Judicial Interpretation of Sedition under Section 124A IPC: From Colonial Control to Constitutional Scrutiny

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Abstract

The law of sedition, rooted in colonial-era legislation under section 124A of the Indian Penal Code, has been a subject of intense legal and constitutional scrutiny. This paper explores the judicial interpretation of sedition by Indian courts, particularly focusing on how the judiciary has sought to balance state interests with fundamental rights such as freedom of speech and expression under Article 19 (1) (a) of the Constitution. This interpretive framework has guided subsequent rulings, yet concerns remain over its misuse and ambiguity in the application. The study also examines recent judicial trends, including the evolving discourse on democratic dissent, national security and civil liberties. Through doctrinal analysis and case law review, the paper evaluates whether the current judicial stance effectively safeguards democratic principles while addressing legitimate threats to public order.

Key Words- IPC Section 124A, Article 19 (1) (a), Section 152 or 197 of BNS.

Introduction-

The interpretation of current legislation or laws is one of the judiciary's most significant responsibilities. The legal framework, which includes specific laws, statutes, the Constitution, and delegated legislation, establishes the limits within which the judges must operate when rendering justice in a legal dispute. In a democratic nation like India, numerous laws and rules make up the judicial system. By interpreting the guiding principles in these laws, the courts render justice in a legal case.

According to the Indian Penal Code of 1860, sedition is a serious offence that violates a nation's authority. Because it is a cognizable offence, police can arrest without a warrant and launch an

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investigation without a judge's approval. Sedition is a crime that criminalizes speech that is considered to be treacherous or threatening to the state. Expression of disaffection with, and distaste for, Government policies by the public is often labelled as seditious. However, many people are unaware of what exactly it is. So, the first issue is: what does the law mean when it refers to sedition?

Under BNS, it can be said that the crime of sedition has been provided under section 152 of BNS. Although the crime of sedition under section 124A of the IPC has been abolished in BNS, a new provision in section 152, to some extent, equal words, has been brought by MPs in Parliament. This considers armed rebellion or destructive behavior, or promotes separatist feelings that threaten the stability of the country. Prima facie, it seems that this provision has re-implemented section 124A of the IPC, although it is not clear which of the two is more rigid. It is noteworthy that under section 124A, life imprisonment or imprisonment up to 3 years can be imposed, in which penalty can also be added. However, BNS provides for either life imprisonment or seven years imprisonment and a compulsory penalty.

The purpose of this provision is to maintain national integrity and prevent instability. The legislature has targeted to curb those acts through these provisions that can fragment the country in view of the diversity of separatist movements in Indian history.

This paper tracks the development of the sedition law through various important cases in pre-independence, post-independence and the present scenario. The difference in interpretation of the sedition law by the Federal Court, Privy Council, Supreme Court and High Court is highlighted here. This paper attempts to exhibit the abuse of the sedition law in the independence era to curb nationalist movements by like Mahatma Gandhi and Bal Gangadhar Tilak. In the present time, it continues to haunt the media, intellectuals, ordinary citizens, human rights activists and political oppositions. Unsatisfied conviction of citizens for offences of sedition directly interferes with the fundamental liberty of a citizen to express their views freely.

The judiciary, while giving its guidance on the issue of sedition from time to time, has made it clear that every incident of dissent or criticism cannot be termed as sedition.

Sedition-related case that was decided in India before independence-

The Bangobasi Case1891[4]-

The Bangobasi Case of 1891, also known as the first trial for sedition, involved Queen Empress v. Jogendra Chander Bose and others and raised the issue of the boundaries of acceptable critique of the government's policies. The Bangobasi, a newspaper managed by Jogendra Chandra, cried out "religion in danger" in response to the age of consent bill's approval (1891), accused the government of brutally Europeanizing India, and blamed it for the economic

[4] ILR 19 Cal 35

hardship experienced by Indians. But it also claimed that neither Hindus believed in nor were capable of rebellion[5].

Was Bangobasi's criticism of the government too harsh? was the topic of discussion in this instance. The prosecution claimed that the goal was to incite the sentiment among the populace that "we would rebel if we could" and that their religious sentiments were so stirred up that public order was threatened. Défense lawyers claimed that only the "European and native method of thought" was being contrasted and that there was no mention of "rebellion" in the passage. The judge, however, thought that he tried to hold it up to the hatred and contempt of the people. In the interim, the accused apologized, and the case was dismissed. Contrary to earlier times, the official attitude in 1891 demonstrated a growing intolerance for even the most minor criticism of both British authority and non-essential policies. The judge's remark was noteworthy because it had to do with legislation that was passed following the Bal Gangadhar Tilak case[6].

Bal Gangadhar Tilak Case1897[7]-

This was the first instance where section 124A was explained and applied. Lawyer and well-known independence fighter Bal Gangadhar Tilak was accused of sedition in this case. Rand, an Indian civil service employee serving as Pune's pest commissioner, was the target of his criticism. Many people, including Tilak, thought that Rand's approaches to controlling the pandemic were terrible. Two British officers were killed as a result of the violence that was unleashed against the British as a result of his revolutionary speeches.

Incest, according to the judge, is when there is no affection. Therefore, it denotes "hatred, enmity, dislike, enmity, contempt". The court further ruled that no one should try to stir up such discontent. He should not, and should not attempt to, incite anyone to hostility toward the government. In light of this, the court found the freedom fighter guilty of the crime of sedition and gave him an 18-month rigorous jail term. He was eventually granted bail, though, in 1898.

Sedition Trial of Gandhi 1922-

Mahatma Gandhi was prosecuted for sedition in 1922 for writing a politically ‘sensitive’ article in a magazine called Young India. He was accused of writing an article that was about to create dissatisfaction against the British government and was sentenced to 6 years of imprisonment. Gandhi makes important references to the type of political trials that were going on at the time in his remarks to the court. "After conducting an objective analysis of the Punjab Martial Law cases, I concluded that at least 95% of the verdicts were completely incorrect. My knowledge of political cases in India causes me to believe that, nine times out of ten, the men who were sentenced to death were completely innocent. Their love for their nation served as their crime.[8].

[5] Donough, OP, CIT, PP 38-39
[6] Nationalism and Social Reform in (SC) Colonial Situation, By Arvind Ganachari.
[7] Queen Empress Vs Bal Gangadhar Tilak ILR (1898) 22 Bom 112
[8] Retrived from www. Harley.com/people/Mohandas-gandhi.html, Last visited on 15/12/2022

Sedition-Related Case in India Following Independence: -

A brief reading of section 124A highlights the infringement of the constitutional right of freedom of speech and expression by restricting the exercise of the right. It is pertinent to mention that the draft of the Constitution did not include sedition as a ground for restriction under Article 19(2).

The argument that Section 124A restricts our "freedom of speech" has occasionally been made in post-independence India. Many people have questioned its continued existence in independent India based on democratic principles and labelled it a tyrannical holdover from the colonial period. As a result, opponents have asserted that this section of the Indian Penal Code violates the Indian Constitution.

Kedar Nath Singh Case 1962[9]-

The appellant was accused of sedition in this case because of some statements he made. In his addresses, he referred to government officials and CID officers as "dogs" and "Congress goons," claiming that the electorate erred in electing them. He encouraged the crowd to overthrow the current administration and oust them just like the British did. He was found guilty of this under section 124A by a magistrate's court in the state of Bihar. His appeal was denied by the Patna High Court, and his sentence was upheld. His main argument was that, as stated in Article 19(2), the restrictions imposed by section 124A on one's "freedom of speech and expression" were outside the ambit of legislative power. Afterwards, he obtained special permission to appeal to the Supreme Court.

which expanded the list of prohibitions on "freedom of speech and expression" in 1951 by including public order. This means that any statement made by a person that might jeopardise the security of the State or the stability of the public order is unacceptable and is a crime against society. This is what sedition is. To prevent anyone from stirring hatred or disdain for the government and upsetting social order, sedition was constituted a crime, according to the court. It was made clear, nevertheless, that a citizen is free to express their disapproval of the government as long as it doesn't lead to instability or violence in the neighbourhood. It also backed the judgment in the Niharendu Dutt Majumdar v. King Emperor case from 1942, which was previously stated. As a result, justifications 2 and 3 are now included in section 124A.

Dr. Binayak Sen Vs State of Chhattisgarh[10]-

Dr. Binayak Sen exemplifies how the trial court and the High Court both consider the Supreme Court's remarks. Dr. Sen was accused of sedition in this case for regularly visiting an imprisoned Maoist rebel by the name of Narayn Sanyal. Sanyal's notes were allegedly

[9] Kedar Nath Singh Vs State of Bihar (1962) 2 Supp. S.C. R. 769
[10] Criminal Appeal No 20 of 2011 and Criminal Appeal No. 54 of 2011

distributed by Dr. Sen. The police claimed they had discovered Naxalite and Maoist-related materials from Dr. Sen's home during their inquiry.

Based on this, the trial judge convicted him of sedition in December 2010 and gave him a life sentence of solitary confinement. Dr. Sen attempted to obtain bail before the Chhattisgarh High Court but was unsuccessful.

In April 2011, the Supreme Court ultimately decided to give him bail and suspend his sentence. The Chhattisgarh High Court was hearing an appeal against Dr. Sen's conviction at the time, and the court saw that no case of sedition appeared to have been made out against Dr. Sen because sedition could not be established based solely on meeting someone or owning books of a particular ideology.

S. G. Vombatkere Vs Union of India[11]-

The Supreme Court of India issued an exceptional ruling in the S.G. Vombatkere case that suspended the application of the contentious Section 124A of the Indian Penal Code, 1860. The Supreme Court decided to halt all ongoing trials, appeals, and actions related to Section 124A in response to a wave of petitions that questioned the validity of the clause. A victim may approach the relevant courts to seek a remedy if the Supreme Court does not prohibit the police from registering any new First Information Reports (FIRs). The Supreme Court made it clear that its rulings would remain in effect until no additional directives were issued in this regard. A highly anticipated decision was made by the Supreme Court on May 11, 2022. A three-judge panel had deferred the proceedings under section 124A and issued an interim order.

The Supreme Court of India has issued a directive regarding Section 124A.

- The temporary order will be in effect until additional orders, according to the initial instruction.
- The Central and State Governments have been ordered by the Supreme Court to cease filing new police reports, carrying on with their investigations, and using Section 124a coercive measures while the review is ongoing.
- The impacted person may approach the court and request redress if a new case is filed for the offence of sedition. Based on the recently issued order, as well as the choice made by the Union of India, it has ordered the lower courts have been ordered to consider the relief requested.
- All pending lawsuits, appeals, and legal actions involving section 124A must be suspended. If the court determines that the accused won't be negatively impacted, other sections may continue to be decided.
- To avoid its misuse and abuse, the court has ordered the federal government to encourage all State governments and Union Territories to refrain from registering new cases under Section 124A.

[11] Writ Petition (Civil) No. 128 of 2019

- These directives will stay in effect while the situation is still being investigated.
- When issuing the order, the then Chief Justice of India stated that those who have already been detained and booked under section 124A may seek redress from the appropriate courts.

The Rajasthan High Court ordered the state police to end their investigation into the charge brought against Aman Chopra under section 124A of the Indian Penal Code, 1860, in the matter of Aman Chopra v. State of Rajasthan (2022). On the same day that the Supreme Court issued an interim order halting the preceding section, the court issued these instructions.

Tejendar Pal Singh Vs Rajasthan State and others[12]-

"It has to be kept in mind that this provision is used as a shield for national security and as a sword against valid immigration." Justice Arun Monga

A bench of Justice Arun Monga said that section 152 of BNS should not be used to disrupt valid immersion, and only the action taken intentionally with malicious intent will come under the purview of this provision.

The court said that the provision under section 152 of the BNS should be read and interpreted in such a way that it requires the status of criminal mind, that is, work should be done intentionally. Law limiting expression should be specific and only should be implemented when there is a clear and immediate danger of rebellion or secession, just expressing immersion or criticism is not the same as sedition or anti-national activity. these laws should be interpreted following the right to freedom of constitutional expression, and it should be ensured that they protect democratic freedom and do not suppress legitimate expression. This provision should be explained with the rights of freedom of constitutional expression to ensure that it does not violate democratic freedom.

The court further stated that both provisions should be strictly interpreted by section 152 and section 197of BNS, and the provisions should be balanced with constitutional rights or freedom of speech and freedom under Article 19 (1) (A) of the Constitution of India, Article 1950 (COI). Thus, there should be a direct connection between the accused acts and the possibility of inconvenience or hatred to attract these crimes. Based on the current facts, the court found that the statements in the Punjabi language may seem objectionable due to the expression and direct nature of the Punjabi language, but there was no malicious intention or evidence of inciting unrest or violence in the petitioner's videos. The court came to the conclusion that the video gave a message of equality among the citizens of India, and no attempt has been made to incite rebellion, separatism, or to endanger India's sovereignty, due to which the FIR was cancelled, as there was no crime under section 1520or 197 of BNS.

[12] [2024: RJ-JD:14186] (2 of 3) [CRLMB-9655/2023].

Constitutional Provisions

Despite being passed during the colonial era, the Indian Penal Code, 1860's Section 124A still defines sedition as a crime under the country's constitution. The fundamental rights outlined in Part III of the Indian Constitution, especially the right to freedom of speech and expression protected by Article 19(1)(a), must be taken into consideration when evaluating the constitutionality of sedition. The Constitution places restrictions on the use of criminal laws like Section 124A in an effort to strike a balance between the interests of the state and individual liberty.

All citizens are guaranteed the freedom of speech and expression under Article 19(1)(a), which is the cornerstone of democratic governance. This right is not unqualified, though. In order to protect India's sovereignty and integrity, the State's security, public order, decency or morality, or in connection with contempt of court, defamation, or incitement to an offense, the State may place "reasonable restrictions" on this freedom under Article 19(2). The judiciary has attempted to justify sedition under the purview of "public order" and "security of the State."[13]

Prominent liberation fighters like Mahatma Gandhi and Bal Gangadhar Tilak were prosecuted under Section 124A, which was used as a tactic to stifle nationalist views during the colonial era. Following independence, judges examined whether this colonial provision was compatible with constitutional liberties. The Supreme Court set a high bar for state interference in Romesh Thappar v. State of Madras (1950), emphasizing that speech limitations must have a direct connection to public order.[14]

In Kedar Nath Singh v. State of Bihar (1962), the constitutionality of Section 124A was ultimately maintained, albeit with a restrictive interpretation. According to the Supreme Court, sedition would only apply to actions that have the potential to cause chaos, disrupt law and order, or encourage violence. It was decided that simple criticism of the government, regardless of how harsh or disagreeable, qualified as constitutionally protected speech.[15] By harmonizing Section 124A with Articles 19(1)(a) and 19(2), this interpretation aimed to stop its abuse against democratic dissent.

This narrow understanding has been strengthened by later constitutional jurisprudence. The Court reaffirmed in Balwant Singh v. State of Punjab (1995) that non-violent remarks or slogans cannot be considered sedition. More recently, the Supreme Court reiterated in Vinod Dua v. Union of India (2021) that all prosecutions under Section 124A must adhere to the guidelines established in Kedar Nath Singh. These rulings highlight the judiciary's responsibility to protect constitutional liberties from executive overreach.

[13] Constitution of India, Article 19(1)(a) and Article 19(2).
[14] *Romesh Thappar v. State of Madras*, AIR 1950 SC 124.
[15] *Kedar Nath Singh v. State of Bihar*, AIR 1962 SC 955.

Therefore, sedition continues to exist under the constitution as a specific prohibition meant to shield the State from violent subversion rather than as a means of stifling dissent. In order to preserve democratic dissent within the confines of the constitution, judicial interpretation has evolved from colonial control to constitutional scrutiny.

CONCLUDING OBSERVATIONS-

Sedition in violation of Article 19 is a serious crime, so sedition laws must contain words that satisfy the restrictions of Article 19(2). The sedition of restricting under the sedition Act is to protect national security. Sedition laws should be interpreted and implemented according to the guidelines given by the Supreme Court. Sedition is, without a doubt, a contentious idea. It must be balanced delicately with our right to free speech and expression. It should never be tolerated for a person to promote unwarranted racial or ethnic animosity or other forms of violence against the government. The right to freely express one's opinions about the government should have been guaranteed to every citizen. People have referred to the current law as severe since there is occasionally a discrepancy between the interpretation set forth by Indian courts and the actual enforcement of this law. Perhaps it is time to think about changing this rule in a time when people are more conscious of their rights and freedoms and have a greater sense of obligation to uphold this democratic system.

The expression used in Article 19(2) is in the interest of public order and not in the interest of the Government. Neither do they need to be always the same. They may be different. There may also have been instances of conflict between the two; the history of the origin and development of the law of sedition suggests that the disputed law may have been in the interest of public order at a time when the country was under foreign rule. However, this is no longer the case with the emergence of our country as an independent sovereign nation. India is increasingly being described as an elected autocratic state, mainly because of the draconian and calculated use of the sedition law. The word ‘Sedition’ is very sensitive and needs to be applied with caution. Mere improvement in this provision will not lead to any major change at the ground level. It can also be said that in the absence of institutional reforms, merely improving the wording of section 124A will not bring much change in the status quo. To deal with this, awareness about the amended clauses has to be increased among the citizens, law enforcement agencies and the executive, as well as in the lower courts. Along with reforms, it is also necessary to adopt advocacy measures to educate various sections of society regarding the scope of this provision. The abolition or amendment of the law on sedition can have a positive impact on the future of dissent and free expression in the country. Changes in the law will determine, to a large extent, whether any citizen of the country will feel safe to express their views against the government or not. It should be expected that through the changes that will come, it will be possible to protect the freedom of expression of the citizens and the right to dissent or protest, keeping in mind the national security interests.

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