Sedition Law - Section 124A of the IPC

What is the issue?

- The Section 124A (Sedition) of the Indian Penal Code (IPC) is being used more often recently.
- So, it is important to have a look at what courts and the Maharashtra government have said about the Section 124A IPC.

What is the Section 124A?

- Section 124A IPC states that 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; or, with fine.

What is its validity?

- Section 124A has been challenged in various courts in specific cases.
- The validity of the provision itself was upheld by a Constitution Bench of the Supreme Court (SC) in 1962, in Kedarnath Singh vs State of Bihar.
- That judgment went into the issue of whether the law on sedition is consistent with the fundamental right under Article 19 (1) (a).
- [Article 19(1)(a) guarantees freedom of speech and expression].
- The SC laid down that every citizen has a right to say or write about the government by way of criticism or comment.
- It also added that this comment shouldn't incite people to violence against the government established by law or with the intention of creating public disorder.
- The SC ruled that casual raising of slogans, once or twice by two individuals alone cannot be said to be aimed at exciting or attempt to excite hatred or disaffection by the government.

What is the Maharashtra circular?

- In a 2015 circular, the Maharashtra government laid down the preconditions to its police personnel before invoking sedition.
- The circular came during the hearing of a public interest litigation (PIL) in the Bombay High Court, after a cartoonist was booked for sedition.

- The sedition charge was subsequently dropped by the police; a PIL was filed in 2015 on the alleged arbitrary application of the charge.

What the High Court (HC) said?

- In 2015, the HC referred to the Kedarnath judgment and said there was a need to lay down parameters for the invocation of Section 124A.
- Otherwise a situation would result in which an unrestricted recourse to Section 124A resulting in a serious encroachment of guarantee of personal liberty conferred upon every citizen of a free society.
- However, the court said it did not feel the need to dwell on the subject further.
- It said so due to the fact that the then state government had proposed that it would issue guidelines in the form of a circular to all its police personnel for the invocation of Section 124A.

What are the state guidelines?

- The circular was issued, and its guidelines included preconditions to be kept in mind while invocation of 124A.
- The preconditions were that the words, signs or representations must,
    1. Bring the government into hatred or contempt or
    2. Cause or attempt to cause disaffection, enmity or disloyalty to the government.
- Along with these, it must also inciting violence or tend to create public disorder or a reasonable apprehension of public disorder.
- The comments expressing criticism of the government with a view to change the government by lawful means without any of the above are not seditious under Section 124A.
- To ensure that the section is used arbitrarily, the circular directed that a legal opinion from the district law officer should be taken by the public prosecutor addressing fulfilment of these conditions.

Source: The Indian Express

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