

AN ANALYSIS OF THE CONSTITUTIONALITY OF LAW OF SEDITION

by

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1. ABSTRACT

"The controversy over this law ... it is a colonial law, it had to suppress the struggle for freedom, the same law was used by the British to silence Mahatma Gandhi, Tilak etc., said the Chief Justice NV Ramana. Section 124A was made as a draconian law because of the wide interpretation of this section and the punishments. In 2021, a step towards the re-examination of sedition law was taken by the Supreme Court through three decisions. The first step is through M/s Aamoda Broadcasting Company Pvt. Ltd. & Anr.v. The State of Andhra Pradesh & Ors on 31st May 2021 where the Supreme Court noted that the limits of the Indian sedition law need to be defined. The second step is through Vinod Dua v. Union of India, on 3rd June 2021 where the Supreme Court quashed an FIR lodged against veteran journalist Vinod Dua for posting alleged comments in YouTube against Prime Minister placing reliance on the Kedar Nath case. The third step in Kishorechandra Wangkhemcha and Anr v. The Union of India, on 7th July 2021 the Supreme Court accepted to re-examine the Constitutionality of Indian sedition law. This paper mainly focuses on analysing the Indian sedition law in a crucial manner and also on creating awareness on the violation of fundamental rights.

Keywords: Colonial law, Draconian law, Sedition, Constitutionality, Fundamental rights.

2. INTRODUCTION

Section 124A has been described by Mahatma Gandhi as “a prince among the political factions of the IPC designed to suppress civil liberties”. Sedition can be generally defined as an offence against public tranquillity and being connected with public order in one way or another. Sedition is a criminal offence under section 124A of the Indian penal code. In terms of section 124A, sedition may be termed as any spoken or written words, or by signs, or by visual representations, which may bring or attempt to incite hatred, contempt or incitement to any dissent in the established government by law. Under section 124A, sedition is phrased in such a manner that it appears so wide that it would douse any attempt that criticizes the functioning of the Indian government. This is the reason behind the draconian nature of the Indian Sedition law. By dealing with both case law and the data, regarding the rampant misuse of section 124A through kaleidoscopic analysis, which actually provides for the offence of sedition as well as placing under scrutiny and questioning the decision of the apex court in the landmark judgement of Kedar Nath Singh, through which the scope and the ambit of the offence of sedition was laid down and it is actually a high time to analyse the constitutionality of the Indian Sedition law.

3. HISTORY AND BACKGROUND OF SEDITION LAW

Sedition law was originally enacted in 1837 by Thomas Macaulay but that was inexplicably omitted when IPC came into force in 1860. Section 124A was introduced by Sir James Stephen and it was inserted in 1870 by an amendment. One of the major conflicts in judicial interpretation is the history of the offence of sedition in IPC. A number of historic cases were decided by the Federal Court and the Privy Council on sedition before independence. Positions that are strongly opposed to the definition and scope of sedition law as a criminal offense have been taken by these higher judicial bodies. On the other hand, the Federal court in the case of Niharendu Dutt Majumdar Vs. The Emperor¹ had observed that public disturbances or potential human rights abuses are high. The judges felt that the uprising involved some form of resistance or disorder. In all of these cases, one point is clear that, “If there is no incitement to violence, then there is no sedition”. On another hand Privy Council through the case of Queen Empress vs. Bal Gangadhar Tilak² said that, when the guilt of a person accused of a seditious offence is pending, acts such as incitement to violence and

¹ AIR 1939 Cal 703.

² (1917) 19 BOMLR 211.

insurgency are not relevant. It should also be noted that since the IPC defines a crime as sedition, unlike English law, which does not define sedition, only this definition should be followed. Through the case of *King Emperor Vs. Sadashiv Narayan Bhalareo*³, the Privy Council held the Federal court's decision in Niharendru case as wrong. The federal court's decision was overruled by Privy Council and held excitement of feelings of enmity to the government is sufficient enough to make a person guilty under sec 124A of the code.

Let us now examine the Independent India coup dictatorship made by Apex Court. The magnitude of the uprising was first explained by the constitutional bench of the Supreme Court in the case of Kedar Nath vs. State of Bihar. Interestingly, the decision of the federal court was upheld by the high court, which is the backbone of a "sedition" case. So just like the Apex court only when there is a mobilization of violence, there is sedition.

Let us now have an eye on the background behind this paper.-

Public interest litigation filed by some lawyers challenging the constitutionality of section 124A was dismissed by the three-judge bench of the Supreme Court headed by then Chief justice S.A Bobde on February 9th, 2021. Another petition dated April 30, 2021, filed by two journalists working in Manipur and Chhattisgarh provinces, who are also victims of sedition, also challenged the legitimacy of Section 124A was issued by a three-judge panel of the Apex Court. Then, the Supreme Court on 31st May 2021, stayed coercive action against TV news channels TV5 and ABN in a sedition case filed by the Andhra Pradesh police against those channels through another three-judge division bench. Again, on 3rd June 2021 through Vinod Dua case, the Supreme Court reaffirmed the Kedarnath's decision and was asked the government to follow that. Then on July 7th, 2021 the Supreme Court accepted to re-examine the constitutionality of Indian Sedition laws. This paper will also focus on the constitutionality of Indian Sedition laws and will suggest whether the sedition law is constitutional or unconstitutional.

4. LEGAL PROVISIONS

SECTION 124A OF INDIAN PENAL CODE, 1860 – SEDITION

Whoever, by words, either spoken or written, or by signs, or by any visible representation, or otherwise, attempts to bring into hatred or contempt or excites or attempts to excite

³ (1944) 46 BOMLR 459.

disaffection towards the government that is established by law in India, shall be punished with imprisonment for life, to which fine, may be added or with imprisonment that may extend up to three years, to which fine may be added, or with fine.

Explanation 1: “Disaffection” means disloyalty and all feelings of enmity

Explanation 2: Comments expressing disapprobation of the measures of the Government only to obtain their alteration by lawful means, without exciting, disaffection, do not constitute an offence under this section

Explanation 3: Under this section, comments expressing disapprobation of them, administrative or other action without exciting do not constitute an offence.

SECTION 505 OF INDIAN PENAL CODE, 1860 – STATEMENTS CONDUCTING TO PUBLIC MISCHIEF

- (1) Whoever makes, publishes, or circulates any statement or report,
 - (a) With intent to cause any officer, soldier in the Army to mutiny
 - (b) With an intent to cause, fear to the public where any person may be induced to commit an offence
 - (c) With intent to incite any class or community

Shall be punished with imprisonment up to three years or fine or both

- (1) Statements creating or promoting enmity, hatred or ill-will between classes shall be punished with imprisonment up to three years or fine or both
- (2) Offence under sub-section (2) committed in place of worship, shall be punished with imprisonment up to five years and also with fine.

Exception: It does not amount to offence, within this section that has reasonable grounds and with good faith without any such intent as aforesaid.

ARTICLE 19 OF THE INDIAN CONSTITUTION, 1949

- (1) All citizens shall have the right
 - (a) To freedom of speech;

- (b) To assemble peaceably and without arms;
- (c) To form associations or unions;
- (d) To move freely throughout the territory of India;
- (e) To reside and settle in any part of the territory of India; and
- (f) Omitted by the 44th Amendment Act
- (g) To practice any profession, or to carry on any occupation, trade or business

(2) This clause permits the government to impose reasonable restrictions in sub clause (a) of clause (1) in the interests of sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality, or in any relation to contempt of court, defamation or incitement to an offence.

5. THREAT TO FUNDAMENTAL RIGHTS

One will have to look into the several threats that the sedition law is posing into the Indian Constitution and the democracy of the country to analyse the constitutionality of it. Article 19(1) (a), which guarantees the freedom of speech and expression is the first and the foremost thing that is getting infringed because of sedition laws. There are some reasonable restrictions that are mentioned under Article (19) (2) and those restrictions must be justified on the anvil of necessity and any limitation on the exercise of right beyond the restrictions that were enlisted under Article 19(2) would not be valid. When a state attempts to restrict freedom of expression, it is very important to keep in mind that the “harm principle” will apply, which means that the state should put certain kinds of restrictions for the speech that must do some sort of harm to the state, and the harm must be of an intensity that poses a threat to the very existence of the society and which disrupts the public order. Section 124A can be widely interpreted to curb the freedom of speech that was guaranteed to people and on the other hand, it is vague in nature’s can be said that Section 124A does not fall within the ambit of the exceptions that is mentioned under section 19(2), so it is a clear violation of Article 19(1) (a) as it is a not a proportionate restriction on freedom of expression.

The second thing is to test the constitutionality of any provision, the over breadth test has to be applied. It would lead to problems in the interpretation of the provision in the statute if a provision’s ambiguity leads to an expansive breadth. Considering how it encompasses all

forms of expression that is words, either spoken or written, signs, visible representation, or otherwise, Section 124A can be widely interpreted. This section doesn't give a clear outlook regarding the elements that are essential to constitute an offence called sedition and therefore throwing this section to the misuse through subjective interpretation. The main reason behind the shift of sedition law into draconian sedition law is its vagueness and wide interpretation.

6. CONFLICT BETWEEN EXPRESSIONS AGAINST GOVERNMENT AND REPERCUSSIONS ON PUBLIC ORDER

Presently, there are various cases where the sedition law and freedom of expression counter each other resulting in public disorder. Citizens are prevented from expressing their views against the government in case of power, Judiciary, executive etc., in the name of the Law of sedition. The court introduced the concept of 'Incitement to violence against Government' in Kedarnath's case. This incitement to violence against the government can only be subjected to a clear judicial test but cannot be protected as free speech. The American free speech test laid down in 1969, in the case of *Brandenburg v. Ohio*⁴ which says that expressions can be penalised only when there is incitement to imminent lawless action and has been adopted by the Supreme Court of India in Indra Das case in 2011⁵ and Shreya Singhal case in 2015⁶. The court should establish the relationship between expressions against the government and their repercussions on public order and security to uphold the constitutional nature of section 124A. The idea of abolition of the offence of sedition is posed against a lacuna in the law which would allow the expressions against the government to be covered under protected speech. The demand to criminalise the sedition law can protect the expressions against the government.

Under Article 19(2) of the Constitution, reasonable restrictions can be imposed on the exercise of rights for certain purposes in order to protect the public order, Decency & morality and Sovereignty & integrity of the country, incitement to violence etc. So, article 19 is not absolute and it is subjected to reasonable restrictions. In *Bennet and Coleman & Co. v. Union of India*⁷ and in the case of *Indian Express Newspapers (Bombay) p, Ltd v. Union of India*⁸ the court held that the right to freedom of speech cannot be taken away in any manner

⁴ 395 U.S 444 (1969).

⁵ Indra Das v. State of Assam, (2011) 3 SCC 380.

⁶ Shreya Singhal vs U.O.I AIR 2015 SC 1523.

⁷ (1973) AIR 106.

⁸ (1986) AIR 515.

with the object of placing restrictions on business activities of citizens. However, the restriction on Article 19(1) (a) not falling within the ambit of Article 19(2) is not valid. Such a restriction on free speech is necessary for promoting and ensuring the safety and integrity of the country. This strikes the correct balance between the expression against government and the interest of public order.

“Disloyalty to the Government that is established by law is not the same as commenting in strong words upon the actions or measures of Government”, if those acts are lawful and does not incite any violence that disrupts the public order and do not create the feeling of enmity. Thus, expression against the government should not in any way affect the public order. The misuse of the law of sedition and freedom of expression on each other would furthermore be analysed in this research paper.

7. ANALYSIS OF KEDARNATH SINGH CASE

7.1. FACTS OF THE CASE

Kedar Nath, also known as KN Singh among his prominent people, was a member of the Forward Bloc of the Communist Party. He was from the Barauni Flag village in Begusarai district in Bihar. He was an uprising leader who took a major part in the freedom movement and started his political journey in the mid 1940's with Forward Bloc and after that he joined with Forward communist party which actually evolved in 1948 after a split and he went to jail several times. Kedar Nath in this case was held convicted because of his speech that incited Sedition and public mischief. He had spoken criticised words against the ruling party Congress for its capitalist policies. And he also spoke and advocated for the Forward communist party. He later appealed before the High Court of Judicature at Patna. And that was later struck down. He again raised an appeal before the apex court wherein he stated that the Indian penal code provision on sedition is violating the fundamental right that was guaranteed under Article 19(1) (a) of the constitution. Then the case was merged with several other issues and gets transferred to Constitutional Bench. The appeals of the merged issues are.-

- In Uttar Pradesh, at All India Muslim conference, there were similar speeches and similar arrests were made for that.
- At a meeting of Bolshevik party, there were similar speeches and the arrests for that.

- Attempt to create an army to overthrow the state was made in a village in Uttar Pradesh and the speech over there were received several convictions.

Through these appeals, the apex court was asked to determine the constitutional validity of those offences that incites sedition and public mischief.

7.2. ISSUES OF THE CASE

- Whether the provisions, Section 124A of IPC and Section 505 of IPC are ultra vires with regard to Article 19(1) (a) that should be read with article 19(2) of the Indian Constitution?
- Whether the intention or ability to create disorder or disturbance of law and order or incitement to violence is essential to constitute the offence of sedition?

7.3. OVERVIEW OF DECISION

A bench comprising Chief Justice B.P Sinha and Justices A.K Sarkar, J.R Mudholkar, N. Rajagopala Ayyangar, and S.K Das pronounced the judgement of this case. The court started by affirming that the stated provisions are definitely a restriction on the right to freedom of speech and expression that was guaranteed under Article 19(1) (a) of the constitution. The court's major task is to determine whether these provisions are protected under the exceptions that were mentioned under Article 19(2) of the constitution mainly under the category of public under. If so, the stated provisions are constitutionally valid. The court explained the phrase that was mentioned under Section 124A of IPC that is "Government established by law" and stated that it should be distinguished from criticism of a particular subject or people. The court specified that this interpretation actually derived the support from the heading of the Chapter in IPC that is "Offences against the state". Further the court considered that the statement that fall under Section 124A of IPC would disturb public order, because the state machinery is important in maintaining peace and stability. The court finally held that the offence of sedition is a constitutionally valid restriction to the freedom of speech and expression because the offence of sedition can be constituted only when the words spoken or written have the tendency or intention to create public disorder or disturbing the public peace by resorting to violence and the state can restrict the speech which is for the interest of protecting public order. Then the court attempts to clear the ambiguity in the provision by stating that if a particular speech merely spreads disaffection or enmity without inciting a violent throw on the government, then it can't be constituted as sedition and if the provision

was interpreted in this way, it would be unconstitutional and would not obtain protection against restriction of public order. Interpreting thus, article 124A of the CPI should be interpreted only to sanction comments inciting public disorder, the judge finally held Section 124A of IPC as constitutionally valid and in the same way Section 505 of IPC was also held as constitutionally valid because that was also a reasonable restriction on the freedom of speech and expression and that is also essential for protecting public order.

7.4. OUR OPINION ON THIS CASE

Kedar Nath Judgement would at least mention that violence should be directed against the state in the sedition cases. But the result of Kedar Nath judgement hadn't been decided in such a manner. In this judgement they had brought this sedition under the public order that is an exception that was mentioned under Article 19(2). thereby they completely neglected to look into the history of this draconian law and the constitutional debates which led to the omission of the word sedition from Article 19(2). Kedar Nath judgement by ignoring its direct and disproportionate aftermath on the freedom of speech and expression, wrongly justified the sedition on the ground of law and order. There is another essential aspect of the misuse of sedition law that is they were governed by the Code of Criminal Procedure of 1898 when the Kedar Nath judgment was delivered. Under that code, sedition comes under the list of non-cognizable offence that is the arrest can be affected only with the warrant from Magistrate. The person who was arrested under that code for sedition is Mahatma Gandhi in 1922. The Criminal Procedure code that governs us today is the Criminal Procedure code, 1973 and under that code sedition is a cognizable offence and the arresting power is totally with the police and gave an unbridled powers to the police when it comes to sedition cases. Kedar Nath Singh Judgement does not prevent the filing of cases as well as arrest. If seditious words or writings lead to violence or even tend or intend to lead to violence, the Kedar Nath judgment allows recourse to the law. The term "tends to" is so wide and it can be stretched to any extent to satisfy the situation. So according to us, Kedar Nath judgement was legally incorrect and it was wrongly decided and this judgement is actually a disappointment.

8. ABUSE OF SEDITION LAW

British colonial-era laws continue to have their relevancy in the Indian and Pakistan legal systems. India as an independent country has continued with the application of section 124A of IPC to oppress and intimidate dissent. The last two decades has seen that the sedition law is abused to extreme levels. What they have secularly achieved is to destroy lives. As the

Government becomes more and more autocratic and authoritarian, there is an increase in the oppression of dissenting opinions and the persecution of dissenters. It is clear that even the Government and police know that the prosecution is unsustainable, but they still do it to intimidate and harass people. The reason is that they are protected, and know that they will not be punished for their wrong acts. The Supreme Court in many of its judgments had held that the law of sedition is only applicable when (i) a person causes violence or (ii) a person encourages people to create some disturbance. So, for sedition, it is very important to make a clear distinction between genuine criticism of the government and statements that aims to overthrow the government. Constructive criticism of some government policies that don't invoke any violence, debating on the effectiveness of different state interventions cannot be sedition. It should be seen as an expression of love towards the country and signifies concern regarding progress of the nation.

Tool of Oppression

Another important issue regarding sedition law is how it is handled in the legal system. The data released by National Crime Records Bureau for 2014 and 2016 shows the misuse of law in the criminal justice system. There were about 179 arrests on sedition on the title offences against the State'. However, in 70% cases, no charge sheets were filed by the police and only two convictions. In these cases, the sedition law had become an instrument of oppression, where not even an indictment is filed but the people are simply sent to prison. People with sedition charge are punished in jail for longer period without any trial. And yet, in independent India, with its constitutionally guaranteed freedoms, this law has been widely used and also misused on the other way. The year 2016 was important as there was a plethora of significant cases of sedition. Some cases, when confronted with a new jingoistic nationality are apparently cruel, and are filed by individuals who apparently have no locus standi per se. Section 124A of the Indian Penal Code, which punishes sedition, has been an instrument that is used by the state to prevent criticism and opposition. It has been used against political opponents by the British colonial government and successive independent Indian governments.

An EPW editorial (2016) wrote:

Whether it is the First Information Report (FIR) against protestors at Koodankulam, Section 124A has been used by governments of all shades to stifle dissent. The comparatively small

number of cases should the hide government's intention - to have a chilling effect in dissenting speech.⁹

Justice Shah (2017) similarly remarked:

Today, sadly, in this country I love, if anyone holds a view that is different from the government's "acceptable" view, they are immediately dubbed as "anti-national" or "desh-drohi". This marker of anti-national is used to intimidate the voices of dissent and criticism, and more worryingly, can be used to slap criminal charges of sedition against them.¹⁰

This doesn't mean that a law on sedition has no utility in the present day. All laws can be misused. The problem comes from the overly sensitive government which abuses the law and the arbitrary actions that often accompany its application. Legally speaking, one of the major reasons with the sedition law is that it is poorly defined and ambiguous. The terms 'bring into hatred or contempt' or 'attempt to excite disaffection' can be interpreted in various ways and this empowers the Government and police officers to arrest innocent citizens. Due to this, sedition law can be used spuriously by the police officers to falsely accuse the citizens without knowing the clear meaning of seditious acts.

9. ANALYSIS AND INTERPRETATION OF SECTION 124A

The sedition law is a cognizable, non-bailable and non-compoundable offence under the law, with a maximum punishment of life imprisonment, either with or without fine. The object of sedition is well understood, that it induces discontent and stirs up the opposition by inciting the public to rebellion. To know, whether a speech or words etc are seditious in nature, the real intent of those words has to be looked into deeply. The Constitutional validity of section 124A of the IPC, 1860 as being ultra vires of Article 19(1)(a) of the Constitution together with article 14 and article 21. This discarded system was based on the well-known case of Kedar Nath, 1962. It is wholly unconstitutional and repugnant with that of the provision of the Constitution of India. The provision of Section 124A is very vast and it covers the act of defamation of Government excluding criticism in good faith of any specific acts or measures of Government. In India, the elements that constitute a seditious law are highly debated. As per the Indian Penal Code, for a seditious act, the following components should be there,

⁹ EPW EDITORIAL (2016).

¹⁰ Nationalism, sedition, free speech and more, GOVERNANCE NOW

<https://www.governancenow.com/news/regular-story/-nationalism-sedition-free-speech-more-ap-shah>, (last visited Jan. 3, 2022).

1. Any words, written or spoken, or symbols that include posters or any placards
2. Must bring hatred or contempt or disaffection for the Government of India
3. Must cause imminent violence or social unrest.

The following laws cover Sedition Law:

1. Indian Penal Code (IPC) , 1860 – Section 124A
2. The Code of Criminal Procedure (CrPC) , 1973-Section 95
3. The Seditious Meetings Act, 1911
4. The Unlawful Activities (Prevention), Act

The validity of the sedition law was first tested by the then Punjab High court in the year 1951 in *Tara Singh Gopi Chand Vs. The State*¹¹. It was this decision that prompted the Government of Jawaharlal Nehru to present various reasons why the right to freedom of speech and expression could not be reasonably curtailed. The High court held that Section 124A was indisputably a restriction on Article 19(1) and invalidated the provision on the ground that it was in contravention to Article 19(1) of the Indian Constitution. But in 1954, in the case of *Debi Soren & Ors Vs the State*¹², the Patna High court, upheld the validity of section 124A, stating that it doesn't violate Article 19. After four years, in the case of *Ram Nandan Vs State*¹³, the Allahabad High court declared section 124A as void and held that the government must be ready to face a strong opposition apart from its approval or disapproval. In the case of *Pankaj Butalia v. Central Board of Film Certification and Ors*¹⁴, the Delhi High Court reiterated the fact that while examining any offence under section 124A, the main focus should be on the intention of the language of seditious statement is made rather than looking into the isolated passages. In *Balwant Singh and Ors v. State of Punjab*¹⁵, the appellants had shouted some slogans and when the evidence was known it was found that the appellants had shouted the slogan several times and had not received any other response. Had the appellants raised those slogans with the intention to create disorder or to incite people, Section 124A would have been applicable. The courts were of the opinion that criticizing the

¹¹ (1951) CriLJ 449.

¹² (1954) CriLJ 758.

¹³ AIR 1959 All 101, 1959 CriLJ 1.

¹⁴ WP(C) 675/2015.

¹⁵ (1995) (1) SCR 411.

Governmental acts is integral for the functioning of democracy and every criticism is considered as sedition.

10. ANALYSIS OF RELEVANT CASE LAWS

10.1. DISHA RAVI CASE

Delhi police arrested climate activist Disha Ravi on February 13th, 2020 for allegedly participating in posting a “toolkit” on social media related to the farmer’s protest against the centre’s three new agricultural laws and trial court granted bail on February 23rd, 2020 in Delhi. The court observed that “creation of a WhatsApp group or being the editor of an innocuous Toolkit is actually not an offence”. But the Delhi police contended that Swedish Climate activist Greta Thunberg tweeted the Google document to back the farmer’s protest and then was deleted and the same was again created by Ravi and two other activists namely Advocate Nikita Jacob and Activist Shantanu Muluk. Then Ravi was charged with sedition and conspiracy.

10.2. RED FORT VIOLENCE ON REPUBLIC DAY

On Republic Day, there was violence at the Red Fort during a tractor parade by farmers and Police had registered a sedition case in connection to it. The case gets registered under Sec 124A of IPC. What was actually happened on that prestigious day is thousands of farmers who had reached the ITO from Ghaziapur border had clashed with the police. They arrived at Red Fort and entered the monument driving a tractor. They actually hoisted flags in their homes and placed flagstaffs at National Monuments, where the national flag was displayed on Independence Day by the Prime Minister and charged with sedition.

10.3. ACTIVIST AKHIL GOGOI CASE

RTI activist and farmer leader Akhil Gogoi was arrested a year and a half ago for his involvement in violent protests against civilians (Amendment) in Assam. He was charged under Section 124A of the Indian Penal Code, 1860. The National Investigation Agency (NIA) filed another lawsuit against MLA Gogoi booked under the Unlawful Activities (Prevention) Act, 1967, (UAPA) for his allegations in protests against the CAA and links with Maoist objects. In Guwahati, the National Investigation Agency (NIA) filed a case sheet under section 120B for criminal conspiracy, section 124A, section 153A, Section 153B of the IPC. The decision of NIA Judge Pranjal Das noted that "although the revolt law continues in

our law, its colonial heritage will not be ignored". Gogoi's release was warmly welcomed by the people. It is unfortunate that our democracy has been silenced by political opponents and slapped and that Gogoi has been deprived of her freedom while resorting to protest.

10.4. SIDDIQUE KAPPAN CASE

In October 2020, a sedition case was registered against a Kerala-based journalist Siddique Kappan and three others for having link with the radical group called the popular front of India, and the reason why PFI was accused is because of their funding protest against the Citizenship Amendment act. The incident which followed this arrest is the triggered widespread outrage that is the gang rape of a 19-year-old Dalit and her cremation without her parent's consent at night by authorities.

10.5. JNU SEDITION CASE

The court directed the Delhi Police to give copies of chargesheet to former Jawaharlal Nehru University (JNU) President Kanhaiya Kumar and nine others in a 2016 sedition case. The event saw clashes between various groups of students. A video was broadcast by Zee news, an Indian news channel in which a small group of individuals, whom later investigation described as foreigners wearing masks, shouted "anti-India" slogans. According to the charge sheet filed by police, Kumar was accused of leading a procession and supporting, with other accused, seditious slogans were raised on the JNU campus during an event on February 9th, 2016, to mark the hanging of Parliament attack convict Afzal Guru. The accused was charged under section 124A, section 323, section 465, section 471, Sections 143, 149, 147, and section 120B of the Indian Penal Code. The Patiala House court in Delhi recently heard the sedition case of 2016 against the former Jawaharlal Nehru University (JNU) students Kanhaiya Kumar, Umar Khalid, and Anirban Bhattacharya, and seven others. The punishment goes upto life imprisonment for sedition.

11. CONCLUSION

Sedition is not the only draconian law in India .There are also many other laws that comes in line like UAPA, the Armed forces (special powers) Act, 1958, the National Security Act, 1980 which also needs to be repealed. The wide interpretation of this particular section makes it draconian in nature along with its punishments. The extreme abuse and misuse of the sedition law can no more be softened through simply reading down, issuing guidelines, or appealing to police. It was an unconstitutional law that continues even today. It is against the

fundamental right of freedom of speech and expression and also anti-democratic. It also violates the right to life and personal liberty that is given under Article 21 of the Indian Constitution. The expression “disaffection” includes “disloyalty and all feelings of enmity”. As per the decision of the Supreme Court verdict in the case of Shreya Singhal vs Union of India, 2015, the vagueness of sedition law can be a sufficient ground for its invalidation.

As discussed above, there are certain essential elements that need to be deeply examined that are required for a statement, words, cartoons etc. to be declared as seditious without which an offence of sedition cannot be made. The way that section 124A is phrased appears to be wide that criticize the functioning of the Government of India. The Supreme Court, being the protector of the fundamental rights of every citizen, may step in now and declare this sedition law as unconstitutional. While looking into the provision, India has to consider the point of public order to understand how the lacunas will affect them. Freedom of speech should be there but only with reasonable restrictions. India, in its 21st century doesn't need this colonial law to suppress India's voice. Therefore, there is an urgent need to re-examine the Indian Sedition law.

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