A Relook into the Sedition Law

What is the issue?

- Recent charges of sedition [IPC Section 124A] against individuals have brought the focus back to a law introduced in the Indian Penal Code in 1870.
- The fact that this law is often used to control dissent calls for a relook into its relevance at the present age.

What was the Supreme Court's observation?

- In Kedar Nath Singh v. State of Bihar (1962), the Supreme Court upheld the constitutional validity of the sedition law.
- It noted it as being a reasonable restriction on free speech as provided in Article 19(2) of the Constitution.
- It made clear that a citizen has the right to say or write whatever she/he likes about the government, or its measures.
- But this is only as long as she/he does not incite people to violence against the government and not do things with the intention of creating public disorder.

What are the legal procedures to be followed?

- Following the Kedar Nath case, the Bombay High Court issued some guidelines in the case of cartoonist Aseem Trivedi.
- The police must follow these guidelines prior to invoking the provisions of sedition.
- These include, among others, an objective evaluation of the material.
    - This is to form an opinion on whether the words and actions cause disaffection, enmity and disloyalty to the government.
    - They must be of the magnitude to incite violence or tend to create public disorder.
- The Court also directed obtaining a legal opinion in writing from a law officer of the district who must give reasons on how the pre-conditions are met.
- This needs to be followed by a second opinion from the State's public prosecutor.
- Courts have on numerous occasions cautioned law enforcement agencies not to misuse the provisions on sedition, and follow court directions.

Why is a relook on the law needed?

- Regrettably, the above guidelines are grossly ignored.
- Notably, between 2016 and 2019, the number of cases of sedition under Section 124A increased by 160%.
- On the other hand, the rate of conviction dropped to 3.3% in 2019 from 33.3% in 2016.
- To note, many charged were individuals protesting government action.
    - The Constitution Bench in Kedar Nath held that this falls outside the ambit of sedition.
- A Constitution Bench upheld the vires of the law of sedition.
- But the gross misuse of the legal provisions continues.
- The circumstances thus require a complete relook at the provisions of the sedition law.
- A lot has changed from 1962 when the Kedar Nath case was decided.
- In the Internet age, what can lead to public disorder has itself become debatable, as information travels at lightning speed.
- Even otherwise, clutching on to a foreign legal order is no longer needed.
- Interestingly, the U.K. repealed the offence of sedition in 2010 and India is holding onto a relic of the British Empire.
- As recent as 2018, the Law Commission of India too questioned how far it is justified to retain Section 124A.
- This was especially in view of the fact that several existing statutes take care of various actions which were earlier considered seditious.
- Moreover, the sedition law necessitates the courts to adopt an effect-based test.
    - It examines the effects of the seditious text rather than a content-based test which reviews the text alone. This seems to be flawed.

What is the way forward?

- It is not the alleged seditious acts that are creating fragments in the society.
- It is rather the persecution of individuals and labelling them that are really creating cracks in the socio-politico ecosystem.
- While the sedition law needs a relook, the need of the hour is to uphold more firmly the principles of justice, liberty, equality and fraternity, and offer space for healthy dissent.

Source: The Hindu



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