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THE LEGAL EAGLE



LEGAL REASONING

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Legal Reasoning 1

Chief Justice of India N.V. Ramana's remarks in open court on Thursday sends a strong message to the government that the Supreme Court is prima facie convinced that sedition is being misused by the authorities to trample upon citizens' fundamental rights of free speech and liberty.

The Chief Justice has sent a clear signal that Section 124A (sedition) of the Indian Penal Code may have passed its time. The CJI has made it clear that the court is sensitive to the public demand to judicially review the manner in which law enforcement authorities are using the sedition law to control free speech and send journalists, activists and dissenters to jail, and keep them there.

In a way, the court has questioned the need for the continuance of Section 124A — a colonial provision which was used to jail the Mahatma — in the law books of a modern democracy. This is a step away from the court's own *Kedar Nath* judgment of 1962 which had upheld Section 124A but read it down to mean any subversion of an elected government by violent means. The court will have to re-examine whether this 59-year-old judgment holds in the modern context when the State is itself using a punitive law to impose serious burdens on free speech. It must be noted that the offence under Section 124A is a non-bailable offence (bail is not granted as a right) and provides for imprisonment up to three years or life term, to which fine may be added. The person found guilty of this offence is not eligible for any government job. Also, merely sloganeering can't attract punishment under Section 124A.

Words used to incite others or demonstrate a proclivity for causing trouble or disturbing public peace through the use of violence squarely fall within the offence of sedition under Section 124A.

Source: Extracted (with edits and revisions) An excerpt from article titled "Sedition law | Supreme Court sends strong message to government", published at 'TheHindu'.

1. Vidhan is a Youtuber and in one of his videos uploaded on YouTube he made statements that while his country Vidhigyaland was hit by COVID pandemic the government had inadequate testing facilities. Since this video was watched by many people while the pandemic was still on-going, it is alleged that his statements have generated terror among the population by making false allegations and stir up public dissatisfaction, resulting in panic and individuals disobeying the lockdown to come out and stockpile supplies, which is completely unnecessary. That his statements induce fear or anxiety in the general public and may induce anybody to commit an offence against the state or public calm. In light of the above passage, decide Vidhan's liability under Section 124A of I.P.C.

- (a) Vidhan is liable as citizens do not have the right to criticise or comment on the actions of the government.
- (b) Vidhan is liable as his statements can incite people to violence against the government established by law and cause public disorder.
- (c) Vidhan is not liable as his words don't incite people or demonstrate a proclivity for causing trouble or disturbing public peace through the use of violence.
- (d) Vidhan is not liable as freedom of speech and expression is a fundamental right which cannot be restricted.

2. In the above case if Vidhan, after uploading the said video also did sloganeering "Government do better", "Government shame-shame" etc. Decide.

- (a) Vidhan is liable under Section 124A I.P.C. as he cannot shame the government like this.
- (b) Vidhan is liable under Section 124A as his slogans amount to sedition.
- (c) Vidhan is not liable as Government should be shamed for its inefficiencies.
- (d) Vidhan is not liable under Section 124A as per se his statements do not constitute offence of sedition and mere sloganeering cannot attract the provision.

3. Vidhi used inciteful words against the Government at a rally due to which the crowd turned violent and proceeded to attack the residence of the local ministers. Vidhi is convicted for the offence of Sedition under Section 124A of I.P.C. Decide.

- (a) Vidhi may face upto 3 years of imprisonment with or without fine.
- (b) Vidhi may face life imprisonment with or without fine.
- (c) Both (a) and (b)
- (d) Insufficient data.

4. In the above situation, after conviction; while Vidhi is serving her term, she applies for bail as she wants to study and wants to take care of her future. She wants to acquire new skills and build-up her curriculum-vitae. Since it may be difficult to get jobs after jail-term, she wants to reform. Decide.

- (a) Vidhi can apply for bail as it is her right.
- (b) Vidhi has committed a non-bailable offence and therefore bail will not be granted as a matter of right.
- (c) Vidhi should be granted bail as she is a woman and women have special rights.
- (d) Vidhi cannot apply for bail as she has committed a grave offence.

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5. Further, Vidhi was convicted for a term of 2 years for the abovementioned offence. After completing her sentence, she wants to start her life afresh. Her parents motivate her to appear for judicial service examinations as she is a lawyer. Decide.

- (a) Vidhi should work hard as these exams are very tough.
- (b) Vidhi should not give government exams as she hates the government.
- (c) Vidhi is morally corrupted and therefore should not be allowed to appear for such exams.
- (d) Vidhi cannot appear for the said examinations as she has been convicted of offence under Section 124A I.P.C.

6. Which of the following statements is the author of the above passage least likely to agree with? Decide.

- (a) Section 124A (sedition) of the Indian Penal Code is redundant.
- (b) The court is insensitive to the public demand to judicially review the manner in which law enforcement authorities are using the sedition law to control free speech.
- (c) Section 124A I.P.C. is a colonial provision.
- (d) Law enforcement authorities are using the sedition law to control free speech and send journalists, activists and dissenters to jail, and keep them there.

1. Ans. c

Sol. The correct answer is option (c) as Vidhan's statements don't have a tendency or intention of causing public disorder or disturbance of law and order through use of violence and the passage also states that "*Kedar Nath* judgment of 1962 which had upheld Section 124A but read it down to mean any subversion of an elected government by violent means" and "Words used to incite others or demonstrate a proclivity for causing trouble or disturbing public peace through the use of violence squarely fall within the offence of sedition under Section 124A". Option (a) is incorrect as the passage nowhere mentions that citizens don't have the right to criticise the actions of the government or that such criticism will constitute offence under section 124A. Option (b) is incorrect as Vidhan's statements cannot be inferred to incite violence against the Government. Option (d) is incorrect as the passage does not say that fundamental right of free speech is absolute and not subject to reasonable restriction.

2. Ans. d

Sol. The correct answer is option (d) as the statements used for the slogans do not constitute offence of Sedition and also merely sloganeering is not enough to attract Section 124A I.P.C. as is also mentioned in the passages "merely sloganeering can't attract punishment under Section 124A." On the above grounds option (b) is incorrect. Option (a) is incorrect as it's a generalised statement and must be rejected. Option (c) lacks any logical nexus and therefore must be rejected.

3. Ans. c

Sol. The correct answer is option (c) as the passage mentions "It must be noted that the offence under Section 124A is a non-bailable offence and provides for imprisonment up to three years or life term, to which fine may be added." Therefore both options (a) and (b) are a possibility and would be decided by the Court.

4. Ans. b

Sol. The correct answer is option (b) as the passage mentions that "It must be noted that the offence under Section 124A is a non-bailable offence (bail is not granted as a right)". Therefore option (a) is incorrect. Options (c) and (d) have no context or nexus with the passage and must be rejected.

5. Ans. d

Sol. Option (d) is the correct answer as the passage clearly mentions "The person found guilty of this offence is not eligible for any government job." Options (a), (b) and (c) are assumptions and lack reasoning. They have no logical nexus and must be rejected.

6. Ans. b

Sol. Option (b) is the correct answer as the author holds the opinion that Courts are "sensitive" in the context of the statement under option (b). Options (a), (c) and (d) are incorrect as these are in fact the opinion of the author expressed in the above passage and therefore the author is likely to agree with them.