CHAPTER -5

LAW OF SEDITION INDIA: JUDICIAL PRONOUNCEMENTS

As we know that the Law of Sedition is against the Human rights Activists, journalist and public intellectuals in the country. This colonial Law was introduced by the British Government. Now in present scenario that Law are used liberally by both the central and state Government to curb free speech. The specificity of this Law lie in the language of 'disaffection' and severity of the punishment associated with them. Law of Sedition targets included renowned nationalist like Mahatma Gandhi, Bal Ganagdhar Tilak and Annie Besant. It is ironic that these Laws have survived the demise of colonial rule and continue to haunt media personnel, human right Activists, political dissenters and public intellectuals across the country.[281] An examination of the Judgment of the courts of Law would reveal that judicial thinking with regard to the meaning and scope of Section 124-A of the Indian Penal Code has proceeded along two lines. According to one view, the statutory offence of Sedition in India is different from the common Law Offence of Sedition as much as it seeks to punish all types of bad feelings, and unlike English Law that fails to prescribe what has been described as an external standard for the purpose of measuring the nature and quality of bad feelings. It punishes not only any positive expression of Dissatisfaction, but all subjective feelings of enmity in one and attempts to cause disloyalty or enmity in others also.[282]

The view that exciting or attempts to excite a feelings of disaffection , hatred or contempt is punishable per se as such, irrespective of whether or not disorder follows or is likely to follow has been dominant in our legal system. Before giving any Judgment regarding to Law of Sedition we wish to observe that the manner in which conviction have been recorded for offences under Section 153-A, Section 124-A, and Section 505(2) has exhibited a very casual approach of the trial court. If there is an absence of evidence which may attract the provision of the Section, even the charges against the appellant for these offences did not contain the essential ingredients of the Offences

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[281] Sedition Laws and the Death of free Speech in India by Center for the Study of Social Exclusion and Inclusive Policy, National Law School of India University Bangalore in February 2011.

[282] Commentary on Indian Penal Code by K.D Gaur forward by Justice J.S Verma former Chief Justice of India in Universal Law Publication.

under the Sections related to Sedition. In that condition the accused strictly speaking should not have been put to trial for these offences. Mechanical order convicting a citizen for offences of such serious nature like Sedition and to promote enmity and hatred etc does harm to the cause. It is expected that graver the offence greater should be the care taken so that the liberty of a citizen is not lightly interfered with.[283]

Judicial pronouncement regarding to the Law of Sedition can be divide in two parts. One is related to decided cases in pre independent India related to Sedition. Second is a decided case in independent India related to Sedition?

(5.1) DECIDED CASES IN PRE INDEPENDENCE IN INDIA RELATED TO SEDITION:

THE BANGOBASI CASE 1891:

The first trial on record for Sedition was Queen Empress v. Jogendra chander Bose and others, more commonly known as the Bangobasi case of 1891, which brought up the question of limits of legitimate criticism against the official measures. The Bangobasi a newspaper edited by jogendra Chandra, while reacting to the passage of the age of consent bill (1891), raised the cry of 'religion in danger' and charged the Government for Europeanizing India by brute force and held it responsible for the economic deprivation of Indians. However it also stated that Hindu neither believed in rebellion nor were they capable of it.[284]

The question that was discussed in the case was: did the Bangobasi exceed the bounds of legitimate criticism? The prosecution charged that the intention was to bring the people into a frame of mind-'we would rebel if we could and that the religion feelings of the people were so excited that public peace was implied. The defence argued that there was no reference to 'rebellion' and that it only differentiated between "European and native method of thought". However the judge 'thought that attempted to hold it up to the hatred and contempt of the people.' In meanwhile, the accused tendered an apology and the proceedings were dropped. In 1891 unlike the earlier period, the official attitude showed that it was increasingly becoming intolerant of the slightest criticism not just of

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[283]Bilal Ahmed Kaloo v. State of Andhra Pradesh A.I.R 1997 SC 3483.
[284]Donough .OP. CIT. PP 38-39.

British rule but of minor measures as well. The observation of the judge was noteworthy, for it related to legislation that came after the Bal Gangadhar Tilak case.[285]

THE PRATOD CASE 1897:

The pratod case concerned with newspaper from Islampur in satara district that published an Article titled "Preparation for becoming independent" in 27 may 1897. The Article described Canadian nationalist resistance to colonial exploitation and the manner by which Canadian acquired political democratic rights and urged the Indians to follow the suit. The judge, H.F Aston sentenced the first accused, R.N Kashalkar, the publisher, to transportation for life and other, K.D Hamalkar the printer for seven years rigorous imprisonment. Aston remark explains generally held pre disposition against Indians: "the sentence should be such as to bring home to the minds of all the gravity of the Offence committed by those who seek to undermine the foundation on which the greatest strength of the Government in India rests."

When the case came up on appeal to the high court before the full bench consisting of chief justice Far ran, justice parson and Justice M.G Ranade a few months after the Tilak case, it was unanimously held that the animus was to excite a feeling of aversion and hatred against the Government. They believed that the attack was not against any particular Act or measure of Government or its officers, but was an outcome of a vague disaffection against the existing political system. Significantly the judges made a further inventive interpretation of the terms 'disaffection' and 'disapprobation' but within the framework provided by 'The Strachey Law'. Farran felt that the word "disaffection" used in Section 124-A cannot be construed as meaning an absence of or the contrary of affection of love, that is to say dislike or hatred". It is an attempt "to excite political discontent and alienation from the allegiance." He concluded the enigmatic exposition by saying that "the Article as a whole has the object of making its readers impatient of their allegiance to a foreign sovereign and creating in them the desire of casing off their dependence upon England." The conviction of both the accused was confirmed but the sentence was found to be Disaproptionate to the Garvity of the Offence

[285]Nationalism and Social Reform in (SC) Colonial Situation. By Arvind Ganachari.

and was reduced to one year's and three months simple imprisonment respectively. The case gives an idea of how in the altered political conditions Law could be powerfully used for terrorizing the people.

BAL GANGADHAR TILAK TRIAL IN 1897:

Bal Gangadhar Tilak trial related to Sedition began in 1897. The facts of the case that Government claimed that some of the speeches that referred to Shivaji Killing Afzal khan, had instigated the murder of the much reviled plague commissioner rand and another British officer lieutenant Ayherst, which occurred a week later. The returning from the reception and dinner at Government house, Pune, after celebrating the diamond jubilee of Queen Victoria's rule. Bal Ganga Dhar Tilak was convicted of the charge Sedition, but released in 1898 after the intervention of internationally known figures like max Weber on the condition that he would do nothing by Act, speech, or writing to excite disaffection towards the Government.[286] In 1898 the Law was amended to reflect Strachey's interpretation. The British included the terms 'hatred and 'contempt' along with disaffection. Disaffection was also stated to include 'disloyalty and all feelings of enmity'. During the debate on Sedition the British parliament took into account the defence argument in Tilak cases and the decision into subsequent cases, to ensure there were no loopholes in the Law. The debates in the British parliament demonstrate how "diverse customs and conflicting creeds" in India were used to justify this amendments.

It is clear that a Sedition Law which is adequate for a people ruled by a Government of its own nationality and faith may be inadequate, or in some respects unsuited, for a country under foreign rule and inhabited by many races, with diverse customs and conflicting creeds. In supporting this amendment during the debate, lord Elgin. Identified him with the Government and made a strong and weighty appeal to the following effect:

The new amendment added the words "hatred or contempt" to the word "disaffection". These amendments also brought in Section 153-A and 505 of the Indian Penal Code. The colonial Government particularly the Bombay followed the changes in the Law with a spate of prosecution against native newspapers. In 1908 after the political

[286]Economic and Political Weekly Vol xlvi no 8 February 19, 2011.

situation created because of the partition of Bengal, the British enacted the newspaper (Incitement to Offences) Act, a Law that enabled district magistrates to confiscate printing press that were used to publish seditious material. The colonial Government also enacted the seditious meetings Act to prevent meetings of more than 20 people from assembling. These moves came in for severe criticism from Tilak.[287] After the Muzaffar-pur bomb incident in which the wife and daughter of Pringle Kennedy a leading pleader of the Muzaffar pur bar, the kesari carried an editorial, pointing to the effects of Government repression. In 1908.Tilak was prosecuted once more for Sedition. Despite a spirited defence from Mohammad Ali Jinnah, one of the most prominent faces of the Bombay bar, the judges sentenced Tilak to six years rigorous imprisonment with transportation.

In 1916 the D.I.G of police criminal investigation department (CID) J.A guider moved the district magistrate Pune, Alleging that Bal Ganga Dhar Tilak was orally disseminating seditious information. He cited three of Tilak's speeches in 1916, one given in Belgaum and two in Ahmednagar. Jinnah Skilfully argued that since Tilak had attacked the bureaucracy through his speeches and not the Government, he could not be charged with Sedition. In terms of the legal definition of the scope of Sedition, there was difference in opinion between the federal court in India and the Privy Council in Britain. The federal court had in defining Sedition in the Niharendu Dutt Majumdar case held that in order to constitute Sedition, "the Acts or words complained of must either incite to disorder or must be such as to satisfy a reasonable man that is their intention or tendency". But the privy council in the Sadashiv case overruled that decision and emphatically reaffirmed the view expressed in Tilak's case to the effects that' the Offence consisted in exciting or attempting to excite mutiny or rebellion, or any sort of Actual disturbance, great or small. In Bal Ganga Dhar Tilak it was observed by the court that disaffection is a positive feeling of aversion which is akin to disloyalty, a defiant insubordination of authority, or when, it is not defiant makes men indisposed to obey or support the Laws of the realm, and promote discontent and public disorder.

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[287]Retrived from www bombayhighcourt.nic.in/libweb/historicalcases/cases/second-tilak-trial-1909.html, at 12.35 on May 6, 2015.

DIFFERENT PERCEPTIONS OF THE BUREAUCRACY: THE KAL CASE:

The prosecution under Section 124-A and 153-A required a prior sanction of the Government of India. This was done more as a safeguard against possible abuse. Most of the cases referred by the Bombay Government were negative by the Government of India, on the ground that legal opinion was not hopeful of a conviction in the court.

QUEEN-EMPRESS v. AMBA PRASAD 1897:

Amba Prasad was committed by the magistrate of Moradabad to the court of session of Moradabad for trail on a charge that on or about the 14th of July 1987, he did attempt to excite feelings of disaffection to the Government established by Law in British India by publishing in a Newspaper called the Jami-Ul-Ulam, of which he was proprietor, editor and publisher an Article entitled "Azadi band hone se Kabal Namuna" and had thereby committed an Offence punishable under Section124-A of the Indian Penal Code and within the cognizance of the court of session. During the trial of Amba Prasad he stated that he had published the issues of the said Article many times. The Article on the publication of which the charge was founded was contained in the issue of the newspaper of the 14th July 1897. Amba Prasad belongs to a Kayesth caste. Upon the charge being read to him Amba Prasad pleaded guilty. During his trial when he presented before magistrate he admitted that I have committed this fault for which he was ashamed and wish to through himself upon the mercy of the Government. The court of session of Moradabad found guilty Amba Prasad guilty of the Offence of which he had pleaded guilty and under Section 124-A of the Indian Penal Code sentenced him therefore to eighteen months rigorous imprisonment. From that sentenced Amba Prasad has appealed to this court.

In the case Amba Prasad has pleaded guilty to an attempt by court for the publication of the Article in question in the issues of his Newspaper of the 14th of July 1897, to excite feelings of disaffection to the Government established by Law in British India. The only defence open to him was that of insanity. Amba Prasad in publishing that Article could have had but one object view and that was to excite amongst her majesty's Indian subjects and particularly amongst her Muhamadan subjects, feelings of disaffection, disloyalty to the Government established by Law in British India. According to his own statement in the magistrate court he published his newspaper, shows that his

object was to excite not merely passive disaffection, which in itself is an Offence within Section 124-A of the Indian Penal Code, but Active disloyalty and rebellion amongst his Muhamadan fellow-subjects. The criminal Offence he committed is an exceedingly grave one. Amba Prasad alleges in his ground of appeal that his plea of guilty and an apology, which he tendered after he had been committed for trial, entitled him to have only a nominal punishment inflicted upon him. His conviction was inevitable. Having regard to the gravity of the Offence which Amba Prasad committed the court dismissed his appeal against conviction.[288]

BENI BHUSHAN ROY v. EMPEROR CASE 1907:

According to the case Beni Roy Bhushan on 25 may 1907 read out a written speech as president of the reception committee of a meeting held at the Hindu dharma sabha within the Khulna town. The meeting is related to as being very auspicious for the inauguration of 50th anniversary of the Indian mutiny. During the meeting Beni Bhushan Roy read out speech which incited the members of the meeting to exert themselves to secure an independent Government and Beni Bhushan Roy thereby disseminated seditious matters, the publication of which is punishable under Section 124-A of the Indian Penal Code. Evidence was gone into on the question as to what were the exact words of the speech of the petitioner which would bring the case within the words considered to be seditious and referred to in the notice. During the examination of Beni Roy Bhushan it was found that there is nothing in the speech which attract the Section 124-A of the Indian Penal Code. The deputy legal remembrance, on behalf of the crown, has conceded that there is nothing in the words 'that the present year is very auspicious for the inauguration of the meeting as it is the fiftieth anniversary of the Indian mutiny' which may be held to be seditious but he relies on the use of the word "independent Government" in the next clause. The word which it is said was actually used is 'Hansraj' (Swaraj). The words 'independent Government' were not used and it does not appear from the evidence of the witness Fazlur that petitioner in his speech said that people should have 'independent Government'. The word Swaraj if it was used does not necessarily mean Government of the country to the exclusion of the present Government

[288]Www indiankanoon.org.in visited on 11 May 2015, at 11:54 pm.

but its ordinary acceptance is 'home rule' under the Government. The vernacular word used if literally translated, would mean Self Government, but Self Government would not necessarily mean the exclusion of the present Government or independence. It may mean as it is now well understood Government by the people themselves under the king and under British sovereignty. The courts observe that there is nothing in the charges as stated in the notice. The charges against Beni Bhushan Roy v. Emperor 1907.[289]

ANNIE BESANT CASE 1916:

As we know the freedom of speech and expression also included also freedom of press also. Annie Besant was involved in cases related to the freedom of the press decided by the madras high court. She herself had to fight state oppression of the media. While in custody dispute Annie Besant took exception to the role played by the press, she herself had to fight state oppression of the media. In July 1914, Annie Besant purchased a printing press from where a Newspaper, Madras Standard, was being published. She changed its name to New India and started publishing it from august 1914. As required under the press and registration of books Act 1867, Annie Besant filed a declaration in December 1914 before the chief presidency magistrate. He accepted it without demanding any security. But after more than year, the Chief Presidency Magistrate. He accepted it without demanding any security. But after more than year, the chief presidency, magistrate suo moto passed an order, dated 22 may 1916, demanding that she deposit rupees 2000 as security. The order was complied with.

A series of Articles came to be published in New Delhi in June 1916. Some of these Criticized the bureaucracy some related to the Unlawful reservation of compartments in certain trains for European and Eurasians. One was a reproduction of an Article published in the herald, London, under the headline, "The prince of Liberty". Another was by Bipin Chandra pal about the assassination of superintended of police Basanth Kumar Chaterjee of Calcutta. One criticised the demand made by Bal Ganga Dhar Tilak for a security bond of Rs.40000 on charges of Sedition. When he was about to go abroad to prosecute his suit against sir valentine Chirole. Taking exception to these Articles, Government in council of Bombay issued an order on June 29, 1916, under the

[289]Www indiankanoon.org.In visited on 11 May 2015 at 11:50 am.

defence of India rules, 1915, prohibiting Annie Besant from entering residing or remaining in the province of Bombay. The order was published by Annie Besant in New Delhi on July 10, 1916, under the headline "Ave Caesar" followed by another set of Articles. The governor-in-council issued a declaration under Section 4 of the press Act, forfeiting the amount of Rs 2,000 deposited by Annie Besant in respect of new India printing works madras, and ordering the forfeiture of all copies of new India.[290]

Annie Besant moved two motion one against the order of the chief presidency Magistrate, dated May 22, 1916, demanding security, and another challenging the Government order directing forfeiture of the security deposit and copies of the newspaper. In the former, C.P Rama swami Aiyar appeared for Annie Besant. In the later she appeared in person and made a bench of madras high court. But the bench dismissed the petition the Privy Council upheld the decision.

SEDITION TRIAL OF GANDHI-1922:

The most famous Sedition Trail after Tilak's case was the trial of Mohandas Gandhi in 1922. Gandhi was charged, along with Shanker banker, the proprietor of young India for three Articles published in the magazine. The trial which was attended by the most prominent political figures of that time was followed closely by the entire nation. In his trial Gandhi told to the judge that how he had become an uncompromising 'disaffection' and non-co operator and why it was his moral duty to disobey the Law. Gandhi commented on Sedition that was used to try him and demanded that the judge give him the maximum punishment possible.

According to Gandhi Section 124-A of the Indian Penal Code perhaps the prince among the political Sections which designed to suppress the liberty of the citizen. Affection cannot be manufactured or regulated by the Law. If one has no affection for a person one should be free to give the fullest expression to his disaffection, so long as he does not contemplate, promote or incite to violence. But the Section under which Mr. Banker and Gandhi were charged is one under which mere promotion of disaffection is a crime. Most of the cases under Section 124-A of the Indian Penal Code is against loved of India patriots. During the trial of Gandhi he said that I have endeavoured to give in

[290] www.thehindu.com visited on 10 May 10, 2015 at 3.17 am.

their briefest outline the reason for May disaffection. I have no personal ill-will against any single administrator much less can I have any disaffection towards the king's person. But it is a virtue to be disaffected towards a Government which in its totality has done more harm to India than previous system. India is less manly under the British rule than she ever was before. Holding such a belief, Gandhi consider it is to a sin has affection for the system. And it has been precious privileges for me to able to write what i have the various Articles tendered in as evidence against me. Significantly Gandhi in his statements before the court refers to the nature of political trials that were ongoing at that time. "My unbiased examination of the Punjab martial Law cases had led me to believe that at least ninety-five per cent of convictions were wholly bad. My experience of political cases in India leads me to the conclusion that in nine out of ten the condemned men were totally innocent. Their crime consisted in the love for their country.[291]

Judge strongman, in remarkably respectful response, acknowledges the nature of Gandhi and his commitment to Non-violence but says he is bound by the Law to hold him guilty of Sedition, and sentences him to six years imprisonment. The irony of the Sedition Law used against Nationalists like Gandhi and Tilak continuing in the statues books of independent India was not lost on those drafting the Constitution. While in their draft Constitution, the Constitutional framers included 'Sedition' and the term 'public order' as a basis on which Laws could be framed limiting the fundamental right to speech (Article 13), in the final draft of the Constitution both 'public order' and Sedition were eliminated from the explanation to the right to freedom of speech and expression (Article 19(2)). This amendment was the result of the initiative taken by K.M Munshi who proposed these changes in the debates in the constituent assembly.

NIHARENDU DUTT'S CASE 1942:

The so called 'broad interpretation of the meaning of Sedition in the Indian Penal Code was, as has been stated earlier the prevailing views in Indian courts. This trend continued till the landmark Judgment of the federal court of Indian in 1942 in Niharendu v. Emperor. The case was decided in appeal from the Calcutta high court. The accused (a member of the legislature) had made a certain speech against the ministry and the

[291]Retrived from www. Harley.com/people/Mohandas-gandhi.html, at 6.30 am May 9, 2015.

governor of Bengal against their Acts and omission in riots that had taken place in Dhaka. The speech upbraided the Government for the alleged misuse of police forces and the governor for not fulfilling his responsibilities. The audience was made to believe that the Government was encouraging communal disturbance and it was suggested that the ministry and the Government should be made personally liable for the suffering of the victims. The accused was tried for the violation of rules 34(6) (e) and (k) under the defence of India Act, 1939. The opinion of the court of whether the speech was seditious or not is best summed up in the words of Gwyer, chief justice

"It is true that in the course of his observation the appellant indulged in aged deal of violent language and had worked himself up to such a state of excitement. The speech was feeling bound to observe, a frothy and irresponsible performance, such as one would not Act of Sedition is to do it too great an Honour.[292] Indeed the learned chief justice of the federal court opined that violent words by themselves did not make a written or written document seditious. According to the court the gist of the Offence was public disorder, or the reasonable anticipation or likelihood of public disorder, or must be of such intensity as to satisfy a reasonable man that there was the intention or tendency.

The learned chief justice however did not refer to any of the decision of the Privy Council while allowing the appeal of the accused. He justified his decision on the ground that the interpretation of the words of the Code must be in the light of the changing circumstances and what was once seditious may not be considered to be seditious now.[293]

KING EMPEROR v. SADASHIV NARAYAN CASE 1943:

The defence of India Act was given at issue in king Emperor v. Sadashiv Narayan Bhalerao. The subject matter of the charge was a document published and distributed by the accused in Jalgaon on January 23rd, 1943. The statements pertained to the widespread poverty and the hunger of the people, who had been allegedly been the subject of several collective fines. The trial judge held himself bound by the decision in the Niharendu Dutt Majumdar and pointed out that nowhere in the leaflet was it stated that an alternative Government should be formed and set up by use of violent means, and the audience was

[292]www. frnotlineonnet .com/stories, at 1:45 am on 12 May 2015.
[293]Www. indiankanoon.org. at 2:07 on 12May 12, 2015.

rather exhorted to achieve national unity. Therefore in the absence of any incitement to violence or disorder, the trial court acquitted the accused.[294]Loard Thankerton, who delivered the Judgment of Privy Council, however disagreed with the lower courts reliance on the conclusion of Gwyer, C.J in Niharendu Dutt case. According to the committee the federal court had proceeded on a mistaken construction of the Sedition and had disagreed previous decision of the Privy Council by which it was bound. The Judgment of Strachey, J in Bal Ganga Dhar Tilak was cited with approval and it was re-iterated that incitement to violence was not a necessary ingredient of the Offence of Sedition.

SEDITION TRIAL OF SHEIKH ABDULLAH 1946:

The trial of sheikh Abdullah in 1946 by the Raja Hari Singh in Kashmir is another example of the use of Sedition Laws before independence to muzzle political opinion. Abdullah had begun to challenge the validity of the historical basis of British rule in Kashmir. Specifically, he questioned the manner in which Kashmir had been 'bought' from the British by Raja Gulab Singh through the infamous treaty of Amritsar of 1846.[295] Abdullah recalled the revolt of sheikh Immamuddin, the governor of Kashmir appointed by the Sikh rulers at the time, who had refused to hand over the valley to Gulab Singh. The British had to intervene militarily before the transfer took place. Abdullah sent a wire to the cabinet mission, which was visiting India then to work out the modalities of British withdrawal from the subcontinent, saying that the sale deed to Gulab Singh could not be equated to treaty, and that Kashmir was a unique case where the people could claim freedom on the withdrawal of British forces. Abdullah also delivered a series of speeches at the time linking these to the 'Quit India' movement. Hari Singh had Abdullah arrested as he was making his way to New Delhi. The defence in this case was led by Asaf Ali, a prominent Lawyer at the time, but was convicted by the court. Abdullah's arrested and subsequent led to a surge in popular opinion in his favour.[296] Generally Law of Sedition is opposed to public policy because the Law is used only to suppress the liberty of the

[294]Www indiankanoon.org/doc/ at 8:00 am on 12 May 2015.
[295]Retrived from www. Thehoot.org/web/freetracker/story.php? storyid=185and SectionId=62, at 7.30 am on 9may,2015.
[296]Retrived from www.foreignpolicyjournal.com/today -we-are-all-seditious/ at 7.30 am on May 9, 2015.

citizen which is related to freedom of speech as expression according to Article 19 of the Constitution.

(5.2) CASES AFTER INDEPENDENCE IN INDIA RELATED TO SEDITION:

GODMAN RAMPAL SLAPPED WITH SEDITION CHARGES 2014:

HISAR: In the wake of armed resistance by Ram pal's supporters, Police has slapped Sedition and other charges against the controversial 'Godman' and several of his followers that include officials of his Satlok Ashram.[297]

Police said cases were registered against Ram pal, ashram spokesman Raj kapoor another key functionary Purshottam Dass and several other followers under various Sections of the IPC. The case has been filed under Sections 121 (waging, or attempting to wage war, or abetting waging of war, against the Government of India, 121A (conspiring to commit certain Offences against the state) and 122 (Collecting arms etc. with the intention of waging war against the Govt of India).

Besides, the cases have also been slapped against the accused under Sections 123 (concealing with intent to facilitate design to wage war) and other charges that include attempt to murder, assault and under various Sections of the Arms Act, police said.

The fresh cases were filed after clashes broke out at the ashram between police and Ram pal's supporters, who allegedly resorted to firing and threw petrol bombs.

Ram pal is already an accused in a murder case. Earlier this week, Punjab and Haryana high court gave the Government time to produce Ram pal in contempt of court case, after which authorities have been asking the devotees in and around the Satlok Ashram to disperse and help them comply with court order.

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[297]PTI Nov 19, 2014, 01.16PM IST

TRS MP K.KAVITHA BOOKED FOR SEDITION FOR SAYING J&K AND TELANGANA FORCEFULLY ANNEXED TO INDIA 2014:

PTI Aug 11, 2014, 08.01PM IST
(A local court had …)

HYDERABAD: police have registered a case against TRS MP and daughter of Telangana chief minister K Chandrasekhara Rao, K Kavitha, for her alleged comments on Jammu and Kashmirand Telangana. The case was registered two days back under Sections 124-A (Sedition) and 505 (statements leading to public mischief) of IPC following directions from a local court, said a South Zone police official. A local court had last week directed police to investigate and file a case against Kavitha, the Nizamabad MP, upon a complaint over alleged remarks attributed to her. The complaint was filed by K Karunasagar, an advocate and the convener of the BJP's city legal cell. The complainant in the petition alleged that Kavitha, in an interview, had made observations that Jammu and Kashmir and Telangana were not part of India earlier.The police official said legal opinion is being sought on the matter for further Action. Saying that J&K and Telangana were both forcefully annexed to India, Kavitha's remarks came at The Indian Express Idea Exchange programme. Asserting that she feels strongly about J&K, she had said India should come clean on the state. "Few parts were not ours, we should agree, we should redraw the international lines and move on," she had reportedly said.

BJP AGAINST WITHDRAWAL OF SEDITION CHARGES AGAINST KASHMIRI STUDENTS 2014

PTI Mar 7, 2014, 01.16PM IST
(Laxmikant Bajpai, President…)

MEERUT: BJP today criticised Uttar Pradesh Government for withdrawing Sedition charges against Kashmiri students studying at a private university here, saying the SP Government is only bothered about vote bank.

"BJP will not tolerate withdrawal of Sedition charges against the people who have insulted the nation. The Samajwadi Government is bothered only about its vote bank and not about the Country,"Laxmikant Bajpai, President of BJP's Uttar Pradesh unit told PTI over phone.

Alleging that the Sedition charges against the Kashmiri students have been withdrawn by the police on state Government's instructions, Bajpai said, "BJP will meet the Union Home Minister in connection with this issue and will demand a CBI probe into it."

However, SSP (Meerut) Omkar Singh has confirmed that the Sedition charges against the students have been withdrawn but investigation on charges of vandalisation and creating a ruckus is still on.

Around 60 Kashmiri students at Swami Vivekananda Subharti University in Meerut were expelled for three days from the hostel after they had allegedly supported Pakistan cricket team against India in the Asia Cup match between the two sides on Sunday last, an Action that sparked an outrage in Kashmir Valley.

Yesterday, the Uttar Pradesh police slapped Sedition charges against the students, a move that was slammed by Jammu and Kashmir Chief Minister Omar Abdullah, who called the Action an "unacceptably harsh punishment" and spoke to UP Chief Minister Akhilesh Yadav in this regard.

The Sedition charges against the students were withdrawn were withdrawn later.

KASHMIRI STUDENTS BOOKED FOR SEDITION FOR CHEERING PAKISTAN TEAM 2014:

PTI Mar 6, 2014, 06.10PM IST
(Around 60 Kashmiri College…)

Meerut/Srinagar: Around 60 Kashmiri college students studying in Meerut were today charged with Sedition by Uttar Pradesh police for cheering Pakistan's victory against India during a recent cricket match, an Action that sparked an outrage in Kashmir Valley.

The minimum punishment for a Sedition Offence is three years and the maximum is life sentence.

Separately, Meerut district authorities ordered a magisterial inquiry into the conduct of the students studying at Swami Vivekananda Subharti University.

Jammu and Kashmir Chief Minister Omar Abdullah slammed the slapping of Sedition charge as uncalled for and an "unacceptably harsh punishment" and said it will ruin the future of the students and further alienate them. He asked the UP Government to reverse the decision.

Omar, who took up the matter with his UP counterpart Akhilesh Yadav, however, said that what the students did was wrong and misguided.

"Have just spoken to CM UP who has assured me he will personally look into the matter of the Kashmiri students in Meerut," said Omar on Twitter.

After preliminary investigations, the authorities had expelled 60 Kashmiri students for three days and asked them to vacate the hostel after they cheered for Pakistan in the Asia Cup match and celebrated its victory against India on Sunday.

SSP(Meerut) Omkar Singh said that on the basis of the complaint submitted by University Chancellor PK Garg, unnamed Kashmiri students have been booked under Section 124 A (Sedition), 153 A (promoting enmity between different groups) and 427 (mischief) of I.P.C.

District Magistrate Pankaj Yadav ordered a magisterial inquiry and Additional City Magistrate Rambharta Tewari has been given the charge of the case, Additional District Magistrate, Meerut, Satish Kumar Dubey said.

University authorities had set up a disciplinary committee to probe the incident. Around 200 Kashmiri students are enrolled in B.Tech and Law courses in the university.

Sedition charge is a Non-Bailable Offence which means the accused cannot be granted bail by the arresting authority. The accused has to approach a court to seek a regular bail.

The opposition PDP in Jammu and Kashmir demanded that the punitive Action including Sedition charge be dropped and the University authorities' apologies to the nation.

PLEA FOR F.I.R AGAINST ARVIND KEJRIWAL, BABA RAMDEV AND PRASHANT BHUSHAN DISMISSED:

PTI Nov 8, 2012, 02.04PM IST.

("Complaints against Arvind…)

NEW DELHI: Three pleas for registration of FIRs against Activist Arvind Kejriwal, yoga guru Baba Ramdev and noted Lawyer Prashant Bhushan for their alleged remarks against Parliamentarians and supporting plebiscite in Jammu and Kashmir respectively were dismissed today by a court here. Metropolitan Magistrate Purshotam Pathak dismissed all the three complaints seeking directions to the Delhi Police to book Kejriwal, Ramdev and Bhushan on charges of Sedition.

"Complaints against Arvind Kejriwal and Ramdev are dismissed. Complaint against Prashant Bhushan is also dismissed," the court said.

The complaints had been filed by Vibhor Anand, a Law student, saying Kejriwal had triggered a political storm by stating in a rally at Ghaziabad early this year that Parliament was filled with "murderers, rapists and dacoits."

Anand had also sought registration of FIR against Bhushan on charges of Sedition for his alleged remarks supporting plebiscite in Jammu and Kashmir and for withdrawal of the Army from the valley.

He had also made a similar complaint against Ramdev saying "he had made derogatory allegations against Parliamentarians who are running the system of the country and had attacked MPs calling them dacoits and murderers, which amounts to Sedition".

Addressing media, while launching his month-long yatra in Durg, Chhattisgarh, Ramdev had said "there are good people among the parliamentarians and he respected them. But there are (also) dacoits, murderers, and illiterates among them. We have to save Parliament. We have to remove corrupt people."

Anand said he will challenge the trial court's order.

ASEEM TRIVEDI CASE ON SEDITION 2012:

The arrest of cartoonist Aseem Trivedi has generated a lot of debate on the Sedition Law in India and whether it is repugnant to the fundamental right of freedom of speech and expression guaranteed by the Constitution of India. In Aseem Trivedi case, it was being used to punish cartoon deemed insulting to the nation, including one that replaces the four lions of the Indian emblem with bloody hungry wolves and inscription "Satyamev Jayate" which mean truth always prevail with 'Bhrashtmev jayate' (which mean corruption alone prevails). Mr. Aseem Trivedi has also been accused of insulting national emblems and violating India's information technology Law. Aseem Trivedi cites named 'cartoonaganistcorruption.com' for displaying objectionable pictures and texts related to flag and emblem of India. Hence the Government suspended the domain name and its associated services'.[298] One carton depicts the Indian parliament building as a toilet. At the right end of the cartoon, a little above the halfway line, there is a roller with toilet paper. To the left there is a pink flush, attached to a commode below with three files hovering over it. The commode looks like the Indian parliament. 'National toilet', says cartoon title, with this line beneath the sketch 'Isme Istamal hone wala toilet paper ko ballot paper Bhi Kehte Hain.[299] After this he made another cartoon in which 'mother India' wearing a tri colour sari, about to be raped by a Character Labelled 'corruption'. The title of the cartoon is 'gang rape of mother India.' Another cartoon shows politics and corruption in a sexual position to expose their immoral relationship. The line beneath the cartoon reads, "the immoral relationships are always harmful for a house hold.'[300]

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[298] "Website Blocked. Cartoonist Moves Content to another Host" the Times of India. 7 January 2012.
[299] "The World Elide Web 4 February 2012.
[300] 'Cartoonist in India Campaigns against Corruption and Censorship' in 7 march 2012.

He faced the serious allegations of insulting national emblem, parliament, flag and Constitution through his anti corruption cartoons. A case of Sedition filed against him in Beed district court Maharashtra. Additional charges were brought against him by the Maharashtra police in Mumbai for insulting India's National symbols, under state emblem of India (prohibition of improper use) Act 2005. Aseem Trivedi was arrested in Mumbai on 9 September 2012 on charges of Sedition, related to the content of his work. On 10 September 2012, chairmen justice Markandey katju of the press council of India, who is also a former judge of Supreme Court of India defended Aseem Trivedi saying that "he did nothing illegal' and in a statement, he maintained that arresting a cartoonist or any other person who has not committed a crime, is itself a crime under the Indian Penal Code, as it is a wrongful arrest and wrong full confinement. Aseem Trivedi has said that he would not apply for bail till Sedition charges against him are dropped. His bail was granted with a personal bond of rupees 5000 on the basis of an independent petition by a Lawyer, who also asked the court to remove the accusations of Sedition and the case, is still pending in a local court as to September 2012.

Gandhi in his written statement before the British judge said during the trial when he was charged with Sedition that Section 124-A is the "prince among the political Sections of Indian Penal Code, designated to suppress the liberty of the citizens".

ASSEM TRIVEDI VIEWS ON SEDITION:

Aseem Trivedi said that art played a greater role in democracy. Aseem Trivedi batted for a greater role for art which he said mirrored society. "The better you want to be, the more you want to progress, the bigger your mirror should be. You will have to enlarge the mirror of society."

He said that whether his cartoons crossed the limits, he said: "Bhagat Singh had said if the deaf want their voice to be heard they have to raise it. When he exploded a bomb in the assembly his aim was not to spread terror. He had distributed pamphlets containing his thoughts. But the British Government was too deaf to hear. So a blast was necessary." The cartoonist denied insulting the national honour. "When wads of currency are waved inside parliament scams worth crores of rupees are carried out, when

parliamentarians watch blue films in the house and then you decide who is insulting the national symbols.

He said that “I don’t think i have made any mistake,” Reffreing to the cartoon showing 26/11 attacker Ajmal kasab urinating on the Constitution. He vowed to continue drawing many more critical cartoons in the future and of the Mumbai police and the Government. He said he had decided to accept the bail after assurance from the home department and the high court order on his release. With the advent of social media the fight for the protection of freedom of speech and liberty had become everyone’s battle. “There are two main points of this battle. One is the fight against Section 124-A of the Indian Penal Code. And second is for freedom of speech and expression. It is important that we should be allowed to say what we have to say so that the Government hears our voice.

COURT DIRECTS POLICE TO PROBE SEDITION CHARGE AGAINST RAJ THACKERAY 2012:

HISAR(PB): A local court has directed the police to start probe into a Sedition case registered against MNS chief Raj Thackeray here three years ago while dismissing police's plea of cancellation of the FIR since the speech over which the case was registered was made in Maharashtra.[301]

Additional District and Sessions Judge Sudesh Kumar Sharma gave the directions yesterday on a review petition of the police which was seeking scrapping of the FIR registered on September 7, 2012 in Hisar.

The case was registered on a complaint of advocate Rajat kalsan in which he had claimed that the speech of Raj Thackeray in Mumbai on August 31, 2012 against the people of North India was "dangerous for integrity and sovereignty of the country."

[301]PTI Aug 26, 2015, 06.00PM IST

The petitioner had alleged that the speech attempted to create animosity between two classes while trying to instigate riots and was violations of provisions of the Constitution.

The case was registered by the police on the directions of the then Sub Divisional Judicial Magistrate Hansi, Ashvani Kumar.

However, on October 4, 2012, police had filed a plea in Hisar court seeking dismissal of the case on the ground of jurisdiction. But the court expressed strong objection and ordered to re-examination of the case and asked Assistant Superintendent of Police (ASP) to take Action against the station house officer (SHO) Hansi within ten days for not taking any steps in this case.

But instead of taking Action against the SHO, the police filed a review petition in the court of Sessions Judge Hisar and obtained a stay order.

The hearing of this case was put up in the court of Sudesh Kumar Sharma here yesterday in which on behalf of the police, public prosecutor demanded the cancellation of the FIR on jurisdiction ground.

Complainant Advocate Rajat Kalsan referring to the orders of the Supreme Court stated that the FIR registered by the order of a Magistrate cannot be dismissed on the ground of jurisdiction.

The court rejected the demand of police for cancellation of FIR against Raj Thackeray and instructed the police to investigate the case further.

SEDITION CASE AGAINST HURRIYAT LEADER SYED ALI SHAH GEELANI AND WRITER ARUNDHATI ROY 2010:

A conference was organized named ‘Azadi the only way’ for the release of political prisoners. The conferences was supported and attended by Naxal organizations and some rights Activists and journalists. The speaker of the above conference were chairman, Hurriyat Geelani (G) Syed Ali shah Geelani, writer and Activists Arundhati Roy, Prof. S.A.R Geelani (professor, DU and working president of CRPP), Dr Aparna,

CPI-ML- New democracy, revolutionary poet Varvara Rao and Sujata Bhadra among others.

According to reports, Syed Ali shah Geelani openly spoke against India and gave a call for secession, demanding Azadi from India while Arundhati Roy reportedly endorsed the demand for azadi for Kashmir. At the same time she advised the kashmiri not to be selective about justice and think about the travails of the kashmiri pundits. According to report she even gave an open call to the kashmiris to secede from 'Bhookey Nange Hindustan' and exhorted the students of Aligarh Muslim university, JNU and Delhi University to fight for the cause of a separate Kashmir. Roy had said 'Kashmir has never been an integral part of India. It is a historical fact. Even the Indian Government has accepted this.' In response to predictable crises of Sedition over her utterances', she respondent that it's a poor country that would punish its intellectuals for raising their voice for justice. Both the idea of India and the idea of intellectual freedom in these quotes are interlinked.

A case of alleged Sedition has been filed in a local court against noted writer Arundhati Roy for her controversial remarks on Kashmir. The complaint lodged by one Ashish Kumar Singh in the chief judicial magistrate's (CJM) court of Vijay Kumar, was transferred to the court of judicial magistrate (first class) of Amit Shekar. Ashish Kumar Singh a resident of Ranchi, demanded Action against Roy under Section 124-A of the Indian Penal Code for remarks on Kashmir at a seminar in Delhi. A Delhi court today ordered registration of F.I.R against hard-line Hurriyat Leader Syed Ali shah Geelani, writer Arundhati Roy and five others for allegedly making anti-India speeches. The statements made by the Naxal leaders, writer Arundhati Roy and other human rights Activists has created uproar in the political circles and has kicked off a debate on whether the statement come under Sedition and the participants should be booked under the Law for giving a call for revolting against the country.[302] According to Arnab Goswami, a news anchor of the Programme News hour on times now says that 'no State Permitted the Advocacy of Secession and Self determination'. But the former information commissioner, Wajahat Habibullah as a different opinion. He said if the Kashmiris were

[302]Www. Thehindu.com/news/national/Article, at 11:30 pm on May 19, 2015.

demanding greater autonomy or 'Greater Azadi' within the framework of the Constitution, we should not be afraid of the term 'Azadi'. However if they demand separation from India, we should engage in a debate with them rather putting behind bars. He said that taking draconian Action against Geelani or Arundhati Roy would further aggressive the situation rather than solving the issue. The union home ministry had sought legal opinion on the issue which suggested that a case could be made out under Sedition charge. However after taking political opinion the ministry decided not to file any case against Geelani and Roy.[303]

SEDITION CHARGES IMPOSED BY BARNALA POLICE ON SIKH BODIES 2010:

Recently Barnala police charged five young Sikhs for Sedition and others Offences. A leaflet published by the alleged accused person forms the basis charge. The leaflet titled: "Sant Kehnde Rahe" is text version of a speech of Sant Jarnial Singh Bhindranwale, who is declared to be the great Sikh of 20th century by highest body of Sikhs, Sri Akal Takhat sahib. FIR no 117, dated 25 June , 2010 registered at PS Barnala charged Surinder Singh Barnala, Bheem Singh Saddowala, Kuldeep Singh Namol, Sukhmandeep Singh Toor-Banjara and kulwant Singh Dhandiwal with Section 124-A (Sedition), Section 153-A and 153-B. Section 153-A penalizes the Act of promoting enmity between different groups on ground of religion, race, place of birth, residence, language, etc, and doing Acts prejudicial to maintenance of harmony, whereas 153-B relates to imputations or assertions prejudicial to integration of India. Police assert that some parts of the leaflet are highly objectionable as it promotes extremism. Police says that some parts of the leaflet published by the alleged accused carries followings lines: "whoever be an Amritdahri, himself recite Gurbani and preach others to do so, believe in Guru Granth sahib, safeguard the honour of women considering them as his sisters and mothers, preach fellows to follow Guru Granth sahib, unite panth under kesari nishan sahib, and if Government name him as an 'extremist' I proud to be such extremist." On the other hand publishers say that the leaflet does not contain anything which is newly

[303]www Indian express.com visited at 12:18 am on May 20, 2015

introduced or written by publishers. All speeches, interviews and many letters of Sant Bhindranwale are already published in a combine volume titled" Singh Garaj" complied by S. Narayan Singh, editor of Awaz-e- khalsa, and are published by Gurmat Bhandar, Amritsar. These speeches are even translated and published in English too. Many editions of these books have been published so far. These volumes are never objected to by Government or the police for so many years, and not even now. It puts a question mark on the basis for charges against accused person charged with for allegedly committing such grave Offences like Sedition etc. It is notable that in the case of Balbir Singh and Anr. v. state of U.P[304] the accused person were convicted under Section 124-A along with Section 153-B Indian Penal Code and Section 4(1) of the terrorist and disruptive Activities Act (TADA), for allegations that they were found to be hearing some cassettes containing speeches of 'Sant Jarnial Singh Bhindranwale'. Text of speech was also quoted by the police in its charge sheet. On appeal the Supreme Court of India observed that there was not an iota of evidence to indicate that the accused appellants either committed or comprised of attempted or knowingly facilitated the commission of any disruptive Activity. The apex court acquitted the accused person while expressing satisfaction that no Offence can be said to have been committed under Section 124-A of the Indian Penal Code or Section 153-B or Section 4(1) of TADA. Moreover in current case there is no direct incitement to violence and thus no Offence is made out.' The pamphlet falls within ambit of Article 19(1) (a) of Constitution that guarantees the fundamental right of freedom of speech and expression." In Kedar Nath Singh v. state of Bihar[305]

The Supreme Court of India discussed entire previous case Law and approved the view of federal court of India in order to uphold the Constitutional validity of Section 124-A of the Indian Penal Code that directs incitement to violence is the gist of the Offence under Section 124-A." Thus even previous experience shows that cases like this never succeed in the courts. 'These cases are meant to serve some other purposes, thus even the police do not believe in what they allege. Many times these cases are lashed to

[304]A.I.R 2000 S.C 464.
[305]A.I.R 1962 SC 955.

suppress political oppositions some times to put opponents in quarantine for a short term and in some cases as seems the current cases, to deter the new political opponents.

Even in recent past Punjab Government and Punjab police has a long list of cases, which indicate towards a growing trend of misuse of Law, especially the Law of Sedition. In 2005 a case under same Sections (124-A, 153-A and 153-B) was filed against various leaders of Dal Kahlsa for holding Sikh raj flag on 26 January. As there was no basis behind the charge to standby, all alleged accused were acquitted by the court. A case of Sedition was registered against many Sikh leaders, after zee news telecasted a news drama called 'Deshdroh' few years back. But that case was also found baseless by the court. Many such cases were filed against Simranjeet Singh Mann head of SAD (A), but on trial the state failed to prove what it alleged, and Sirdar Mann was altogether discharged or acquitted by the courts. In 2006 Daljeet Singh Bittu, chairman of SAD (Panchpardhani) was charged with Section 124-A, 153-A and 153-B by Barnala police for allegedly committing these Offences by addressing a gathering of farmers of three villages, whose land was to be forcibly acquitted by the Government of Punjab. For a private firm 'Trident group of industries'. Recently Barnala court has acquitted him, as nothing incriminating was proved from the contents of speech of Bhai Bituu or other facts alleged by the police.[306]

Similarly in 2007 many persons including Daljeet Singh Bituu, were charged with these Section by Amritsar police for participating in 6th June (2007) gathering at Amritsar. Recently (8june 2010) the Amritsar court also found that the case was a baseless and acquitted all alleged accused. Bhai Bittu is facing a similar case at Fathehgarh Sahib, for participating in a protest march called by SGPC and Akal Takhat on 31 may 2007 in wake of Dera now.

[306]Political news >> special news on July 2010, by Prabh singh.

COMPLAINT FILED AGINST INDUSTRIALIST RAHUL BAJAJ FOR SEDITION 2009:

PTI Sep 16, 2009, 07.27pm IST

NEW DELHI: A complaint was today filed in a Delhi court against industrialist and Rajya Sabha MP Rahul Bajaj over his group's partner company Allianz portraying Jammu and Kashmir and Arunachal Pradesh as part of Pakistan and China, respectively, on its website.

The complaint by Sanjay Sachdeva, member of Delhi Pradesh National Panthers Party, and others before Metropolitan Magistrate Geetanjali Goel sought prosecution of Bajaj under charges of Sedition. It was the portal of Allianz, Bajaj's insurance venture partner that had carried the map with the discrepancy. When contacted, Bajaj said: "I have nothing to do with the case as it was Allianz which had put the map on its website. They have, in fact, corrected the discrepancy as soon as it was pointed out about a month back." The magistrate posted the matter to September 24 for further hearing and filing of amended memo of parties. Bajaj said his group will reply accordingly. "In the website (allianz.com)... he intentionally... depicted the state of Jammu and Kashmir as part of Pakistan and Arunachal Pradesh as part of China," the complaint said. Seeking prosecution of Bajaj, chairman of Bajaj auto and Bajaj group of companies, under Section 124 A (Sedition) of the IPC, which prescribes life imprisonment as maximum punishment, the complaint claimed that this was an "anti- national" Act. The court, which was to hear, pre-summoning arguments in the case, asked the complainant to file a memo of parties, giving names and addresses of his co-complainants in the case.

Sachdeva prayed that either the court summon Bajaj and try him for Sedition or direct the Station House Officer of Parliament Street police station for registering and probing the case against Bajaj. It was alleged that police failed to take cognizance of the complaint, lodged on August 10.

CHARGES ON TIMES OF INDIA MATHUR'S OWN DECISION: GUJRAT DGP 2008:

TNN Jun 4, 2008, 04.52am IST

GANDHI NAGAR: The decision to press Sedition charges against Times of India (TOI) and its journalists was an independent move of Ahmadabad police commissioner OP Mathur, the head of Gujarat police, DGP PC Pande, said on Tuesday.

Assuring that no injustice would be done, Mr. Pande told a delegation of protesting journalists that it was Mathur's individual decision to file a case of Sedition under Section 124 A of the IPC against TOI.

The delegation met DGP Pande and Gujarat governor Nawal Kishore Sharma submitted a memorandum demanding the withdrawal of the charges.

The Gujarat governor told journalists he would go through the memorandum and then seek a report from the state Government. So far, the Navrangpura police station has filed three FIRs by Mathur against TOI under the same charges. Two fresh FIRs were filed on the same grounds.

Meanwhile, the IPS association passed a resolution on Tuesday in support of Mathur and called the reports about his links with the underworld, carried in a series of Articles in TOI, as defamatory and baseless.

AHEMADABAD PROTESTS SEDITION CHARGES ON TIMES OF INDIA (TOI) 2008:

TNN Jun 3, 2008, 06.33am IST

AHMEDABAD: In a show of solidarity, city journalists staged a protest outside the Ahmadabad police commissioner's office after the newly-appointed city police commissioner, OP Mathur, filed a complaint of Sedition and conspiracy against The Times of India, the editor of its Ahmadabad edition, a correspondent and a photographer.

The police commissioner's move came after a series of documented investigative reports questioned his competence to guarantee the security of the citizens of Ahmadabad, the city which figures high on terrorists' hit list.

The memorandum was signed not just by journalists, but even by several passers by who came forward to express their support. The memorandum, seeking withdrawal of all charges against TOI, will be submitted to state police authorities.

"All the news reports published by TOI can in no way be termed as Sedition and neither was any attempt made to obstruct any officer from performing his duty," the memorandum states.

The news reports, based on court documents, said that the police officer had links with gangsters who ran bootlegging business in the city a decade ago. Mr. Mathur drew flak from several quarters as cops watched demonstrators grew in numbers right in front of the police commissioner's office in Shahibagh.

Traffic drew to a standstill as media persons with representatives of voluntary Organizations and some human rights groups took the fight to the police bastion. A poster read, "Government guns guarding goonda raj".

Sheba George, a human right Activist unlike other times, when reporters walk freely into the commissioner ate, there were strict instructions at the gate to not let any media person inside. "This is an attack on the freedom of the press," said Sheba George, a human rights Activist.

FEATURED ARTICLES SEDITION LAWS OUDATED, SAYS MOILY,

NEW DELHI: Hours after the Supreme Court granted bail to Binayak Sen convicted for helping Naxalites, Law Minister M Veerappa Moily today dubbed Sedition Laws as "outdated" and said he would ask the Law Commission to study the issue.[307]

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[307]PTI Apr 15, 2011, 06.00pm IST

Reacting to bail granted to the rights Activist by the apex court, Moily said he would soon consult Home Minister P Chidambaram and after he agrees, the matter could be referred to the Law Commission to study whether there was need for change in Sedition Laws.

"I will consult the Home Minister and after that the Law Commission could be asked to revisit Laws relating to Sedition," Moily told media.

He said bail to Sen also reflected upon the investigations carried out by Chhattisgarh Police. He said there has been debate that Sedition Laws do not reflect on the democratic aspirations of the country and the spirit of Constitution.

Granting bail to Sen, the apex court said "we are a democratic country. He may be a sympathiser (of Naxalites) but it did not make him guilty of Sedition.

"He is a sympathiser. Nothing beyond that," the bench further said, perusing the affidavit filed by the Chhattisgarh Government opposing his bail.

SEDITION TRAIL OF Dr. BINAYAK SEN CASE 2007:

On 14th may 2007 from Bilaspur Dr. Binayak Sen was arrested. The second additional district and session judge of Raipur Sh. B.P. Verma convicted Binayak Sen for rigorous imprisonment on the 24 December 2010. The F.I.R was lodged on the 6th may 2007, when Pijush Guha's arrest was shown. Dr. Binayak Sen was arrested under the charge of Sedition. According to people's union for civil Liberties, since 2005 the Chhattisgarh Government has a growing record of 'crimes against humanity". Using excessive and unwarranted police Power in the name of resolving the Naxalite problem'. The PUCL (people union for civil Liberties) Chhattisgarh and other democratic rights Activists have been raising their voices and campaigning against the Salwa Judum and fake encounters in Chhattisgarh, of which there were 155 in 2005-06. In May 2007, PUCL publicity demanded a C.B.I enquiry into all extra judicial killings in the state since 2005. One instance is that of the supposed 'encounter death 'of 12 innocent Adivash youth in Santoshpur village by the Chhattisgarh police in March 2007. After a sustained campaign by PUCL the state Government was forced to order an investigation and only

recently charges have been filed against some of the involved policemen. Similarly, PUCL has demanded an official investigation into killings and other illegal Acts by the called Salwa Judum movement in Dantewada district with the connivance of the state police.[308]Salwa Judum is a vigilante movement in southern Chhattisgarh that has been armed and supported by the Government of Chhattisgarh, and the Indian home ministry since June 2005, apparently in order to combat the Maoist insurgency. In a letter to the chief minister and at a meeting with him after Dr. Sen. arrest the PUCL, explained that as a human rights worker and an Active office bearer of PUCL, Dr. Binayak Sen was duty bound to bring to light the Human right violations of both state and non state Actors. Contrary to the impression created by the police, Dr. Sen. had publicly raised the issue of human rights violations by both the state and the Naxalites and had condemned the killings caused by the Maoist violence. His concern throughout has been for an end to such Acts. He had appealed to both Government and Maoists to find a political solution through negotiations and dialogue with all those concerned, including political parties, NGOs and Naxalites. He had stressed that such a process was overdue to find the way out of the tragic situation in Chhattisgarh. PUCL has also been demanding the withdrawal of the Chhattisgarh special public security Act (CSPSA) which was shown to be liable to misuse by the police.[309]

The Chhattisgarh special public security Act, 2005 has been shown to be unconstitutional and anti-democratic in nature. Various political parties, people's organizations, journalists, associations and both national and international human rights organizations have pointed out the illegal and repressive features of this Act. Among its arbitrary and dangerous features are the vague definitions of illegal and Unlawful Activities and so called 'support' to organizations engaged in illegal Activities. The definitions are such that even peaceful forms of democratic protest and ordinary civil disobedience can be brought under its purview and declared 'Unlawful Activity' and any protesting group can be declared 'Unlawful'. The Act also does not specify the need to establish definite intention, hence even Activities done unknowingly or unintentionally

[308]M.N Roy, the Radical Humanist, Volume 72, University of Virginia, United States of America, 2008, Page No 38.
[309]Ibid 21, Page No 39.

can be punished. (For example, shopkeepers have been arrested on the accusation that they sold cloth to person who has been identified by the state as Maoists.) Apprehensions are that, in using its discretions, the Government did ban some organizations under the CSPSA even before the advisory board was constituted under the Act. Banning of such innocuous organizations as the Adivashi Balak would be arrested. Among those arrested since the enactment of the Law is a girl Student of 12thStandard.[310] On 14thMay 2007, Dr. Sen. had Just Returned to Bilaspur from a visit to his ailing mother in Kolkata. He was in the office of Advocate Sudha Bhardawaj when they received a message from the Bilaspur city SP asking him to go to the police station to record a statement. Dr. Sen asked if he could do it the following day, after returning from his weekly clinic in Bagrumnala. As this request was turned down, he and his advocate went to the Tarbahar police station. The two were made to wait there for a long time. Then he was abruptly told that the Raipur SP was arriving to place him under arrest. A medical check-up was done, after which he was given the option of getting hospitalized or going to jail, and he chose the jail.

Dr. Sen was arrested under Sections 10(a) (1), 20, 21, 38 and 39 of the UAPA (Unlawful Activities prevention Act, 1967), and Section 2(b)(d) and 8(1) (2) (5) of the CSPSA, comprising the following charges:

(1) Become a member of an Unlawful association.

(2) Being a member of a terrorist gang or organization.

(3) Holding the proceedings of a terrorist Act.

(4) Giving support to terrorist organization.

(5) Aiding an Unlawful organization.[311]

He has also been charged with Sedition, conspiracy to wage war against the state, and conspiracy to commit other Offences. However, no violence has been given in support of nay of the charges. More than a month after his after, despite having no evidence, the police added charges under Sections 120(b), 121(a) and 124(a) of the Indian Penal Code. Arguments on the framing of charges against Binayak Sen and others took place only on

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[310]Mark Sidel, Regulation of the voluntary sector: freedom and security in era of uncertainty, Rout ledge, Oxon, 2010, Page No 136.

[311]Www. Binayaksen.net/topic/trial/,at 7:40 pm on May 17, 2015.

December 28, 2007. The application of the defences for discharge on ground of lack of evidence was rejected and all the charges of the prosecution have been retained. According to the prosecution Dr. Binayak Sen Acted as a courier for the Naxalites, however it could not produce any evidence to support this accusation.

The evidence that the police claim to have is the record of various visits made by Dr. Sen to Mr. Narayan Sanyal, A 70 years old under trial in Raipur central jail and a senior leader of the communist party of India (Maoist). Mr. Sanyal sought to bring to the notice of the jail authorities, as well as the national and state human rights commissions and several human rights groups, his health condition and his desire to get legal aid as his right under the Laws. In his capacity as a PUCL member, Dr. Sen. met Mr. Sanyal in jail to provide him with both medical and legal assistance. As civil Liberties Activists it was his legitimate task to meet detainees and ensure that their fundamental rights are respected and that the due process of Law is being observed. These visits by Dr. Sen. were in the due process of Law and in the presence of the jail authorities, as provided for in the jail manual. He was searched at the point of entry both before and after the visits.

The police have confiscated what they claim to be 'incriminating documents" from Dr. Sen's residence. The CPU of their computer was seized and sent for forensic examination to Hyderabad. Aside from newspaper clippings, the confiscated materials include five CD'S containing interviews pertaining to PUCL investigation on fake encounters, which have been distributed by the PUCL in the last two years. There is a post card from Narayan Sanyal dated 3rd June 2006 regarding his health as well as his legal case, duly signed by jail authorities and carrying their seal. There is another letter from a prisoner, a member of the communist party of India-Maoist, about the inhuman conditions and illegal Activities in Raipur central jail, which was subsequent, sent to newspaper and electronic media by the PUCL and prominently published in some newspapers. Additionally, there is a copy of an Article subsequently published in the economic and political weekly, A CPI (Maoist) document on recent police Activities and Labourers, a book by the committee of Tribal's affected by the Salwa Judum and an Article on 'globalization and the service sector in India.'

From several hearings in the district sessions court at Raipur where Dr. Sen is to try; he was not produced in court on the pretext of security concerns. While rejecting his

bail plea on July 23rd the high court relied solely on the allegation of the prosecution, all of which associate Binayak Sen with Unlawful organizations and individual only by implication and failed to give adequate consideration to the defence arguments. Supreme Court dismissed the special leave petition for consideration of bail in a one line order, without naming any reason.[312] Raipur central jail, where Dr. Sen. is incarcerated, is hardly a kilometre from the district sessions court. Yet on several occasions the jail authorities have refused to produce him in court on the pretext of insufficient "security". Thereby Dr. Sen. was denied his right to be present and heard at the trial court. Instead he was kept in an intimidating situation in a prison room under heavy guard and without the presence of his Lawyers, family and friends. He was shown only the face of the judge and could not even see his Lawyer. At least on this matter however the court has now clarified that it has passed no such orders, and that at times of framing of charges , examination of evidence and cross examination of witness, it would ensure that the accuse is physically present and personally heard.[313]

His application for parole to receive the keithan gold medal awarded to him December 2007 by the Indian academy of social sciences was also rejected on technical grounds. The prosecution engaged in such a way that the independent witness ordered by the court to be present during the examination of the CPU at Hyderabad was prevented from being there. The circumstances whereby the examination was manipulated in order to exclude the witness have been intimated to the court. After all this the Government has failed to find any 'incriminating' material. He suffers from several serious ailments. The central jail authorities have classified Dr. Sen. as a 'hardcore Naxalite criminal' even before the police investigation were over and the charge sheet filed, leave alone a trial having taken place. Letters from jail superintendent to the district police authorities for security to escort him to court for extension of remand refer to him to in these terms. It is outrageous that Binayak Sen had poisoned in a prolonged trial that keeps shifting charges which are unclear and possibly politically motivated. Faith in the Indian justice system needs to be restored. The Indian Government must intervene and make sure justice is done, so that Sen and his family can return to a normal life and resume serving the

[312]www .freebinayaksen.org/at 9:30 on May 17, 2015
[313]www Articles.timesofindia.com at 4:30 pm on May 19, 2015

poorest communities in the state. On April 15th 2011 Binayak Sen granted bail by the Supreme Court which observed that no case of Sedition was made out against the rights Activists who was convicted and sentenced to life imprisonment by a Chhattisgarh court.

BILAL AHMED KALOO CHARGED WITH SEDITION IN 1997:

On 6 January 1997 justice A.S. Anand and Hon'ble Mr. Justice K.T. Thomas delivered the Judgment in this case. Billal Ahmed kaloo a kashmiri youth had a sojourn in the city of Hyderabad and was involved in a prosecution under terrorist and disruptive Activities (prevention) Act 1987, in other words we can say it TADA. Though the designated court under TADA he was convicted of Sedition under Section 124-A of Indian Penal Code and was sentenced to imprisonment for life, besides being convicted of certain other lesser Offences for which a sentence of rigorous imprisonment for three years was awarded each count. This appeal has been preferred by the said convicted person under Section 19 of the TADA.

Appellant was an Active member of a militant outfit called Al-Jehad which was formed with the ultimate object of liberating Kashmir from Indian union. With this in mind appellant spread communal hatred among the Muslim youth in the old city of Hyderabad and exhorted them to undergo training in armed militancy and offered them arms and ammunitions. He himself was in possession of lethal weapons like country made revolver and five cartridges. He was propagating among the Muslims that in Kashmir Muslims were being subjected to atrocities by the Indian army personnel. He was arrested on 19-1-1994 and after recording his confessional statements the police seized a revolver and two cartridges which were produced by him. After investigation was completed he was challenged before the designated court of Hyderabad for Offences under Section 124-A, 153-A and 505(2) of the Indian Penal Code. As mentioned above the designated court acquitted him of the Offences under TADA but convicted him Offences under the Indian Penal Code and also under Section 25 of the Indian arms Act and was sentenced as aforesaid. The decisive ingredient for establishing the Offences of Sedition under Section 124-A of the Indian Penal Code is the doing of certain Act which would bring the Government established by Law in Indian into hatred or contempt etc. In this case there is not even a suggestion that appellant did anything as against the Government of India or any other Government of the state. The charge framed against the

appellant contains no averment that appellant did anything against the Government. A Constitutional bench of this court has stated the Law in Kedar Nath v. State of Bihar (A.I.R 1962 SC 955) now the expression the Government established by Law has to be distinguished by Law has to be distinguished from the persons for the time being engaged in carrying on the administration. Government established by Law is the visible symbol of the state. The very existence of the state will be in jeopardy if the Government established by Law is subverted. Hence the continued existence of the Government established by Law is subverted. Hence the continued existence of the Government established by Law is an essential condition of the stability od the state. As charge framed against the appellant is totally bereft of the crucial allegation that appellant did anything with reference to the Government it is not possible to sustain the conviction of the appellant under Section 124-A of the Indian Penal Code.

KEDAR NATH SINGH v. STATE OF BIHAR 1962:

In this case the Constitutionality of Section 124-A of the Indian Penal Code was impugned. Thus the court was required to squarely deal with the relationship between Sedition and the freedom of speech and expression. The Constitutional challenges arose out of a number of cases involved speeches that-in specific terms-called for an armed revolution to overthrow the Government.[314] In 1962 the Supreme Court of India decided on the ambit and scope of Section 124-A of the Indian Penal Code. In the facts of Kedar Nath v. state of Bihar, the accused in the main of four appeals was a member of the forward communist party and made a harsh speech against the Government in the Power of the containing a good deal of violent language. Though it was not contended by the accused that his speech did not fall under the ambit of Section 124-A of the Indian Penal Code as construed by the Supreme Court, it became necessary to decide on the Constitutionality of Section 124-A of the Indian Penal Code particularly by the Supreme Court, it became necessary to decide on the Constitutionality of Section 124-A particularly and on the construction of the Section generally, in order to dispose of the other three appeals. Sinha, CJ, who delivered the Judgment of the court, examined the

[314]Indian Constitutional Law and Philosophy (a Topnotch Wordpress.com site) visited on 12May 12, 2015 at 11:30 am.

entire history of interpretation of Section 124-A of the Indian Penal Code. There was no doubt that provision of Section 124-A was violation of the right enshrined in Article 19(1) (a). The question was primarily whether the Section would be saved by bringing it under the ambit of the restriction enumerated in Article 19(2). The court weighted the conflicting meaning given to Section 124-A of the Indian Penal Code gives by the federal court and the Privy Council. Sinha, CJ accepted the necessity of having the Sedition. He favoured the presumption of Constitutionality that was created by accepting the view of the federal court. The court decided that was created by accepting the view of the federal court. The court decided that Section 124-A of the Indian Penal Code should make penal only those matters that had the intention or tendency to incite public disorder or violence. Therefore Section 124-A was held Constitutional. The restriction imposed on freedom of speech could be said to be in the interest of public order. In Kedar Nath Singh case court said that 'every state , whatever its form of Government has to be armed with the Power to punish those who, by their conduct, Jeopardise the safety and stability of the state, or disseminate such feelings of disloyalty as have the tendency to lead to the disruption of the state or to public disorder.' The Constitutional validity of Section 124-A of the Indian Penal Code by Supreme Court that the gist of the Offence of Sedition is that the words written or spoken have tendency or intention of creating public disorder and held the Section Constitutionally valid.[315] The Supreme Court said that unless the accused incited violence by their speech or Action, it did not constitute Sedition, as it would otherwise violate the right to freedom of speech guaranteed by the Constitution. Despite this, it added, 'over the years various state Governments have disregarded the ruling and accused human rights Activists, journalists,

ROMESH THAPPAR CASE v. STATE OF MADRAS 1950:

Freedom of speech and expression is indispensable in a democracy. In Romesh Thappar v. State of madras,[316]Pantajali sastri J. Rightly observed that:

'freedom of speech and of the press lay at the foundation of all democratic organizations, for without free political discussion no public education, so essential for the proper

[315]The Constitutional Law of India 46th edition by Dr. J.N. Pandey, published by central Law agency.
[316]A.I.R 1950 SC 124.

functioning of the process of popular Government, is possible'. Article 19(1)(a) says that all citizens shall have the right to freedom of speech and expression. But this right is subject to limitations imposed under Article 19(2) which empowers the state to put 'reasonable restrictions on the followings grounds. Security of the state, friendly relations with foreign states' public order, decency and morality, contempt of court, defamation, incitement to Offence and integrity and sovereignty of India.

In this case a Law banning entry and circulation of journal in a state was held to be invalid. The petitioner was printer, publisher and editor of a weekly journal in English called "cross road" printed and published in Bombay. The Government of madras, in exercise of their Powers under Section 9(1-A) of the maintenance of public order Act 1949, issued an order prohibiting the entry into or the circulation of the journal in that state. The court said that there can be, no doubt, that freedom of speech and expression includes freedom of propagation of ideas, and that freedom is ensured by the freedom of circulation. Liberty of circulation is an essential to that freedom as the liberty of publication. Indeed without circulation the publication would be of little value. Restriction on freedom of speech and expression can only be imposed on grounds mentioned in Article 19(2) of the Constitution. A Law which authorizes imposition of restriction on ground of 'public safety' or the maintenance of public order' falls outside the scope of authorized restriction under clause (2) and therefore void and unconstitutional.[317]

MORE SEDITION CASES AGAINST ANTI-NUKE PROTESTORS THAN MAOISTS MILITANTS:

The speed and determination with which the Tamil Nadu Government has been slapping its citizens right, left and Centre with colonial –era Laws, it would seem as if a full-fledge war of independence is raging in the fishing villages of Idinthakarari and Kundakulam along the coast of Tamil Nadu. According to finding by a team led senior journalist Sam Rajappa, in just four months between September (when the protest movement against the Kundakulam nuclear Power plant began to gather momentum) and

[317]The Constitutional Law of India 46th Edition by Dr. J.N. Pandey Published by Central Law Publication.

December 2011, over 6000 people have been charged under Section 121(waging war against the Government) and Section 124-A of the Indian Penal Code which is related to Sedition at the Kundakulam police station.

Commenting on the report Nityanand Jayaraman a member of the solidarity group for Kundakulam police station has the dubious distinction, perhaps of being a station where the largest numbers of Sedition cases and waging war cases have been filed in the shortest time in the history of colonial and independent India. In comparison in militancy –hit Jammu and Kashmir in 2011 between 600-800 people were booked for Sedition according to human right Lawyers. In Jharkhand a state facing the Maoist-led insurgency, Anurag Gupta, inspector general (Organized crime) said, "We have no record of these cases in 2011. But our records are not perfect; there might have been a few cases. However for terrorism- related Activities, the Unlawful Activities prevention Act (UAPA) is invoked." To book Fisher flok- most of them women and children on a relay hunger strike- on terror charges especially after both the foreign hand theory and the Maoist theory failed to stick surely would have attracted a lot of media attention. The Sedition charges on the other hand are a far more convenient weapon that has been repeatedly used by the state every time it has wanted to silence dissenters. Explaining how data on the cases was complied. Jayaraman said, "We weren't given this information from the police station. We made requests to get the details. It took us seven days to compile it. Between September and December 107 separates FIRS were registered under various Section of the Indian Penal Code including Section 121 and Section 124-A which is related to Sedition.[318]

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[318] More Sedition Cases Against Anti-Nuke Protestors than Maoists, Militants by Pallavi Polankion www firstpost.com Visited on 22-8-2015 at 6:57 pm.