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2. Supreme Court on Sedition Trials – Balancing Free Speech and National Security – Polity

1. Why in News

1. Supreme Court said courts can proceed with trials, appeals involving sedition offence under Section 124A IPC if accused has no objection
2. In 2022, SC put on hold sedition trials pending until government completed promised exercise to "re-examine and re-consider" colonial-era provision
3. Centre and States directed to refrain from registering FIRs, continuing investigations, or taking coercive measures under Section 124A during "reconsideration"
4. With BNS 2023 replacing IPC, Section 124A removed but Section 152 introduced new offence endangering sovereignty, unity, integrity

2. Background of Sedition Laws in India

Colonial Origins

1. Sedition law NOT originally part of IPC drafted by Thomas Babington Macaulay in 1860
2. Inserted later in 1870 by British colonial government

British objectives –

3. Suppress growing nationalist sentiment
4. Control vernacular press
5. Prevent criticism of colonial rule
6. Punish freedom movement leaders
7. Bal Gangadhar Tilak among first nationalist leaders prosecuted for sedition

3. Section 124A of Indian Penal Code

Definition

1. Whoever by words (spoken/written), signs, visible representation, or otherwise, brings or attempts to bring into hatred/contempt, or excites/attempts to excite disaffection towards Government established by law shall be punished

Punishment

1. Imprisonment for life with fine, OR
2. Imprisonment up to three years with fine, OR
3. Fine alone
4. Offence – Cognizable, non-bailable, non-compoundable (giving wide powers to police, administration)

Clarification

1. Lawful criticism of government policies NOT sedition if does not incite hatred, violence, or public disorder

4. Constitutional Debate on Sedition

Article 19(1)(a) – Freedom of Speech and Expression

1. Guarantees every citizen fundamental right to freedom of speech, expression

Includes -

2. Freedom to criticize government
3. Freedom of press
4. Freedom to express political opinions
5. Right to dissent peacefully

Article 19(2) - Reasonable Restrictions

1. Restrictions in interests of public order, security of State, sovereignty, integrity
2. Constitutional debate focused on whether Section 124A imposed unreasonable restrictions on free speech

5. Important Supreme Court Judgments on Sedition

Kedar Nath Singh v. State of Bihar (1962)

1. Upheld constitutional validity of Section 124A but restricted application

Key rulings -

2. Mere criticism of government NOT sedition
3. Strong words against government protected under free speech
4. Sedition applies ONLY when incitement to violence OR intention to create public disorder/disturbance of law and order
5. Became guiding principle interpreting sedition law

Balwant Singh v. State of Punjab (1995)

1. Emphasized isolated expressions without violent consequences cannot be criminalized as sedition
2. Slogans alone insufficient

Vinod Dua v. Union of India (2021)

1. Strong/vehement criticism of government's policies/functionaries within bounds of free speech
2. Cannot be penalized as sedition unless clear, proven intent and tendency to provoke violence or disturb public peace

6. Sedition Under Bharatiya Nyaya Sanhita (BNS), 2023

Removal of Section 124A

1. Government officially removed Section 124A IPC
2. Stated colonial-era sedition law abolished

Section 152 BNS - New Offence

1. Introduced new offence relating to acts endangering sovereignty, unity, integrity of India

Criminalizes -

2. Secessionist activities
3. Armed rebellion
4. Subversive activities
5. Encouragement of separatist feelings
6. Activities threatening national unity
7. **Punishment** - Imprisonment for life OR up to seven years and fine

7. Criticism of New Provision

Broad Terminology

1. Terms like "subversive activities," "separatist feelings" vague, open to misuse
2. Critics fear peaceful dissent may still be targeted under broad interpretations

Continuity With Sedition

1. Although Section 124A removed, new law may continue similar state powers under different terminology
2. Substance remains despite nomenclature change

Concerns

1. Chilling effect on free speech, dissent
2. Potential for arbitrary application
3. Lack of clear safeguards

8. Way Forward

1. Clear guidelines defining "subversive activities," "separatist feelings" preventing misuse
2. Mandatory judicial oversight before invoking Section 152
3. Protection for journalists, activists, citizens exercising free speech
4. Training for police, judiciary on balancing national security with fundamental rights
5. Regular review of implementation preventing abuse

9. Conclusion

Supreme Court allowing sedition trials with accused's consent marks pragmatic approach amid government's reconsideration of Section 124A IPC. Originally introduced 1870 by British suppressing freedom movement, sedition remained controversial post-independence conflicting with Article 19(1)(a) freedom of speech. Landmark judgments—Kedar Nath Singh 1962 restricting application to incitement-violence-public disorder, Balwant Singh 1995 on isolated expressions, Vinod Dua 2021 protecting vehement criticism—limited scope ensuring only speech threatening violence/public order punishable. BNS 2023 removed Section 124A but introduced Section 152 criminalizing acts endangering sovereignty-unity-integrity (secessionism, armed rebellion, subversive activities, separatist feelings) punishable with life imprisonment/seven years. Critics argue broad terminology may continue state powers under different nomenclature potentially targeting peaceful dissent. Balancing free speech with national security requires clear guidelines, judicial oversight, safeguards ensuring colonial-era repression not perpetuated under new law.

Source - <https://www.thehindu.com/news/national/four-years-after-putting-on-hold-sedition-law-sc-says-trials-can-proceed-if-accused-has-no-objection/article71006599.ece#~~~text=Four%20years%20after%20putting%20on,the%20accused%20had%20no%20objection>