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ANALYSIS OF SITA SOREN V. UNION OF INDIA

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2nd Year, B.A. LL.B (Hons.)

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Case Citation: 2024 SCC OnLine SC 229

Bench: D.Y. Chandrachud CJI, A.S. Bopanna J, M.M. Sundresh J, P.S. Narasimha J, J.B. Pardiwala J, P.V. Sanjay Kumar J, Manoj Misra J.

Judgement: March 4, 2024.

Introduction

The Landmark Case of *Sita Soren v. Union of India* deals with the legislative immunity for lawmakers facing bribery charges. Legislative immunity or parliamentary privileges are mentioned under Articles 105¹ and 194² for the centre and state respectively. Parliamentary privilege & immunities are essential to deliberative democracy since they help the legislature to function smoothly. It ensures that lawmakers, in whom the people have trust, are free to voice their thoughts without fear or favour on the House floor. Parliamentary privilege protects lawmakers from political parties with minuscule vote shares, allows them to vote on any motion without fear, allows legislators from remote parts of the nation to raise issues that affect their constituents without fear of legal repercussions, and allows legislators to demand accountability without fear of being accused of defamation.

Background

An election was held in 2012 to select 2 members for Rajya Sabha representing the State of Jharkhand. The appellant was a member of the Legislative Assembly of Jharkhand belonging to the Jharkhand Mukti Morcha (JMM) political party. The appellant was accused of accepting a bribe from the independent candidate for casting her vote in favour of him. However, she did not cast her vote in his favour and instead cast her vote in the favour of a candidate from her political party. The first rounds of the election were called off, and a new election was conducted and

¹ INDIA CONST. art. 105.

² INDIA CONST. art. 194.

again appellant cast her vote in the favour of her party.

The appellant moved to the High Court to plead to quash the criminal proceedings against her & claimed protection under Article 194(2) of the Constitution and ruling of *PV Narasimha Rao v. State*³. The High Court refused to quash the criminal proceedings mentioning the reasoning of *PV Narasimha Rao's* case that the appellant did not cast a vote in the favour of the alleged bribe giver and thus is not permitted protection under Article 194 (2). The controversy in the present case and *PV Narasimha Rao* centres on the interpretation of Articles 105 and 194.

In 2014, the issue was placed in front of a division bench to decide, but in view of the issue as the general public importance, it was placed in front of the three-judge bench. In 2019, the three-judge bench heard the matter and observed that the issue was already dealt with by a five-judge bench of *PV Narasimha Rao*. As the question was related to the *PV Narasimha Rao* case, in 2023, the five-judge bench referred the matter to a larger bench of seven judges.

Issue

Whether a legislator who receives a bribe to cast a vote in a certain direction or speak about certain issues protected by parliamentary privilege?

Judgement

1. Reconsidering *PV Narasimha Rao* does not violate the principle of *Stare Decisis* as it is not a rigid rule of law. A court can revisit a prior judgement if it is inconsistent with the legal philosophy of the constitution and if it is having a negative impact on probity in public life.
2. At no point of time in history, did privileges demand a blanket immunity from the Criminal Law. Even in the colonial era, parliamentary privileges were always tied to the relationship with the functions of legislators sought to discharge.
3. The claim of privilege by a member of the legislature must be governed by a twofold test. The privilege claimed must be connected to the house's collective functioning and its necessity must be directly related to the performance of a legislator's primary responsibilities.

³ (1998) 4 SCC 626.

4. Bribery is not protected under Articles 105 and 194 of the Indian Constitution as it does not bear any relation to the essential functioning of the Legislature
5. Corruption and bribery in legislature erode probity in public life
6. The offence of Bribery is complete as soon as the illegal gratification is taken and it is independent of purpose and place of taken.
7. Elections of the Rajya Sabha are under the remit of Article 194 (2).

Analysis

The ruling of *Sita Soren v. UOI* represents a significant advancement in the Indian Constitutional Law concerning parliamentary privileges. The case comprehensively analyses the scope and limits of parliamentary privileges with regard to bribery trials in criminal courts. The primary aspect of the case was regarding the reinterpretation of the *PV Narasimha Rao* case in which the bribe takers enjoyed immunity under Article 105 whereas *Sita Soren v. UOI* makes it quite clear that bribe-taking lawmakers are not protected under parliamentary privileges. To establish this contention, judges used many different aspects like analysing functionally in the ruling and highlighting its collective nature and the importance of the smooth operation.

To prove the contention of *Stare Decisis*, the court has given the interpretation of HR Khanna J in the case of *Manganlal Chhaganla (P) Ltd. v. Municipal Corpn. of Greater Bombay*⁴ that if the construction of prior interpretation of the constitution is proved to be unsound, unworkable, or contrary to public interest, the court is not refrained from reconsidering that prior construction. Similarly, in the case of *Bengal Immunity Company Limited v. State of Bihar and Ors.*⁵, a bench of seven justices of this Court outlined this Court's authority to reexamine its rulings in light of the doctrine of *Stare Decisis*. In their different decisions, SR Das, CJ, and Bhagwati, J. described this Court's authority to review its rulings, especially where they pose significant constitutional questions.

A significant aspect of the ruling is a practical examination of parliamentary privilege, highlighting its collective nature and importance for the smooth operation of the legislative branch. The court emphasizes how crucial privileges are to promoting deliberative democracy and maintaining integrity and accountability in public life. Further, the judgement makes a distinction between unlawful acts like bribery and activities connected to members of the

⁴ (1974) 2 SCC 402.

⁵ 1955 SCC Online 2

legislature's duties, such as speaking and voting. It is quite clear from the ruling that lawmakers are not immune from criminal proceedings for conduct taken beyond the purview of their legislative responsibilities, rather it only applies to activities that are directly related to their duties as members of the Legislature. Moreover, the judgement clearly shows that at no point in time in the history of parliamentary privileges, legislators have been given blanket immunity from criminal law of land.

The ruling in *Sita Soren* Case rejects the broad interpretation of Article 105 (2) opined in the *PV Narasimha Rao*. The bench in *Sita Soren's* case opined that the two phrases “in respect of” & “anything” should be interpreted in the context of the words that occur by referring to the other words of the said provision. The case of 1998 constructed ‘in respect of’ broadly, implying that it refers to everything related to the vote or remark made. This led to the conclusion that a bribe paid to influence a member of the legislature's vote was immune to criminal proceedings. This type of interpretation may deviate from the provision's original aim. As we already saw legislators are immune only to the relevant functioning of the lawmaking, the freedom of expression and the right to vote are essential to the operation of Parliament or the legislative, and their practice must be consistent with the collective functioning of the House.

The terms “anything said” and “any vote given” in Clause (2) of Article 105 refer to activities performed by those having the right to speak or vote in the House or committee. As a result, immunity applies only if a member actively utilized their right to speak or vote during the relevant procedures. The terms “anything” and “any” suggest complete freedom for members to voice their views and vote without intervention from the courts. However, this freedom is limited to acts of speaking or voting in the House or committee and should not be applied widely. As a result, the majority verdict in *PV Narasimha Rao*, which interpreted “in respect of” too broadly, cannot be upheld.

Another issue to address was at what moment the offence of bribery crystallizes. Judges mentioned section 7 of the Prevention of Corruption Act⁶ which says that mere “obtaining”, “accepting” or “attempting” to get an unfair advantage with the aim to act or refrain from acting in a particular way is sufficient to complete the offence. It has been argued that the execution of the promise is immaterial to the offence being committed, and hence the difference stated in *PV*

⁶ The Prevention of Corruption Act, 1988, No. 49, Acts of Parliament, 1988 (India).

Narasimha Rao is completely arbitrary.

To counter argue the position of *PV Narasimhan Rao*, the bench gave the ideas of different countries such as the United Kingdom, the United States, Canada, and Australia and Parliamentary privileges in these countries have grown in distinct ways but have some characteristics. In the United Kingdom, privileges originate from past struggles between Parliament and the queen, with the primary goal of protecting free speech and discussion inside Parliament while enabling courts to intervene in circumstances such as erroneous cost claims. Similarly, in the United States, the Speech and Debate Clause shields politicians from questions about their congressional activities, stressing the independence of the legislative process but not providing immunity for non-legislative conduct such as bribery, as established in *United States v. Brewster*.⁷

Recent judicial decisions in Canada and Australia have highlighted that bribery of legislators is a criminal violation that is not protected by parliamentary privilege. *R v. Bunting et al*⁸. in Canada, as well as *R v. Edward White*⁹ and *R v. Boston*¹⁰ in Australia, confirmed the courts' authority to punish bribery cases involving politicians, emphasizing how such activities damage the integrity of representative systems. Despite variances in the scope of parliamentary privileges, these legal systems value legislative sovereignty while holding criminals accountable, particularly in situations of attempted bribery to influence legislative votes.

Finally, the last question that arose in front of the Court was whether the members of the Rajya Sabha enjoy the same privilege under Article 194 (2). the Court decided that Rajya Sabha elections are necessary for the legislative process and so protected by parliamentary privilege. This verdict established that parliamentary privilege extends to legislative activity outside of official sessions, enabling elected members' free and courageous exercise of their franchise.

Conclusion

The Seven-Judge Bench unanimously held that a lawmaker does not enjoy immunity under Articles 105(2) and 194(2) of the Constitution against bribery.

⁷ 408 US 501 (1972).

⁸ (1885) 17 O.R. 524.

⁹ 13 SCR (NSW) 332.

¹⁰ (1923) 33 CLR 386.