



No Parliamentary Immunity for Vandalism: SC

Why in News

Recently, the **Supreme Court** has **rejected Kerala government's plea to withdraw criminal cases** against its MLAs who were charged in the assembly.

- The ruling Kerala government had appealed, to the Supreme Court, to withdraw a criminal case against their leaders **who destroyed public property and disrupted a Budget speech** on the State Assembly floor in 2015.

Key Points

▪ Arguments of the Petitioner:

- The Kerala Government **had claimed parliamentary privilege**, arguing that the incident occurred inside the Assembly hall.
- They had **claimed immunity from criminal prosecution**.
- They had argued that the **prior sanction of the Speaker was necessary** before the registration of an FIR by the police.

▪ Highlights of the Judgement:

- **Parliamentary Privileges are Not Gateways of Immunity:** The legislators who indulge in vandalism and general mayhem cannot claim parliamentary privilege and immunity from criminal prosecution.
- **Vandalism is Not Essential Legislative Action:** Lawmakers possess privileges that are essential for exercising public functions.
 - Vandalism and destruction inside the House are not essential for exercising legislative function.
- **Vandalism and Right to Protest:** Vandalism on the Assembly floor **could not be equated with the [right to protest](#)** by Opposition legislators.
 - No member of an elected legislature can claim either a privilege or immunity to stand above the sanctions of the criminal law (**[Prevention of Damage to Public Property Act, 1984](#)**), which applies equally to all citizens.
 - Destruction of public property could not be equated with the exercise of **[freedom of speech](#)**.
- **Maintaining Public Trust:** Legislators should act within the parameters of the public trust imposed on them to do their duty.
 - They had taken office swearing true allegiance to the Constitution.
 - They had to uphold the sovereignty and integrity of India and had to perform the duty imposed on them by the people who elected them.

▪ About Parliamentary Privilege:

- Parliamentary privileges are certain rights and immunities enjoyed by members of Parliament, individually and collectively, so that they can **“effectively discharge their functions”**.
 - When any of these rights and immunities are disregarded, the offence is called a

breach of privilege and is punishable under law of Parliament.

- The Constitution (**Article 105 for Parliament and Article 194 for State Assemblies**) mentions two privileges, i.e. freedom of speech in Parliament and right of publication of its proceedings.
- **Rule No 222 in Chapter 20 of the Lok Sabha Rule Book** and correspondingly **Rule 187 in Chapter 16 of the Rajya Sabha rulebook** governs privilege.
- **Individualistic Privileges:**
 - **Freedom of Speech:** The members of Parliament/state assembly enjoy freedom of speech and expression.
 - **No member can be taken to task anywhere outside the four walls of the House** (e.g. court of law) or cannot be discriminated against for expressing his/her views in the House and its Committees.
 - However, a member has the privilege of freedom of speech in Parliament, he has no right to publish it outside Parliament.
 - **Freedom from Arrest: No member shall be arrested in a civil case 40 days** before and after the adjournment of the House and also when the House is in session.
 - It also means that **no member can be arrested within the precincts of the Parliament** without the permission of the House to which he/she belongs.
 - **Exemption from Attendance as Witnesses:** The members of Parliament/ assemblies also enjoy freedom from attendance as witnesses.
- **Collective Privileges:**
 - **Right to Publish Debates and Proceedings:** Parliament/Assembly can prohibit the press to publish its proceedings, when needed.
 - **Right to exclude strangers:** Parliament/Assembly enjoys the right to exclude strangers (no-members or visitors) from the galleries at any time and to resolve debate with closed doors.
 - **Right to Punish Members and Outsiders:** In India, the Parliament/Assembly has been given punitive powers to punish those who are judged guilty of contempt of the House.

[Source: TH](#)

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