Unwarranted arrest

Why in news?

Recently the arrest of an MP from Andhra Pradesh on the charges of sedition is cause of concern due to the misuse of the provision.

What is Sedition?

- Sedition is an offence defined in **Section 124A IPC** which is often used by the police against the critics of the establishment and prominent dissenters.
- This section is invoked only if there is an imminent threat to public order or there is actual incitement to violence or against the person who excites disaffection against the government.
- It is a colonial-era provision which is used to imprison people for political writings in support of Indian independence which still remains in the statute book.

Why was the MP arrested?

- The MP was an vocal criticizer of the A.P. Chief Minister and was arrested for the political vendetta.
- The prosecution has claimed that his speeches has caused hatred against communities -MP referred to alleged rampant conversion activities in the state- by invoking Section 153-A or Section 505 of IPC.
- **Section 153A of IPC** deals with the offence of promoting disharmony, enmity or feelings of hatred between different groups.
- This is on the grounds of religion, race, place of birth, residence, language, etc and acts prejudicial to maintenance of harmony.
- **Section 505 of IPC** aims to check and punish the spreading of false and mischievous news intended to upset the public tranquility.

Is the arrest justifiable?

- This arrest is unwarranted as the MP is being accused only for speech-based offences and the offences under this section attracts a prison term of only three years.
- In the **Arnesh Kumar case (2014)**, Supreme Court ruled that there is no need to arrest a person for an offence that invites a prison term of seven years and less.

- Further, even sedition, which allows a maximum sentence of life imprisonment, also prescribes an alternative jail term of three years.

What can we infer from this?

- While the legal process will take its course, it is once again the time to reflect on the need and relevance of this offence to remain on the statute book.
- State governments and various police departments are known for the casual resort to prosecution under this section.
- In most of the cases, this section is used despite the necessary conditions to invoke this section is absent.
- This indicates a poor reflection of the understanding of the law among civil servants everywhere.
- In addition, the terms are vaguely and broadly defined (disaffection includes disloyalty and feelings of enmity).
- This calls for a total reconsideration of this section and recently the Supreme Court decided to revisit its constitutionality.
- Though the judicial review is an welcome move, free speech will be even more protective if this provision is abolished.

Source: The Hindu

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