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An analysis on Law of Sedition & the ambiguity of its jurisdiction along with juxtaposition of Article 19(1)(a).

Authored By - K.Sumanth

ABSTRACT:

The judicial understanding of sedition in relation to freedom of speech and expression reflects the evolution of the judiciary's attitude over time. It is alarming that this law, Section 124-A of the Indian Penal Code, which was implemented during the Colonial era to stifle freedom movements and punish freedom fighters, is still used arbitrarily. Applying a sedition law arbitrarily goes against the fundamental principles of constitutionalism because the rule of law already exists in our nation. The question I would like to answer through this research paper does the safeguarding of power, therefore, justify the neglect or suppression of Article 19 (1)(a), and whether this is not a transgression of democratic principles. The judiciary has been the torchbearer for resolving legal conflicts. Apart from the vagueness of restrictions connected to sedition, it has reduced the scope of the offence of sedition in order to protect freedom of speech and expression, which has time and again been determined to be a necessary feature in a democratic setup. The law has been used in a variety of ways to restrict freedom of speech and expression in India which is vague as free speech is the soul of a democratic country. These prohibitions traverse all cultural, religious and political boundaries.

Key Words: Sedition, Article 19(1)(a), Democratic Principles, Judiciary.

Introduction:

Section 124-A of the Indian Penal Code states that "whoever brings or attempts to bring into hatred or contempt, or stimulates or attempts to inspire disaffection against, the Government constituted by law, by words, either spoken or written, or signs, or visible representation, or otherwise."¹

¹ Section 124-A of the Indian Penal Code, 1860.

Problem in the sedition law is that it is uncertain about its jurisdiction and it contacting authority regarding the article 19(1)(a) which is leading to the growing instances that this law has been weaponized as a convenient tool against political circumstances to suppress & Descent free speech.

Therefore it is contended that there is an ambiguity in the jurisdiction of sedition law and it is suppressing the democratic principles under article 19(1)(a) which places the basic freedom of the citizen and the democracy in Jeopardy.

The main objective of this research is to understand whether the law has been misused by the government authorities and people in power. Has there been any ambiguity in the jurisdiction of law to which there is an infringement of the freedom of speech and expression guaranteed by the Indian Constitution. Another thing to think about is whether or whether article 19(2) overuses the word "sedition" and, if so, in what context. The legal advisory committee stated that sedition as defined by the Indian Penal Code didn't require any anticipation or tendency to actuate disorder, thus on the one hand, we agreed that sedition was a crime against the public peace and that it was somehow connected to a public concern. To define the concept of the Law of Sedition, to analyse the contemporary legal challenges to the Law of Sedition critically, to recommend and offer ways to ensure that the Law of Sedition is enforced correctly for the benefit of the average person.

In Kedar Nath v. State of Bihar² the Court upheld the constitutionality of Sec 124-A of the Indian Penal Code. Only activities that promote violence or disorder are punishable under this section, according to the judgement; acts lacking this tendency are not. Section 124-A of the Indian Penal Code does not contravene Article 19(1)(a) of the Indian Constitution.

Attempts to arouse disaffection were regarded similarly, whether successful or not. As a result, even if a person only sought to incite emotions, they could be held guilty. This clause does not apply to comments that indicate dissatisfaction with administrative or other government acts but do not provoke or attempt to inspire hatred, contempt, or alienation. Approval is the inverse of disapproval.³ Even if one disagrees with a man's ideas or actions, one may still admire him. Thus, sedition and treason are logically related.

² A.I.R 1962 S C 955.

³India Today web desk, "Indian Sedition Law: What is it and what does it say", February 16, 2016, available at: <https://www.indiatoday.in/education-today/gk-current-affairs/story/indian-sedition-law309015-2016-02-16>(last visited on 18th March, 2018 at 4:21PM).

Background of the Law:

Law of sedition has a conflicting authority regarding freedom of speech and expression. The natural right theory of John Locke explains that people are equal and have a set of inalienable natural rights. The fundamental natural rights include the right to question the government and the right to free and independent ideas, right to life liberty and property thus the natural law theory complains with current sedition laws which is giving its citizens with the aforementioned right i.e. the ability to question the government.⁴ But the sedition law in addition to the aspects discussed in the theory will cover a broad range of activities, including hosting public gatherings, establishing clubs and unions, holding demonstrations, etc.

In the past, numerous Indians have been accused of violating the law. Bal Ganga Dhar Tilak and Mahatma Gandhi, two prominent freedom fighters, are accused of violating the Sedition Act. Provision 124-A of the Indian Penal Code was established in 1870 after the British provincial government realised it needed a distinct section to address the breach. In the Queen-Empress v. Tilak case,⁵ Bal Gangadhar Tilak was charged with sedition for publishing a newspaper article about the Maratha warrior Shivaji that advocated his revolt against the British government. This case clarified what is meant by "disaffection." Disaffection is described as any form of hostility directed at the government, including hatred, dislike, antagonism, and contempt. The term "disloyalty" may be the most appropriate because it encompasses all forms of antagonism toward the government. Section 124A of the IPC was altered in 1989 as a result of the case's verdict, and the interpretation was changed from disloyalty and antagonism to sedition. In Queen-Empress v. Ramchandra Narayan⁶ and Queen-Empress v. Amba Prasad,⁷ the Tilak ruling was followed.

“The following are the significant distinctions between the current and the abolished provisions:

- (1) The section's explanation is no longer included.
- (2) The offence carries harsher penalties.
- (3) In the past, encouraging or attempting to encourage animosity or hatred between classes was illegal. Promoting or attempting to foment animosity or hostility amongst various castes,

⁴ John Locke, Locke's Theory of Revolutionary Action, The Western Political Quarterly, Vol. 16, No. 3 (Sep., 1963), pp. 548-568 (21 pages).

⁵ Queen Empress v. Bal Ganga Dhar Tilak (1897) 22 BOM 112.

⁶ ILR (1898) 22 Bom 152.

⁷ ILR (1897) 20 All 55.

communities, racial groups, or religious groups is now illegal. It is important that when naming various groups, the language of the modified section does not include the qualifiers "of citizen."

(4) Any conduct that a person commits that is detrimental to the upkeep of harmony between castes, communities, racial or linguistic groupings, or that disturbs the peace of the public, is punished.”⁸

Constitutionality of IPC Section 124-A :

After the Indian Constitution went into effect, section 124-A of the Indian Penal Code, 1860, was challenged on the grounds that it violated Article 19(1)(a) of the Constitution's basic right to freedom of speech and expression. Every citizen has the right to freedom of speech and expression under Article 19(1)(a) of the Constitution. Concerning the justifications for acceptable restrictions, see Article 19(2).

There, sedition is not considered as a justification for legitimate limits. The question now is whether the IPC's Section 124-A puts reasonable limitations on the freedom of speech and expression protected by the Constitution's Article 19(1)(a). Furthermore, it was contended that the definition of sedition was ambiguous and that including it in the Constitution would complicate matters. The legitimacy of this section was restored after the Constitution went into effect.

Ramesh Thapar v. State of Madras⁹ was heard by the Supreme Court. The petitioner argued before the Supreme Court that the injunction prohibiting the publication of his paper 'Crossroads' was unconstitutional.

Roads' by the Madras State since it violated his fundamental right to freedom of movement. Article 19(1)(a) of the Constitution grants him the right to free speech and expression. It was held that because clause (2) of Article 19 allows the imposition of restrictions on freedom of speech and expression only in cases where there is a danger to public security, an enactment that can be applied in cases where no such danger exists cannot be held to be constitutional or valid to any extent. Finally, the Supreme Court granted the petitioner's application under Article 32 of the Constitution and overturned Madras State's order forbidding the entry and circulation of the paper in the state.

⁸ Janaki Bakhle, Savarkar (1883–1966), Sedition and Surveillance: the rule of law in a colonial situation, Pages 51-75 | Published online: 12 Feb 2010.

⁹ AIR 1950 SC 124

In *Tara Singh Gopi Chand v. State of Punjab*,¹⁰ section 124-A of the IPC was declared illegal for violating the freedom of speech and expression granted by Article 19(1). (a). The Court also declared India to be a sovereign democratic state. Government can depart and be caused to go without jeopardising the state's foundation. A sedition statute, while important during the period of foreign rule, has become ineffective due to the nature of the change that has occurred. The Constitutional First Amendment) Act of 1951 amended Article 19(2) to include the phrases "in the interest of" and "public order" in order to avoid the constitutional issues that arose as a result of the preceding cases. This included legislative limitations on the freedom of speech and expression.

In *Ram Nandan v. State of Uttar Pradesh*,¹¹ the court determined that section 124-A of the IPC imposed restrictions on freedom of expression that were not in the best interests of the general public, thereby infringing this fundamental right. As a result, it concluded that section 124-A is unconstitutional since it cannot be justified by the expression "in the sake of public order."

In *Kedar Nath Singh v. State of Bihar*,¹² 274 in 1962, the Supreme Court overturned this decision and ruled that the sedition act was valid. The Court made a distinction between "the Government created by law" and "persons for the moment being engaged in carrying out the administration" while affirming the judgment's legitimacy. The Court made a clear distinction between betraying one's allegiance to the government and criticising its policies without causing a commotion by using force. The State's outward sign was intended to stand in for the latter. Any attempt to overthrow the legitimate government would jeopardise the State's continued existence. Any fair criticism of government officials. It will not be a crime under this rule to endeavour to improve the functioning of the government. According to the Supreme Court, the essence of the crime of sedition is acts that have the "effect of overthrowing the government." According to the Supreme Court, "a citizen has the right to say or write or express in any other way, whatever he wants about the Government or its measures in the form of criticism or comment, so long as he does not incite people to violently oppose the Government established by law or with the intent to cause public disorder."

¹⁰ 1951 Cri LJ 449

¹¹ AIR 1959 All 101

¹² Supra note 2 at 12.

The primary criminal code in India is the Indian Penal Code, 1860. It is a thorough code that aims to cover all important areas of criminal law. This Act's goal is to give India a comprehensive penal law. 46 The Act does not repeal the criminal laws that were in place in India when it came into effect, despite not having that as its primary goal. This is because not all offences are included in the Code, and it is possible that some offences may still have been committed but were not included in the Code since they were not meant to be free from punishment.

The reasons for why Indian Penal Code needs reforms:

India's primary criminal code is the Indian Penal Code of 1860. It is a comprehensive code intended to address the core concepts of criminal law. This Act aims to establish India's general penal code. Although not the initial step as the criminal laws that were in force at the time of passage are not repealed by the Act, being implemented in India. This was because the Code did not contain all of the breaches, some of which might still not have been covered by the Code. It wasn't meant to be a way to avoid punishment.

Despite the fact that this Code codifies the entirety of the applicable legal framework and is exhaustive with regard to the subjects it declares to be governed by the law, numerous additional criminal legislation controlling a variety of offences have been enacted in addition to the code. The Indian Penal Code of 1860 has five hundred and eleven sections and is organised into twenty-three Chapters. The Code begins.

with an introduction, offers justifications for any exceptions made, and addresses a variety of offences. Thus, Chapter 6 of the Indian Penal Code, 1860, also contains sections that specify offences against the state or nation and their associated penalties.

Despite the fact that the Criminal Procedure Regulation was developed by the British in 1862 as a general rule. With the passage of the Evidence Act in 1872, it was finished in terms of criminal justice. The efficacy of the Code of Criminal Procedure has been improved via multiple revisions. The Law Commission made a number of recommendations to improve the Criminal Procedure Code when it gained independence. The abolition of jury trials was one of these modifications, and the main goal of these reforms was to speed up and improve the efficiency of the criminal justice system. In 1973, Parliament ultimately passed the Code of Criminal Procedure, which has subsequently undergone multiple revisions.

Implementation of the law:

The use of Section 66A to arrest people for posting (and liking) Facebook comments, for critical political speech, and other offences has gained it some notoriety recently. The English Communications Act, whose reach has been drastically reduced following claims of abuse, served as the primary inspiration for much of Section 66A. Its original intent was to combat spam and online harassment. It hardly needs to be said again that its execution has greatly exceeded its intended goal. Beyond ineffective execution, there is a compelling argument for the Court to declare at least a portion of Section 66A illegal since it infringes on the right to free speech guaranteed by Article 19(1)(a) of the Constitution.

Section 66A makes it illegal to send "any electronic mail or electronic mail message for the purpose of causing annoyance or inconvenience" via a computer resource or communication device, as well as to send "any electronic mail or electronic mail message for the purpose of causing annoyance or inconvenience" (S. 66A(a)). One of the elements of the offence is thus online communication that is "grossly insulting," "menacing," or causes "annoyance" or "inconvenience."

The Allahabad High Court had to intervene to save Arun Jaitley after he posted on Facebook that he disagreed with a Supreme Court ruling. According to an Uttar Pradesh magistrate in the Mahoba district who made the decision to initiate a sedition case and issue summonses against Jaitley, no one has the authority to disobey a Supreme Court decision.

However, the Allahabad High Court quashed the accusation and summons against Jaitley on the grounds that they did not adhere to section 124A of the IPC. There are serious consequences when a criminal inquiry starts. It affects a citizen's life and freedom and has major repercussions. As a result, when exercising authority, the magistrate must apply judicial judgement.¹³

The following adjustments to India's Law of Sedition could be introduced, according to the 42nd Law Commission Report 1971:

(1) Given the controversy concerning the function of purpose in S.124A, an amendment that establishes a casual link between the words and the security and safety of the state should be enacted. The Mens Rea should be expressed as "intentionally or consciously intending or

¹³ Arun Jaitley v. State of Uttar Pradesh, Application s/s 482 No. 32703 of 2015.

knowing it (the words or representatives in question) to jeopardise India's or any State's integrity or security or to incite public discontent."

(2) In situations where a verbal assault on the Constitution, the Legislature, or the administration of justice was brought under the purview of this Section, the Law Commission also backed the English rule. Desecration of the National Anthem, Flag, or Constitution was also recommended as a new Section that would constitute a felony.

(3) The Law Commission thought the punishment Section, which only permits imprisonment for a maximum of three years or for life, was unusual. It suggested a maximum prison term of seven years, with the alternative of a fine.

The place where the sedition was written, uttered, published by the authorities, or with the consent of the accused is where the crime was committed. The process adheres to the analogy of slander in this regard as well. A violation of this section is a cognizable offence. It is triable by the Court of Session and is neither bailable nor compoundable.

To be found guilty under section 124-A, it must be shown that the accused used the disputed words to

- (a) incite or attempt to incite hatred or contempt,
- (b) excite or attempt to excite disaffection, and
- (c) direct that disaffection towards the Government recognised by Indian law.

Abuse of the law of sedition in the twentieth century:

In the twenty-first century, the number of erroneous sedition charges has increased, and the legislation is increasingly being exploited as a political tool to stifle legitimate protests against the government. Despite the fact that the accused were simply exercising their right to free speech and expression, multiple cases and F.I.R.s were brought against them under section 124-A of the IPC. No particular data or information about the number of sedition-related arrests or cases has been made available on purpose. However, it remains true that section 124-A of the IPC has been and continues to be abused. The meaning of sedition, which is the iterated thought in each scenario, is determined by the manner in which the law is employed by the user. State authorities, civil society organisations, ideological groups, and ordinary citizens are constantly redefining the boundaries of sedition. Sedition today can range from supporting a rival cricket team to engaging in acts of terrorism and war, as evidenced by this formation.

Observation on Abuse Of Sedition Laws through case laws:

In the case of *Dr. Vinayak Binayak Sen v. State of Chhattisgarh*,¹⁴ a similar position was held. This case is a great example of how the statute of sedition has been abused by the government to silence genuine criticism. In this instance, the police apprehended businessman Piyush Guha, one of the accused. At the time of his detention, the police said he was in possession of a considerable quantity of material meant to stimulate naxalite activity, and they confiscated these papers. Letters were delivered to Piyush Guha by Binayak Sen, who had obtained them from Narayan Sanyal during a jailhouse meeting. Piyush Guha was instructed to transmit the letters to the secret code numbers indicated in the letters. The police detained Binayak Sen for being a member of an illegal group, providing assistance to a terrorist organisation, and assisting an illegal organisation. He was further charged with sedition. A trial court convicted him of sedition and sentenced him to life in jail. Sen's bail motion was denied by the High Court of Chhattisgarh on the grounds that he posed a danger to national security, and his conviction was affirmed. The High Court determined that Sen was in possession of materials that aimed to stir hate and dissatisfaction against the legal government. And the right to freedom of speech and expression under Article 19(1)(a) must be used appropriately and does not include the right to cause public unrest or disruption of law and order. Sen filed a plea for special leave with the Supreme Court in response to the High Court of Chhattisgarh's denial of bail. Binayak Sen was given bail and his sentence was suspended by the Supreme Court. The Supreme Court provided no explanation for the ruling. Several recent analyses have speculated on the order's rationale. In the same way that simple possession of Mahatma Gandhi's autobiography does not make a person a Gandhian, the possession of Naxal literature does not constitute a person a Naxalite who would be guilty of sedition.

In the case *Sanskar Marathe v. State of Maharashtra and Others*,¹⁵ Aseem Trivedi, a 24-year-old award-winning cartoonist, was charged under sections 124-A of the Indian Penal Code, 66 of the Information Technology Act, and of the Prevention of National Honour Act. He produced cartoons criticising and lampooning government corruption. The Bombay High Court ruled that accusations of sedition under section 124-A of the Indian Penal Code seek to

¹⁴ 2011 (266) ELT 193 (Chhattisgarh).

¹⁵ 2015 Cri.LJ 3561.

criminalise only those actions that are intended or likely to cause unrest or disruption of public peace by the use of violence. The Court ruled that a person has the freedom to criticise or remark on the Government or its policies as long as he does not promote violence against the legal government or intend to create public disturbance. The purpose of this provision is to criminalise only those behaviours that are intended or likely to cause unrest or disruption of public peace by the use of force. Consequently, it is evident that the provisions of section 124 A of the IPC cannot be invoked to punish the criticism of persons currently engaged in administration or the use of strong language to express disapproval of government measures in an effort to improve and alter them through lawful means. Cartoonist Aseem Trivedi's section 124A charges were subsequently dismissed. The court said that the State Home Department must offer recommendations to the police as prerequisites for using section 124A of the Indian Penal Code only if an act incited violence or disrupted public order. In addition, a written legal opinion with justifications must be given before any allegation of sedition may be imposed.

This was reaffirmed by the Supreme Court in its 1983 case *Balbir Singh v. State of U.P.*¹⁶ The Supreme Court determined that listening to talks does not constitute such an activity. There was no evidence indicating that anybody who listened to remarks attempted to aid, advocate, advise, or enable the commission of a crime.

In a similar case involving processions advocating for a separate Khalistan state, the Chandigarh High Court overturned the conviction of a Dal Khalsa member who had been jailed by a lower court under sections 124A and 153 of the Indian Penal Code. The Court determined that mere words do not constitute the crime of sedition unless they seek to cause disruption or disturb the public peace via the use of violence. In another contentious case, *Simranjeet Singh Mann v. Union of India*¹⁷, the president of the Shromani Akali Dal-Amritsar, Simranjit Singh Mann, was accused with four separate counts of sedition. As the Senior Superintendent of Police in Faridkot, he was charged of spreading pro-Khalistan propaganda and aiding Bhindranwale and his followers by supplying weaponry. His name was also linked to the murder of former Indian Prime Minister Indira Gandhi. The Supreme Court ruled that the mere chanting of slogans does not constitute sedition, hence the Section 124A case should be dismissed.

¹⁶ AIR 2000 SC 464.

¹⁷ AIR 1993 SC 298.

In *Gurjatinder Pal Singh v. State of Punjab*,¹⁸ the accused petitioned the Punjab and Haryana High Court to invalidate the FIR lodged against him under sections 124A and 153B of the Indian Penal Code. In this lawsuit, the petitioner advocated for the construction of a buffer state known as Khalistan and referred to the Constitution of India as a "useless" document. The High Court referenced the Supreme Court's ruling in *Balwant Singh v. State of Punjab* and ruled that the accused's casual shouting of certain slogans without the intent to cause disturbance did not violate sections 124A and 153B of the Indian Penal Code.

In *Bilal Ahmed Kaloo v. State of Andhra Pradesh*,¹⁹ the Supreme Court noted the cavalier way in which the lower court had imposed the penalty under section 124-A of the Indian Penal Code. Bilal Ahmed Kaloo was allegedly an active member of 'Al-Jehad,' a terrorist group whose mission was to free Kashmir from the Indian Union. The allegations against him were that he incited communal enmity among Muslim youngsters in Hyderabad and forced them to undertake military training. It was also stated that he was spreading the rumour that the Indian Army was cruelly treating Kashmiri Muslims. He was arrested and charged under sections 124-A, 153A, and 505(2) of the Indian Penal Code, sections 3(3), 4(4), and 5 of the Terrorists and Disruptive Activities (Prevention) Act, and section 25 of the Arms Act. Regarding the violation of section 124-A of the Indian Penal Code, the court cited the *Kedar Nath Singh* case. Since there was no accusation that Bilal Ahmed Kaloo acted against the government in the indictment, the conviction under section 124-A of the Indian Penal Code was deemed invalid. The court convicted him of violating the Arms Act but acquitted him of violating the Indian Penal Code.

In *Nazir Khan v. State of Delhi*,²⁰ the defendant Nazir Khan was a member of militant groups like Jamet-e-Islamic and Al-e-Hadees. He took part in terrorist actions in India. He abducted two visitors to India and sought the release of 10 terrorists in exchange for the foreigners. The trial court convicted the defendants and claimed that they attempted to 'overwhelm' the Government of India with illegal force, as well as incite hate and discontent among a segment of the Indian populace against the Government.

¹⁸ (2009) 3SCR (Cri) 224.

¹⁹ (1997) Supreme Today 127.

²⁰ (2003) 8 SCC 461.

The Supreme Court determined that the purpose of sedition is to promote discontent and rebellion, stir up hostility to the government, and cast the administration of justice into disrepute, and that the very nature of sedition is to inspire the people to revolt. The crime of sedition has therefore been "clearly established."

In *P. J. Manuel v. State of Kerala*,²¹ the Kerala High Court noted that in a contemporary democracy, it must be determined whether the printing or preaching of protest, or even challenging the basis or structure of government, may be imputed as "provoking disaffection against the government." The elements of the sedition offence must be evaluated in accordance with both the text and the spirit of the Constitution.

In another case, *Bharat Desai v. State of Gujarat*,²² in which a journalist was charged with sedition for publishing an article exposing the ties between the Police Commissioner and Latif, the Mafia Don, the court reached the same conclusion. On the basis of various confessions recorded by the Federal Bureau of Investigation, the claims were made. The defendant petitioned the High Court to dismiss the sedition proceedings. The Gujarat High Court dismissed the sedition allegations on the basis that the content of the reports did not constitute sedition.

In *Javed Habibi v. State (National Capital Territory of Delhi)*,²³ the publisher and editors of a newspaper were charged for publishing an article in which the author alleged that former Prime Minister Indira Gandhi and Atal Bihari Vajpayee had conspired against Muslims and that Muslims were being treated unfairly. The High Court ruled that opposing the Prime Minister or his activities or criticising the government's conduct cannot be constituted sedition under section 124-A of the Indian Penal Code. Critique of the government is the defining characteristic of democracy.

Additionally, courts have repeatedly determined that criminal schemes and terrorist activities do not constitute sedition.

²¹ ILR (2013) 1Ker 793

²² Cri. Misc App. 7536 of 2008 (Guj) (unreported).

²³ (2007) 6 DRJ 693.

In *Mohd. Yaqub v. State of West Bengal* (1992),²⁴ the Calcutta High Court noted the element of sedition decided in the *Kedar Nath* case and concluded that criminal plots and acts of terrorism did not constitute sedition. The high evidence requirements were therefore not fulfilled, and the offender was not found guilty.

The Supreme Court applied the Court's judgement in *Kedar Nath* and ruled that the prosecution must provide adequate evidence to establish that the defendant committed a seditious act. In addition, the court acquitted the accused of sedition on the grounds that the prosecution had failed to provide sufficient evidence to show that they had done a seditious conduct.

State of Chhattisgarh v. Asit Kumar Sen Gupta,²⁵ Asit Kumar belonged to the proscribed communist party of India (Maoist). He was accused under section 124-A of the Indian Penal Code for encouraging and urging others to join a proscribed organisation. He intended to foment armed insurrection against the present "capitalist" government. In reaching its determination, the High Court referenced the Supreme Court's ruling in *Raghubir Singh v. State of Bihar*,²⁶ in which the Supreme Court declared that the accused need not be the originator of seditious material in order to be charged with sedition. Under section 124A of the Indian Penal Code, just disseminating or distributing seditious materials may render a person guilty.

Conclusion:

The goal of this research is to address the current pervasive abuse of the legislation of sedition in the country and around the world. Freedom of Speech and Expression has been elevated to the highest level, as it is recognised as the most important right in the process of an individual's self-development. It's like a never-ending asset that no one wants to give up. The conflict between the law of sedition and freedom of speech and expression is escalating to the point where our governments are being pressed to reconsider the law of sedition in the twenty-first century.

Free speech is the exchange of an essential commodity, namely ideas. Hocking has said that if a guy had an idea, it was not a capital asset. He feels the want to give it out and spread it everywhere, knowing that whatever he gives, he retains. According to Hocking, "the destiny

²⁴ (2004) 4CH 406.

²⁵ Cri. App No. 86 of 2011.

²⁶ (1986) 4 SCC 481.

of private thinking is to acquire influence and power through influencing public conduct or public action." Nothing exemplifies human failure more than a guy who is physically productive but whose thoughts are worthless to his group or time. The most severe result of speech repression would be the mental sterilisation of the citizens and not permitting free expression of their ideologies and perspectives. The social interest in free speech and expression is predicated on the notion that without expression, there would be no society, as communication is the core of social activity.

