



Mains Practice Question

Q. How has the Supreme Court of India interpreted the law on sedition in various landmark judgments? Analyse the impact of these judgments on the freedom of speech and expression in India. Do you think sedition law is still relevant in a democratic country like India? Give reasons for your answer. (250 words)

06 Jun, 2023 GS Paper 2 Polity & Governance

Approach:

- **Introduction:** Briefly introduce the sedition law.
- **Body:** Discuss key Supreme Court judgments and highlight the importance of these judgments and provide your opinion and reasons for the existence of the law.
- **Conclusion:** Provide a balanced conclusion that highlights the importance of protecting freedom of speech while ensuring national security.

Introduction:

Sedition is a criminal offense that punishes speech or actions that promote hatred, contempt, or disaffection towards the government established by law. It is defined under Section 124A of the Indian Penal Code (IPC). The law has faced challenges for violating the fundamental right to freedom of speech and expression guaranteed under Article 19(1)(a) of the Constitution. The Supreme Court of India has interpreted the law on sedition in various landmark judgments and has provided guidelines to balance freedom of expression and the security of the state.

Body:

Some of the landmark judgments of the Supreme Court on sedition are:

- **Kedar Nath Singh vs Union of India (1962):** The Supreme Court upheld the validity of sedition law but clarified that prosecution can only happen if the act incites violence or has the intention to create public disorder. Mere criticism or disapproval of government policies without inciting hatred, contempt, or disaffection does not amount to sedition.
- **Shreya Singhal vs Union of India (2015):** Section 66A of the IT Act was declared unconstitutional and a violation of Article 19(1)(a) as it criminalised offensive online speech. The court also reiterated that sedition law can only be invoked when there is a clear and present danger of violence or public disorder.
- **Common Cause vs Union of India (2016):** The Supreme Court issued guidelines to prevent the misuse of sedition law. The court directed that no FIR should be registered for sedition without prior approval of a senior police officer and no charge sheet should be filed without obtaining legal opinion from a law officer. The court emphasised that dissent and criticism are essential for democracy and should not be curbed by invoking sedition law.

The impact of these judgments on the freedom of speech and expression in India are:

- They have upheld the constitutional validity of sedition law but also narrowed its scope and applicability by restricting it to cases involving incitement to violence or public disorder.
- They have protected the citizens' right to express their opinions and dissent against the

government policies or actions without fear of prosecution as long as they do not endanger the security and integrity of the country.

- They have also cautioned the government and law enforcement agencies to exercise restraint and responsibility while using sedition law.

Sedition law is not relevant in a democratic country like India for the following reasons:

- Sedition law undermines freedom of speech, is outdated and arbitrary.
- It grants excessive authority to interpret speech as seditious, suppressing dissent and opposition.
- Sedition law is often misused and abused by the authorities.
- It also creates a chilling effect on the citizens' participation in democratic processes.
- Sedition law is a colonial relic that was used by the British to silence the freedom fighters. It has no place in independent India which is committed to uphold democracy, pluralism and human rights.

But if there is still a need of the Law as the anti-national and separatist elements exist even today, the law should be reformed:

- Clearly define sedition and its exclusions. Include safeguards against misuse and abuse.
 - The recent Law Commission has suggested to include the ratio of the Kedar Nath ruling into the provision by adding the words “with a tendency to incite violence or cause public disorder.”
- Reducing the quantum of punishment for sedition from life imprisonment.
- The law should also provide for bail as a matter of right and ensure speedy trial.
- Provision to protect journalists, academics, artists, and social activists who express their opinions in good faith should be added to the law as recommended by the Law Commission.
- Including a procedural safeguard that no FIR shall be registered for sedition “unless a police officer, not below the rank of Inspector, conducts a preliminary inquiry.
- Promote citizen awareness, rights, and duties to use freedom of speech responsibly, avoiding incitement of violence or hatred.

Conclusion:

Ultimately, the relevance of the sedition law in India should be evaluated in light of its potential for misuse and its impact on freedom of speech and expression. It is essential to strike a delicate balance that protects national security while ensuring that individuals have the freedom to express their opinions without fear of reprisal.