to three years, to which fine may be added or with fine. The act of sedition is non bailable and non compoundable offence and punishment for such an act ranges from imprisonment for three years to a lifetime, to which fine may be added is observed to be harsh compared to other offences in ipc. A person charged under this law can't apply for government job. They have to live without their passport and must present themselves in the court as and when required.

*It explains the things which are considered as sedition in India. The paper also explains the the significance of section 124A of sedition. This paper also how sedition can greivous for the country. This paper also explains why there is a need of sedition law and how this law is misused sometimes. . This paper also talks about the history of sedition law in India. Initially, section 124A was not a part of the original IPC and was only inducted in 1870 in chapter IV of the IPC which deals with offenses against the state. . it was was drafted by Thomas Babington Macaulay and included in IPC in 1870. 1891 The Bangobasicase as it came to be known as the first such case where a trail was conducted against a person under sedition law. The first person to be convicted under Section 124-A was Bal Gangadhar Tilak. He was charged with sedition before the Bombay High Court, in *Queen Empress vs Bal Gangadhar Tilak (1897)*.*

*This paper also talks about the landmark cases like *Kedar Nath Singh v. state of Bihar* which was the first case of sedition tried in the court of Independent India, where the constitutionality of this provision was challenged and the Supreme court clearly differentiated between disloyalty to the country's government and commenting on the measures of the government without inciting public disorder by acts of violence.*

Last but not the least we will also discuss that why we need section 124A in present time. Though this section cannot be scrapped because there is a need to retain the provision to effectively combat anti- national, secessionist and terrorist elements.

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I. INTRODUCTION

“Whoever, 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 fine may be added or with imprisonment which may extend up to three years, to which fine may be added or with fine. ” Section 124A was drafted by Thomas Babington Macaulay and included in IPC in 1870.

The act of sedition is non bailable and non compoundable offence and punishment for such an act ranges from imprisonment for three years to a lifetime, to which fine may be added is observed to be harsh compared to other offences in ipc. A person charged under this law can't apply for government job. They have to live without their passport and must present themselves in the court as and when required. According to section 124A comments which express strong disapproval of any action of the government without exciting or attempting to excite contempt, hatred or disaffection do not constitute an offence under this section.

It was not a part of IPC during 1860's and was even dropped from the law. it was later introduced in the year 1870. Comments expressing disapproval of the government with the view of obtaining a change of government by lawful means. Sedition in simple words means attempting by way of speech, publication or actions by targeting the sovereign, ministers, officers or judges by inciting hatred in mass, to encourage disaffection among the people.

Sedition, in simple words, is a crime in attempting by way of speech, action or publication targeting the Sovereign, ministers, officers or judges by inciting hatreds or contempt in mass, to encourage discontent among the State subjects, to even attempting to excite people to disrupt the Constitution and disturbing the peace of the Nation which is considered to be a high misdemeanour of where such information or an indictment will lie. No act shall be seditious unless its evil intentions are exposed over a considerable area. Seditious words in writing are known as Seditious libel. A person who does the act of sedition is known as a seditious.

II. HISTORY OF SEDITION IN INDIA

The history of sedition law is correlational with the history of the Indian freedom movement. In the aftermath of the 1857 revolt, the ruling powers over India was transferred to the British crown, which then leads to the first-ever attempt to codify criminal law in India. The Indian Penal Code came into existence in 1860, after the recommendations of the first law commission which was headed by Thomas Babington Macaulay. Initially, section 124A was

not a part of the original IPC and was only inducted in 1870 in chapter IV of the IPC which deals with offenses against the state. This evocation came in the context of the rising Wahhabi Movement which aimed to overthrow the British rule.

Through the law was introduced in the IPC in 1870 the first trial under it was conducted in 1891 The Bangobasicase as it came to be known as the first such case where a trial was conducted against a person under sedition law. The publisher of the journal was booked for sedition for an article that allegedly aroused 'disaffection' against the colonial state. The two words 'disaffection' and 'disapprobation', which forms the core of the section 124A, has been at the core of controversy over interpretation and application of this law.

The sedition law was used to withhold the voice of the Indian freedom movement during the colonial period by the all-powerful colonial state. So it was natural that those who had suffered under the law would undeniably call for its removal from IPC and any word related to sedition. But what happened was opposite. Two of the most prominent members of the Constituent Assembly, namely Sardar Vallabhbhai Patel and C. Rajgopalchari, wanted restrictions of seditious speech while others wanted total removal of any such restrictions. But even though the Constituent Assembly strongly debated on sedition and freedom of speech, the controversial section 124A of the IPC remains.

The first person to be convicted under Section 124-A was Bal Gangadhar Tilak. He was charged with sedition before the Bombay High Court, in *Queen Empress vs Bal Gangadhar Tilak* (1897). Justice Arthur Strachey delivered the charge to the jury in enormously broad terms. He said that sedition meant "the absence of affection", that it meant "hatred, enmity, dislike, hostility, contempt, and every form of ill will to the government". For Strachey, sedition also meant "every possible form of bad feeling to the government", and the "amount or intensity of the disaffection" was "absolutely immaterial". It was not necessary for the accused person to instigate "mutiny or rebellion, or any sort of actual disturbance, great or small" in order to be convicted. In other words, the pre-1832 English law of seditious libels now became the law of sedition in India. The IPC was amended in 1898, and Strachey's definition of sedition replaced Macaulay's in Section 124-A.

III. LANDMARK CASES

- **The Queen- Empress v. Bal Gangadhar Tilak 1897**

The most famous cases of sedition in history have been of our country's freedom fighters against colonial rule. Bal Gangadhar Tilak, dedicated advocate of India's freedom was charged with sedition on two occasions. The first in 1897 for speeches that reportedly

encouraged the violent behaviour of others, which resulted in the death of two British officers. He was sentenced and released on bail in 1898, and in 1909 prosecuted again for seditious writing in his newspaper Kesari.

In 1897 Section 124 (a) from the IPC was identified and applied. Incitement to violence and rebellion was irrelevant in the eyes of the presiding Privy Council in regards to the culpability of a person that's been charged with sedition.

- **Kedar Nath Singh v. State of Bihar 1962**

This was the first case of sedition tried in the court of Independent India, where the constitutionality of this provision was challenged and the Supreme court clearly differentiated between disloyalty to the country's government and commenting on the measures of the government without inciting public disorder by acts of violence. Kedar Nath Singh was a member of the Forward Communist Party in Bihar, he was charged for quite an utmost speech criticizing the ruling government of the time and calling for a revolution.

” The Supreme Court imposed a narrower scope of interpretation, holding only those matters that had the intention or tendency to incite public disorder or violence as legally seditious.

- **Dr. Binayak Sen v. State of Chhattisgarh 2007**

Dr. Binayak Sen was charged for sedition, for allegedly aiding naxalites, and sentenced to life imprisonment by the Session Court in Raipur. He was accused of helping insurgents, who were very active in the region at that time, by passing notes from a Maoist prisoner that was his patient to someone outside the jail. He denied all charges against him, Dr. Sen stated he was under the constant control of prison officials during his treatments so such an action cannot be possible. It was his criticism of the killings committed by a vigilante group that prompted his arrest and subsequent accusations, Dr. Sen stated to The Wall Street Journal. Salwa Judum, is the group he's referring to, designed and supported by the state government of Chhattisgarh to check the insurgency in the villages of indigenous tribes where it developed, according to them. But Dr. Sen, who's a human-rights activist apart from being a paediatrician, claims that the groups real job's is to clear village land that's rich in iron ore, bauxite and diamonds for it to be quarried.

His arrest also gained a lot of international attention, and the U. S. -based Global Health Council awarded Dr. Sen its 2008 Jonathan Mann Award for global health and human rights in recognition of his services to poor and indigenous communities in India. In May later that year, 22 Nobel laureates sent a letter to the Indian government condemning the imprison and asking that he must be released to receive the award in person. “We also wish to express

grave concern that Dr. Sen appears to be imprisoned solely for peacefully exercising his fundamental human right and that he is charged under two internal security laws that do not comport with international human rights standards,” they said in the letter.

- **Aseem Trivedi v. State of Maharashtra**

Controversial political cartoonist and activist, Aseem Trivedi, best known for his anti-corruption campaign. He was arrested on charges of sedition, in 2010. The complaint, filed by Amit Katarnayea who is a legal advisor for a Mumbai-based NGO, condemns Trivedi’s display of ‘insulting and derogatory’ sketches, that depicted the Parliament as a commode and the National Emblem in a negative manner having replaced the lions with rabid wolves, during an Anna Hazare protest against corruption, as well as posting them on social media sites.

As reported by India Today, members of India Against Corruption (IAC) claimed that the cases were imposed on Trivedi by the government, as government was angry with their anti-corruption campaign. Mayank Gandhi of the IAC said, “The case has been registered simply because Aseem have participated in the BKC protest organized by Anna Hazare and he raised his voice against corruption. So the government is trying to scramble his protest in this manner.” Trivedi’s case seriously questioned freedom of speech and expression in the country we a young man got arrested for mock evident corruption in the country. It is acceptable that some may find his cartoon offensive and in bad taste, but sentencing a person to life in prison for such act is too utmost.

- **Shreya Singhal v. Union of India**

This case is great in India’s jurisprudence as its judgement took down Section 66A of the IT Act, sought to be in violation of Article 19 (1) of the Constitution of India that guarantees the right to freedom of speech and expression to all citizens. A student of law Shreya Singhal filed a petition in 2012 seeking an amendment in the section 66A, triggered by the arrest of two young girls in Mumbai, for a post on Facebook.

What’s critical about this judgement is the court’s ruling that a person could not be tried for sedition unless their speech, however “unpopular,” offensive or inappropriate, had an established connection with any provocation to violence or disruption in public order. The Supreme Court distinguished between “advocacy” and “incitement”, stating that only the latter is punishable by law. The Supreme Court judgement came after three years of the petition’s filing in 2015, but Shreya did not get discouraged. “I did feel saddened in between but never lost hope. I was also hurt to see that despite the matter pending before the SC,

police continued to arrest people under section 66A of the IT act. What was heartening was that the arrests did not discourage people from posting comments, ” Shreya told Hindustan times.

IV. NEED OF SECTION 124A IN PRESENT TIME?

Mahatama Gandhi have called section 124A the price among the political sections of IPC designed to suppress the liberty of citizens. Jawaharlal said that the provision was obnoxious and highly objectionable and the sooner we get rid of it the better. In July 2019 Nityanand Rai minister of state for home affairs told the Rajya Sabha” that there is no proposal to remove the provision under IPC dealing with the offence of sedition. There is a need to keep the provision to effectively fight anti- national, secessionist and terrorist elements.

V. CONCLUSION

India is the largest democracy in the world and the right to speech and expression is essential ingredient of democracy. The expression that is not according to the policy of the government should not be considered as sedition. If the country is not open to criticism, there can be no difference between the pre- and post-Independence period. It is necessary to protect national integrity. We can see in many cases where people were protesting peacefully and they were booked for sedition. That should be stopped. The Government should give people the liberty to speak & criticize. The right to question, is fundamental to the idea of democracy. This section should not be misused as a tool to restraint free speech.
