

DE JURE NEXUS LAW JOURNAL

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IN DEPTH STUDY OF THE SEDITION LAW IN INDIA**INTRODUCTION**

Sedition remains as the most uncommon crime of the country in comparison to the rates of other offensive crimes. The data shows that the cases of Sedition have been 0.01%. But in India only, there had been a few hotspot States which were seen in between 2014-18 which shows that there were 32% cases of Sedition in Assam and Jharkhand. In January 2019 itself, there were more than 3000 cases of Sedition, when people were raising their voice against the CAA and more than 3300 farmers were charged with the Sedition laws who were protesting for the land disputes. In March 2020, in a district of Karnataka a man was charged with the sedition laws as he was chanting pro-Pakistan slogans.

Although, according to the data issued by the NCRB since 2016 the cases of Sedition are rising every year, but only very few cases have been charged with the conviction of Sedition Law Section 124A, because in India, there is no solid ground which lays down any principle for this law as there is a Fundamental right of the 'Right to Speech and Expression' under Article 19 (1) (a) of the Indian Constitution,' which is used as a ground of defense.

ORIGIN OF THE SEDITION LAW

The revolt of 1857 was turned against the British. The movement was led by Syed Ahmed Bareilvi and was active till 1830 and later British convicted Wahabis as traitors and rebels and carried out comprehensive military operations against the Wahabis and their movement was fully suppressed after 1870 and that was the beginning of the Sedition law. Sedition law was originally drafted by the British colonial ruler Thomas Macaulay, who drafted the Macaulay's Draft Penal Code 1837-39 under Section 113 in the 17th Century, because the British used to punish the freedom fighters and also the people who used to speak against the State and tried to overthrow them, but with the enactment of the Indian Penal Code, 1860 Sedition Law was omitted.

Soon in 1870, Section 124A was drafted in the constitution with an amendment made by Sir James Stephen, as he and then the law member of the Government of India felt it as an important part of the constitution; and they felt the need to add this section as an offence. And Section 153A talks about "promoting or attempting to promote communal disharmony."

Some theories say that this act was omitted 'by mistakenly' by the British and they felt the need to add this law back as they wanted to create a control over the public and the press who spoke and wrote against them and in the same way used to punish them.

INDIAN TRIAL SEDITION MOMENT DURING THE BRITISH

ERA:

1) In Calcutta High Court, 1891 – *Queen Express V Jogendra Chunder Bose* – Bose was an editor in the Bangobasi newspaper and he wrote criticized the 'Age of Consent Bill' because it was posing threat to religion and its coercive relationship with Indians.

2) Annie Besant v/s Advocate General of Madras - This case dealt with Section 4(1) of the Indian Press Act, 1910, but by the British it was encircled like Section 124A. Annie Besant wrote against the British administration and it was stated any press or newspaper, who tried to publish anything against the Government would be liable to have its deposit forfeited and hence The Privy Council ordered to seize the deposit of Annie Besant's printing press.

3) The Seditious Trial of 1922 – The Queen v/s Bal Gangadhar Tilak - It was claimed by the government that some of his speeches that addressed to Shivaji killing Afzal Khan has instigated the murder of the Plague Commission Rand and other British officer, Lieutenant Ayherst and therefore, Tikal was charged with the Seditious law with 6 years of rigorous detainment with transportation.

4) The trial of Mahatama Gandhi along with Shankerlal Banker in 1922 – Gandhi along with the proprietor of Young India, Shankerlal Banker was charged with sedition for three articles published in the weekly. They were charged for writing 3 articles in the Young India weekly, namely – 'Tampering with Loyalty,' 'The Puzzle and its Solution' and 'Shaking the Manes.'

SECTION 124A OF INDIAN PENAL CODE:

“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, 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 to three years, to which fine may be added, or with fine,”

Explanation:

1) 'Disaffection' includes – disloyalty and all feelings of enmity.

2)Comments 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.

3)Comments expressing disapprobation of the administration or other action of the Government without exciting or attempting to excite hatred, contempt or disaffection, do not constitute an offence under this section.

PUNISHMENT UNDER THE SECTION:

- Sedition is a non-bailable offence.
- Punishment starts from imprisonment upto 3 years to life term and may also include fine.
- The person under this offence cannot apply for Government jobs.
- The person has to surrender his passport and will have to be present whenever asked by the Court of Honor.

Till date, there are numerous arguments in favour and against the Sedition law in India. Some of the arguments in favour and against are as follows:

ARGUMENTS IN FAVOUR OF SEDITION LAWS

- It has utility in combating anti-national, secessionist and terrorist elements in the society.
- For the stability of the State, it is an important law, because people might overthrow the Government with their aggression and violence. So, this law protects the established the established government.
- Contempt of Government should also be a law in the same was as there is law for the Contempt of Court.
- Every person has the right to question, raise voice and do debates to its government.

ARGUMENTS AGAINST THE SEDITION LAWS

- This is colonial rule and should not be accepted in a democratic country.
- This law was established by the British rulers and in today's date, Britishers have already abolished this law, so it can be abolished in India too.
- In democracy, right to debate, criticism, question the government and changing the leader are an essential part of the Opposition Party.
- This law violated the Fundamental Right of 'Right to Freedom of Speech and Expression.'

It was rightly mentioned by the Hon'ble Supreme Court of India that, "Sedition should be against the State and not against the Government," which means that a common man can criticize the Political Leader of the Nation, they can criticize the Government in power or they can criticize the opposition political party - that would not amount to an offence, but when it comes to the Constitution of the Country or the Integrity of the Nation, then it amounts to the serious offences of Sedition. It should also be noted that a 'hate speech' between 2 or more communities is something different from Sedition. Hate speech is not provoking people to protest and abuse the State, hate speech is provoking people to fight and have conflicts amongst the people of different communities.

It was also mentioned by the Court of Honor that, when Sedition is used to lower the voice of an ordinary citizen, who is raising his/her voice in grievance, then it is called as 'Terrorism by the State,' and Sedition law should not be misused in any form and all the respective authorities in charge, should take care that there should not be any sort of violation of any Human Right of the person.

In 2015, in the Bombay High Court (Maharashtra), a circular was laid down during the hearing of a PIL after a cartoonist was held with the charges of Sedition that laid down 3 preconditions to the Maharashtra Police personnel before invoking Sedition Law Section 124A and hence the Sedition charges were dropped out by the Police. The preconditions were as follows:

- 1) Bring the government into hatred or contempt or
- 2) Cause or attempt to cause disaffection, enmity or disloyalty to the government.
- 3) Inciting violence or tend to create public disorder or a reasonable apprehension of public disorder.
- 4) Hence, the abovementioned conditions should be fulfilled by the district law officer (just to ensure that these conditions are fulfilled properly and the section is used arbitrarily.)

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LEGAL REGIME:

The Hon'ble Supreme Court of India has heard many cases in regard to the Sedition Law during the 1950s and the major highlights of 2 of the cases were:

- “A law which restricted speech on the ground that it would disturb public order was unconstitutional.”
- “Disturbing the public order will mean nothing less than endangering the foundation of the State or threatening its overthrow.”
- These decisions were computed by the 1st Constitutional Amendment and were amended to “in the interest of public order” in place of “undermining the security of the State.”
- However, comments of criticizing and changing the established government with lawful means were not sedition.

- The cases which highlighted these points were as follows:

1) *Brij Bhushan v/s The State of Delhi*

2) *Romesh Thappar v/s the State of Madras*

- In the case of *Kedarnath Singh v/s The State of Bihar* in 1962, it was applied that – “Often the speech complained about does not result in any incitement to violence whatsoever.” Every citizen has the right to express himself/herself against the Government.
- In 1995, there was a famous case of *Balwant Singh v/s The State of Punjab*, which highlighted the point that – if the slogans of the person do not provoke the public response and then it would not amount to Sedition. Because sedition is all about evoking public to rebel against the State and if there is no response from the public, then sedition that act is not counted as Sedition.

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CONCLUSION

India is the largest democracy of the world and the ‘Right to Freedom of Speech and Expression’ is a fundamental right given to every citizen of the country to express his/her emotions. There have been numerous debates in favour and against the Sedition Law in India, one should also keep in mind

that even though every person has the right to freedom of speech and expression, but there are certain restrictions too for the same (these restrictions are mentioned under 19 (2) of the Indian Constitution); one cannot harm the integrity of the country by saying anything in the name of freedom of speech and expression.

The Law Commission has rightly said that – ‘An expression of frustration over the state of affairs cannot be treated as sedition,’ but there should not be any harm to the integrity of the nation and it is the duty of every citizen to protect the integrity of the country.

Although the chances of conviction in Sedition is at a low rarity, but it should be kept in mind that the opposition should not use this as weapon of destruction against the present established government. However, there are many cases reporting that – Sedition has been used to suppress their voice and expression, which was rising in favour of the marginalized groups and communities. It should also be kept in mind that, sedition should not be used as a tool to misuse the curb of freedom of speech and expression.

At least, it should be noted that, it's high time now and the legislature should come up with something different by narrowing down the definition of Sedition which would just include the issue which rises against the indignity of the country.