

SEDITION

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CONTEXT



Supreme Court Cases



CRITICS



A Supreme Court Bench led by Justice D.Y. Chandrachud recently flagged indiscriminate use of the sedition law against critics, journalists, social media users, activists and citizens for airing their grievances about the governments COVID-19 management.



LIVE REPORT

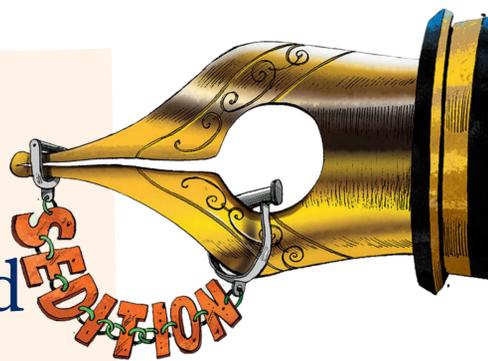


The apex court opined that it is **time to define the limits of sedition.**



LAW ON SEDITION (Section 124A)

Section 124A of the Indian Penal Code (IPC), deals with sedition. It was drafted by **Thomas Babington Macaulay** and included in the IPC in **1870**.



1870



It states that ‘Whoever, by words, either spoken or written, or by signs, or by visible representation, or otherwise, brings or attempts to bring into **hatred or contempt, or excites or attempts to excite disaffection towards, the Government established by law**, shall be punished with imprisonment which may extend to **three years**, to which fine may be added.’





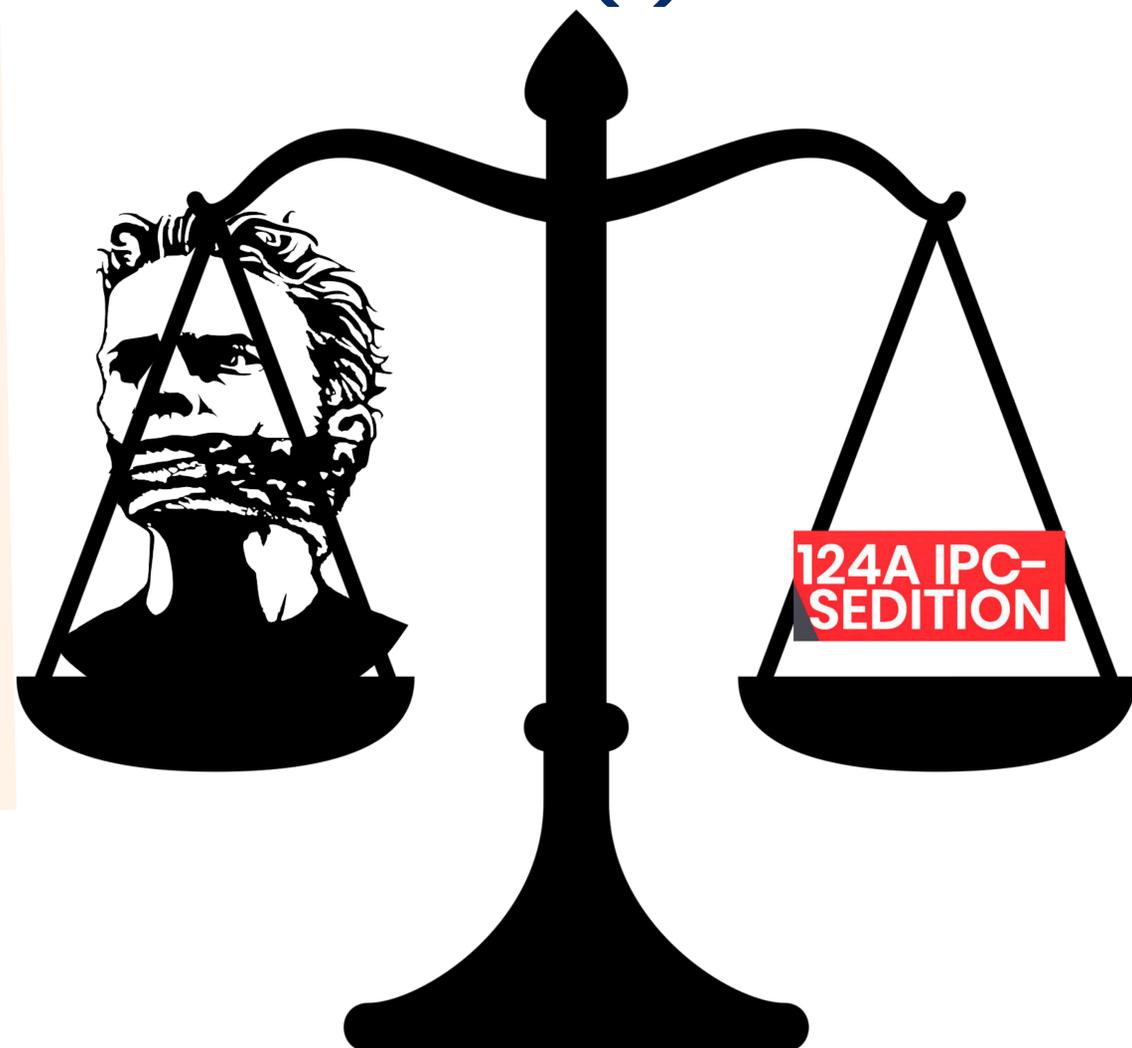
Sedition is a non-bailable offence. Punishment under the law varies from imprisonment up to three years to a life term and fine.



PREVIOUS JUDGEMENTS ON SECTION 124A

In **Kedar Nath Singh v. State of Bihar (1962)**, the Supreme Court upheld the constitutional validity of sedition and noted it as being a **reasonable restriction on free speech** as provided in **Article 19(2)** of the Constitution.

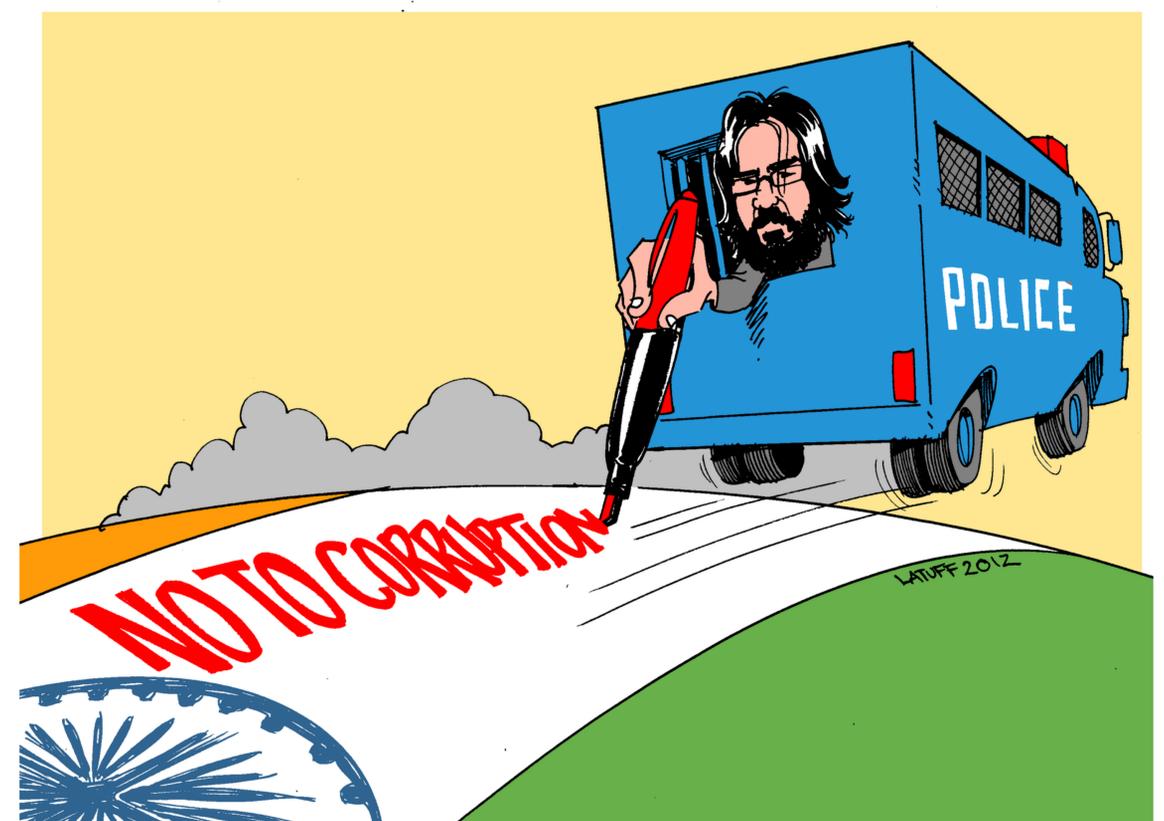
**Article
19(2)**



It made clear that a **citizen has the right to say or write whatever she likes about the government**, or its measures, by way of criticism or comments, **as long as she does not incite people to violence** against the government established by law or with the **intention of creating public disorder.**

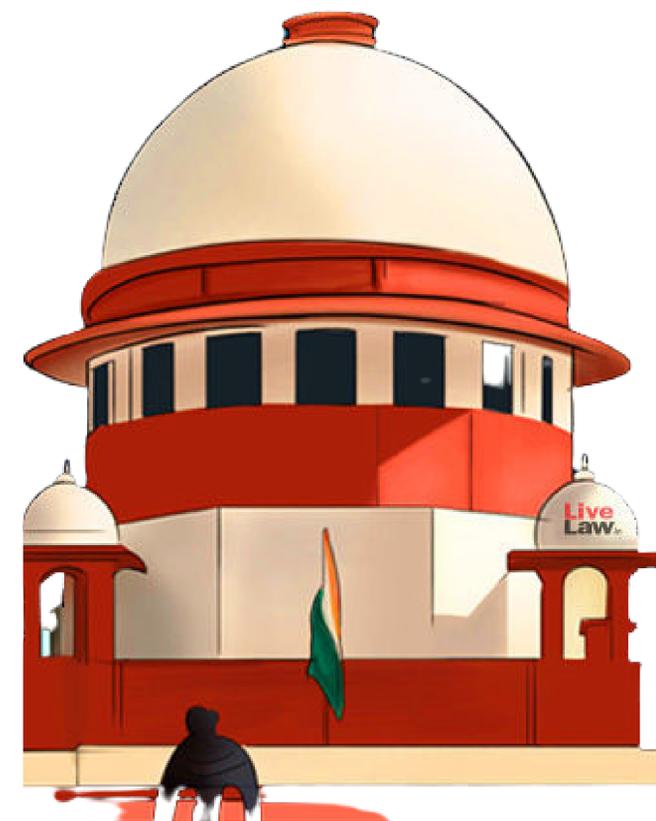


Following the Kedar Nath case, the **Bombay High Court**, in the **case of cartoonist Aseem Trivedi (2012)**, issued **guidelines** which the police must follow prior to invoking the provisions of sedition.



These include an **objective evaluation of the material** to form an opinion on whether .

the words and actions cause disaffection, enmity and disloyalty to the government as they must be of the magnitude that they **incite violence or tend to create public disorder**



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The Court also directed obtaining a **legal opinion in writing from a law officer of the district** who must give reasons on how the pre-conditions are met.

This needs to be followed by a **second opinion from the State's public prosecutor.**



WHY THE LAW NEEDS RELOOK?

The sedition law has been in debate ever since it was brought into force by the colonial British rulers in 1860s.



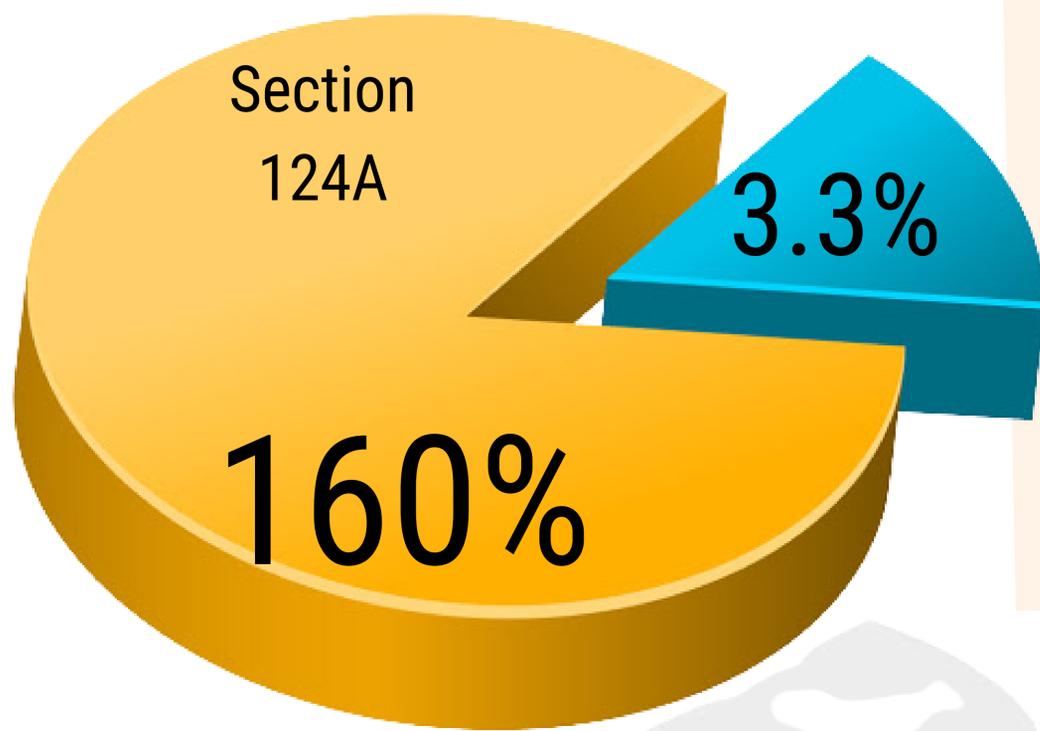
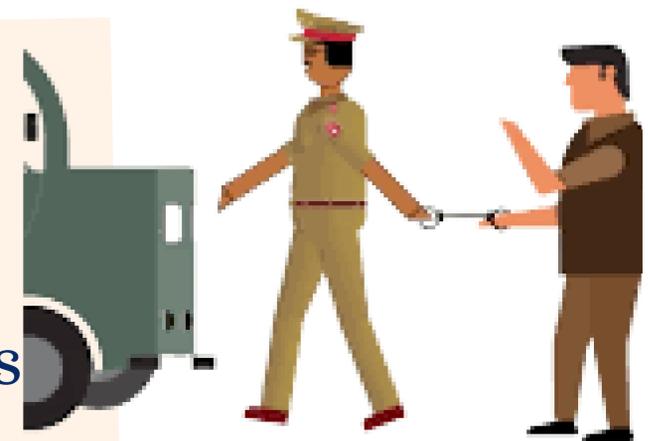
Several top freedom movement leaders including **Mahatma Gandhi** and **Jawaharlal Nehru** were booked under the sedition law.





Mahatma Gandhi described it as the “prince among the political sections of the Indian Penal Code designed to suppress the liberty of the citizen.”

Despite being cautioned by courts on numerous occasions, law enforcement agencies continue to misuse the provisions on sedition and ignore court directions. The problem therefore lies in the **poor implementation of the law and guidelines.**



Based on data from the **National Crime Records Bureau**, between 2016 and 2019, the number of cases of sedition under Section 124A increased by 160%, while the rate of conviction dropped to 3.3% in 2019 from 33.3% in 2016.

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Notably, out of these cases, **many charges fell outside the ambit of sedition.** Consequently, the staggering numbers have got people saying that “the aim is not to punish or convict anyone but to incarcerate them... the process itself is the punishment.”

This data and the gross misuse of the legal provisions compel one to state that even though a Constitution Bench upheld the vires of the law of sedition, the **circumstances now require a complete relook at the provision.**



When the situation changes, the statute calls for a change as law cannot afford to remain static.

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The U.K. has repealed the offence of sedition in 2010 and India is holding onto a relic of the British Empire.



In its consultative paper on sedition, the **Law Commission of India** said **dissent and criticism of the government are essential ingredients of a robust public debate in a vibrant democracy.**



The Commission, headed by former Supreme Court judge, Justice B.S. Chauhan, suggested **it was time to rethink or even repeal Section 124A.**



WAY FORWARD



The outcome of the question is unknown, but the discussion needs to be rekindled.



Till the law on sedition continues to remain on our statute book, courts must adopt an **effect-based test** followed in the west. The test **examines the effects of the seditious text rather than a content-based test which reviews the text alone.**



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It is not the alleged seditious acts that are creating fragments in our society; it is in fact the persecution of individuals and labelling them that are really creating cracks in our socio-politico ecosystem.



In the words of **Martin Luther King, Jr.**
“We must learn to live together as brothers or perish together as fools.”



Reference:

<https://www.hindustantimes.com/india-news/its-time-we-define-what-is-and-is-not-sedition-sc-101622486269556.html>