Judicial Review on Sedition Law / Sec 124A of IPC

Why in news?

The Supreme Court indicated its intention to reconsider the sedition provision - Section 124A of the Indian Penal Code (IPC).

What is Section 124A?

- The Sedition law, or Section 124A, was inserted into the IPC in 1870.
- The colonial law was derived from the British Sedition Act of 1661.
- Under it, whoever brings or attempts to bring hatred or contempt, or excites or attempts to excite disaffection towards the Government established by law in India shall be punished.
- The punishment may involve imprisonment of 3 years to life term, to which a fine may be added.

What are the Court's recent remarks?

- Sedition is a colonial law. It suppresses freedoms. It was used against Mahatma Gandhi, Tilak.
- The CJI said the sedition provision was prone to misuse by the government.
- Central and State law enforcement agencies are using the sedition law arbitrarily.
- The conviction rate under the Section is very low, indicating the misuse of power by executive agencies.
- They use it to silence dissent, muffle free expression and for denying bail to incarcerated activists, journalists, students and civil society members.
- The Court thus asked, "Is this law necessary after 75 years of Independence?"

What is the significance?

- It is often argued that the misuse of a law alone does not render it invalid.
- But there is a special case to strike down Section 124A because of its inherent potential for misuse.
- There is a pattern of behaviour among all regimes that indicate a tendency to invoke Sec 124A without examining its applicability to the facts of any case.
- Recent cases show that sedition is used for three main political reasons:
    i. to suppress criticism and protests against particular policies and

projects of the government
   ii. to criminalise dissenting opinion from human rights defenders, lawyers, activists and journalists
   iii. to settle political scores, sometimes with communal hues

- Given these, the Court has sent a clear signal that Section 124A of the IPC may have passed its time.
- It has made it clear that it was sensitive to the public demand to judicially review the nature of use of the sedition provision.
- This has opened the floor for debate and introspection on the court's own judgment in 1962, in the Kedar Nath case, which upheld Section 124A.

Source: The Hindu

