Misusing Sedition Law

Why in news?

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Recently, sedition charges were slapped against an Assamese scholar and two others for remarks made against the proposed citizenship law.

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What is the background?

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- The Citizenship (Amendment) Bill, 2016 was recently cleared by the Lok Sabha.
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- The Bill seeks to hasten the process of legalising the stay of non-Muslims from Afghanistan, Bangladesh and Pakistan, who allegedly fled religious persecution and came to India till December 31, 2014.
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- The Bill already faced strong resistance on the fear that it would pave the way for granting citizenship mostly to illegal Hindu migrants from Bangladesh, who came after March 1971, in violation of the 1985 Assam Accord.
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- Nearly 40 lakh people were excluded from the final draft of the National Register of Citizens (NRC) in Assam that was published on July 30 last year.
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- The new Bill seeks to negate the NRC, as it would grant citizenship to all Hindus who came to Assam from Bangladesh even after the NRC cut-off date of March 1971.
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- The recent sedition case was filed against the scholar after he allegedly said at a protest rally that seeking independence from India could be an option for the indigenous people if the Centre went ahead with the Bill.
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- In addition to Section 124A (sedition), they have been accused of entering into a criminal conspiracy to “wage war against the government of India”

(Section 121) and “concealing a design to facilitate” such a war (Section 123).
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How does the provision get misused?

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- The scholar did not seek independence of Assam from India but had voiced concern about indigenous people seeking sovereignty if the Bill is eventually cleared.
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- Thus, invoking it against those opposed to changes in citizenship law deserves condemnation.
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- Also, under exception to the sedition clause, comments expressing disapprobation of government measures with a view to obtaining their alteration do not constitute an offence, as long as there is no incitement to violence or disaffection.
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- Hence, the thrust of the recent protest would be covered by the exception to the sedition clause.
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- In recent years, there have been many instances of State governments seeking to silence political dissent by accusing dissenters of promoting disaffection.
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- To prevent these, the courts have often pointed out that the essential ingredient of any offence of sedition is an imminent threat to public order.
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- Unless there is actual incitement to take up arms or resort to violence, even demands that go against the legal or constitutional scheme of things would not amount to sedition.
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- Mere expression of critical views cannot be an excuse for accusing someone of planning to wage war or promote disaffection against the government.
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What should be done?

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- The Law Commission, in a consultation paper, had called for a reconsideration of the sedition section in the IPC.
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- While the provision needs a much narrower definition in the medium term, the right course is to scrap Section 124A altogether in the long term.
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Source: The Hindu

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