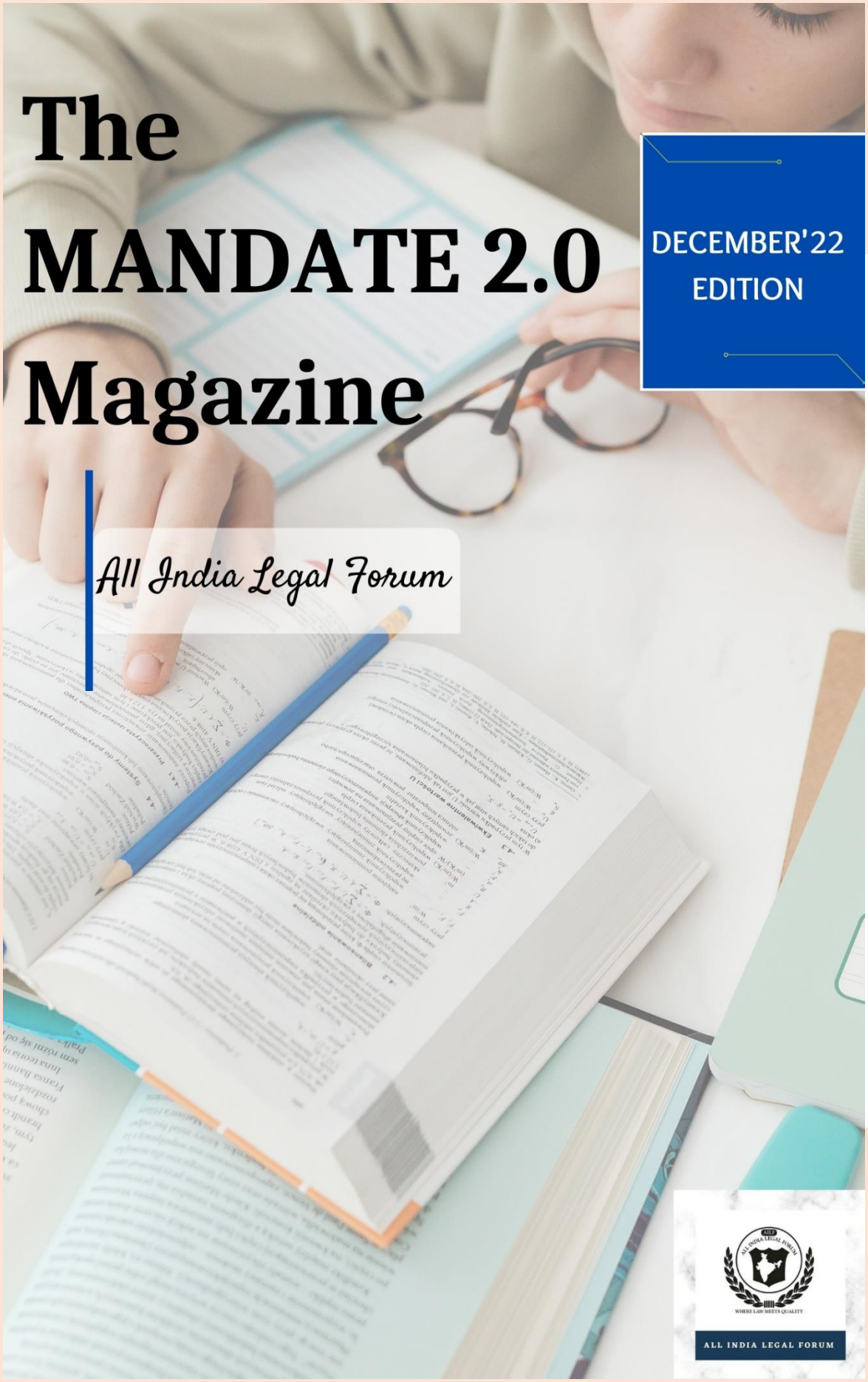
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TABLE OF CONTENTS

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WHERE LAW MEETS QUALITY

FOREWORD

Welcome to the latest edition of the All India Legal Forum monthly newsletter. In these pages, our team of legal experts have compiled a roundup of the most significant cases, legal developments, and updates on laws and their amendments. We have scoured the news to bring you only the most important and interesting stories for your reading pleasure. We know that staying up to date on the latest developments in the legal field can be a daunting task, which is why we have created this newsletter.

We hope that by bringing you a selection of the most important cases and legal updates each month, we can help you stay informed about the latest developments in the criminal justice system and beyond. In addition to criminal cases, we will also be providing commentaries on current legal developments to give you a deeper understanding of the issues at hand.

At the All India Legal Forum, we are committed to providing accurate and unbiased reporting on legal matters. We hope that this newsletter will continue to serve as a valuable resource for anyone interested in staying informed about the inner workings of the legal system. Thank you for continuing to read our newsletter. We hope you enjoy this edition.

Ms Kohina Bhargava

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WHERE LAW MEETS QUALITY

SALIENT FEATURES OF BRITISH JUDICIAL SYSTEM

In England, Wales, and Northern Ireland, the Supreme Court is the final court of appeal for all civil and criminal proceedings. It also hears constitutional cases and those with the most far-reaching public implications. The UK Supreme Court was established by the Constitutional Reform Act of 2005. It first sat in October of 2009. The House of Lords was previously the UK's last court of appeal and constitutional court. The Appellate Committee of the House of Lords had previously performed the powers of the Supreme Court, and was known as the 'Law Lords.' However, by the early 2000s, the notion that this long-standing arrangement might not be consistent with the judiciary's independence and impartiality had gained traction. There were worries that the Law Lords should not both sit in the legislative chamber and act as ultimate interpreters of the same legislation. It was concerned that this approach would not create enough separation between the legislative and judicial arms of government. It could also be in violation of Article 6 of the European Convention on Human Rights, which ensures the right to a fair trial by a "independent and impartial judge." As a result, it was decided to create a separate UK Supreme Court from the House of Lords. This would ensure that the judiciary and the legislature had sufficient separation of powers. In 2009, the Supreme Court relocated to Middlesex Guildhall, which is located on the corner of Parliament Square.

As a result, it was agreed that a distinct UK Supreme Court would be established from the House of Lords. This would ensure a proper separation of powers between the court and the legislature. The Supreme Court moved into its newly renovated premises in Middlesex Guildhall, on the corner of Parliament Square, in 2009. Scotland is a separate legal jurisdiction, with significant distinctions between Scots law and English and Welsh law. Northern Ireland has its own legal framework as well. The Supreme Court is not the final court of appeal in Scottish criminal matters because of the system's unique origins and characteristics. The High Court of Justice, situated in Edinburgh, hears these cases.

Supreme Court:

The cases that make it to the Supreme Court are usually the most important to the broader public. They frequently have far-reaching consequences for the connection between government and the

public, as well as the relationship between the UK constitution's many institutions. The Supreme Court, for example, considers cases involving 'devolution concerns,' which means that a dispute over the authority of one of the devolved governments could end up at the Supreme Court. While the Apex Court has the authority to provide a final interpretation of disputed matters of law of important public or constitutional significance, its powers are still limited in comparison to those of supreme courts in many other nations. It lacks the authority to declare major legislation passed by the UK Parliament null and void. This is due to the notion of parliamentary sovereignty, which states that Parliament has the right to make or repeal any law without recourse to the Supreme Court, at least in theory.

The Supreme Court has the power to issue a "declaration of incompatibility," which legally determines that a piece of legislation violates the European Convention on Human Rights. However, Parliament is not legally obligated to amend the Act as a result, though it frequently does so. This is in contrast to the US Supreme Court, which has the authority to overturn laws found to be in violation of the US Constitution.

One of the foundations of the UK constitution is the independence of the judiciary. This means that external pressures, such as those exerted by affluent individuals, the media, powerful politicians, or the government, have no effect on the judiciary. Judges must also be impartial, meaning that they must determine matters based on the facts presented to them and the law, rather than on personal preferences or prejudice. Both of these elements are necessary to ensure that everyone gets a fair trial, the public has faith in the legal system, and the rule of law remains a vital constitutional ideal (that everyone is subject to the law and no one is above the law). It is critical that these values are upheld by the Supreme Court. This is due to the fact that it is the UK's most well-known and visible court, and it also decides the cases with the most far-reaching public implications, as well as those involving the constitution itself.

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The Court of Appeal:

'The Court of Appeal and the High Court constitute what are called the Senior Courts of England and Wales. It is an appellate court and is divided into two divisions, Criminal and Civil. Bringing an appeal is subject to obtaining 'permission', which may be granted by the High Court or, more usually, by the Court of Appeal itself. Applications for permission to appeal are commonly determined by a single judge of the Court of Appeal.'[1]

[1] The Judicial System of England and Wales: A visitor's guide, Judicial Office International Team, Government of UK.

Cases are usually heard by three judges, who are a combination of the Heads of Division (who lead the various jurisdictions of the English and Welsh courts – see below) and the Lord Justices of Appeal, who are the most senior judges with extensive judicial experience who hear appeals; the Heads of Division are chosen from these judges. The Civil Division handles appeals from the High Court and, in some situations, the County Courts, as well as select tribunals such as the Employment Appeal Tribunal, in all major civil and family court cases. A bench of three Lord or Lady Justices sits in a Court of Appeal civil court. Each of the three judges makes his or her own judgement. The Court can reach an overall decision either unanimously or by a two-to-one majority. When this happens, the minority judge issues a dissenting (dissenting) ruling, indicating why they disagree with the majority.

The Criminal Division examines appeals from the Crown Court in criminal cases, as well as points of law referred by the Attorney General after acquittal in the Crown Court or if the sentence awarded was overly lenient. This Division's bench, which normally consists of a Lord or Lady Justice and two High Court justices, hears appeals from convictions and sentences. The Lord Chief Justice, the President of the Queen's Bench Division, or the Vice-President of the Court of Appeal Criminal Division, sitting with two High Court judges, hear the most crucial criminal appeal cases. Their verdicts are always unanimous; if one judge disagrees, the rest will overrule him or her and no dissenting judgment will be issued.

High Courts:

At first instance, this court hears the more serious and complex civil and family cases. Queen's Bench, Family, and Chancery are the three divisions. Each one has its own judicial 'Head.' The Chancellor of the High Court (not to be confused with the Lord Chancellor) is the head of the Chancery Division. A President leads both the Queen's Bench Division and the Family Division.

The Queen's Bench Division is the largest and has the most diverse jurisdiction of the three High Court Divisions. There are several speciality courts within it, including the Admiralty, Commercial, Mercantile, Technology & Construction, and Administrative Courts. The Division's civil business includes addressing contract and tort (civil wrongs) claims that are unsuitable for the county courts due to expense or complexity. Libel matters are also handled by it. The Senior Master, with the assistance of the Judge in Charge of the Queen's Bench Civil list, acts under the authority of the President of the Queen's Bench Division at the Central Office at the Royal Courts

https://www.judiciary.uk/wp-content/uploads/2016/05/international-visitors-guide-10a.pdf

of Justice in London. The Division's function is carried out through regional offices known as District Registries outside of London.

The Admiralty Court is the Division's oldest speciality court, dealing mostly with the legal implications of maritime collisions, salvage, and cargo damage. Mercantile Courts are located in eight regional locations across England and Wales. They were established in the 1990s to resolve all types of commercial disputes, except those that are handled with by the Commercial Court due to their size, value, or complexity. They also resolve minor disagreements. The Commercial Court has broad jurisdiction over banking, international credit, and trade disputes, and its justices can arbitrate commercial disputes. Traditional construction lawsuits, adjudication enforcement, arbitration and professional negligence claims, and engineering and information technology conflicts are all covered by the Technology and Construction Court. The Technology and Construction Court's work is carried out at eleven regional centres across the country, in addition to London.

The Administrative Court has the same 'supervisory jurisdiction' as the High Court, which means it has the capacity to monitor the quality and legality of decision-making in lower courts and tribunals, as well as hear judicial review applications. The Divisional Court of the Queen's Bench hears certain criminal appeals from the magistrates' courts and the Crown Court, as well as judicial review cases that are so important that they are heard by two or three judges sitting together. On appeals from Crown Court decisions, Queen's Bench Division judges sit in the Criminal Division of the Court of Appeal. They sit as a bench of two or three judges, normally presided over by a judge of the Court of Appeal, while doing so.

The Planning Court hears appeals and applications regarding enforcement decisions, planning permission, compulsory purchase orders, and highways and other rights of way, as well as judicial reviews and legislative challenges affecting planning problems. The Administrative Court includes it. Company law, partnership claims, conveyancing, property law, probate, patent, and taxation cases are all handled by the Chancery Division. The Companies Court, the Patents Court, and the Bankruptcy Court are the three speciality courts in the division. Personal bankruptcy lawsuits, forced liquidation of firms, and other matters arising under the Insolvency and Companies Acts are handled by the Bankruptcy and Companies Courts. The Patents Court hears appeals from the Comptroller-General of Patents, Designs, and Trademarks' decisions on a variety of intellectual property issues. The Family Division does not have the same number of specialised courts as the Queen's Bench Division, but it does have the Court of Protection, which makes

ALL INDIA LEGAL FORUM
WHERE LAW MEETS QUALITY

decisions on behalf of persons who are unable to make their own decisions, such as sufferers of persistent vegetative condition. The Family Division handles the most difficult and delicate family cases, such as divorce and disputes over children, property, or money; adoption, wardship (guardianship of a child), and other child-related issues.

Through the Probate Registry of the Family Division across England and Wales, it is also responsible for undisputed matters of probate - the legal acknowledgement of the validity of a will. It is led by a member of the Court of Appeal as President. The Financial List is a cross-jurisdictional Queen's Bench/Chancery list created to suit the unique business needs of parties involved in financial disputes.

Salient Features:

Impartiality and independence of the courts: The British judiciary's great reputation for justice, impartiality, and incorruptibility is the first item to remark. Judges are free to make their decisions without fear or favor. The Act of Settlement of 1701 stipulates that judges in the United Kingdom are appointed on the basis of good behavior rather than the pleasure of the executive. As a result, there has a long heritage of impartial justice administration.

Absence of judicial review: There is no judicial review in England, hence the courts cannot find any act of Parliament to be ultra vires. In America, the situation is just the opposite. In England, due to parliamentary supremacy, the parliament can pass any law and no court can overturn it.

Absence of separate administrative court: In England, unlike France and other continental countries, there are no separate administrative courts. There are two categories of legislation in France: ordinary and administrative, as well as two sorts of courts: administrative and ordinary. Administrative law is used to try administrative officials in administrative tribunals. In England, there is no distinction between officials and ordinary citizens, and they are all subject to the same legal system.

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WHERE LAW MEETS QUALITY

Absence of uniform judicial organization: There is no single judicial system in place across the country. England and Wales have one set of courts, Scotland has another, and Northern Ireland has yet another. Each court may have its own unique procedures and methods. The 1873-1876 Judicature Acts attempted to provide consistency, but they failed to produce a uniform judicial organization across the country.

Jury system: The ubiquity of the jury system is a distinguishing element of the British judicial system, and a jury trial may be requested in all courts of England except the lowest and highest

courts in the case of serious offenses. The jury system is most famous in England. A judicial officer drafts the charge in a case, and the judge conducts the trial with the help of a jury. The juries have shown fairness, courage, knowledge, and common sense in reaching conclusions that are adverse to the administration.

Integration of courts in England and Wales: The English and Welsh courts were separate bodies with contradictory procedures and jurisdiction. The entire judiciary has now been reformed and placed under the Lord Chancellor's supervision. As a result, the judicial systems of England and Wales are linked. As much as possible, the legal system has been kept easy and economical.

Guardian of individual liberty: The courts in England are the guardians of the people's liberties. People's liberties are protected by the common law of the land, not by parliamentary actions. The concept of the rule of law is present in every aspect of judicial administration.

High quality of justice: The English are proud of the high standard of justice administered by their courts. In open court, cases are heard and determined. The judges demonstrate a high level of independence, competence, and honesty. Cases are quickly disposed of. The methods and guidelines are also straightforward and rational. In the British legal system, a judge's independence is profoundly ingrained. Any consideration other than justice and impartiality has no bearing on the judges. The pettifogging dilatory, hair-pulling tactics that lawyers are so readily allowed to utilize in American courts are not tolerated in English courts. The judge runs his courtroom, keeps things moving, and refuses to allow appeals from his decisions unless there's a compelling reason.

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ALL INDIA LEGAL FORUM
WHERE LAW MEETS QUALITY

SHOULD SEDITION LAW BE SCRAPPED ?

As one of the largest democracies' in this world, India takes pride in having laws that cater to everyone from every class and socio-economic background, mostly welfare legislations to ensure the socialist secular democratic republic that our forefathers envisioned. As it is with any human endeavor- Absolute power with any authority corrupts absolutely, similar has happened with the sedition laws of India.

The law of sedition has long been a sensitive matter in Indian constitutional law jurisprudence, with arguments ranging from calls for the provision to be completely repealed from our statute books to others arguing for its full reinstatement with more aggressive enforcement. Many others have advocated for preserving the clause but limiting its application to specific legal parameters in order to strike a balance between national security and fundamental rights. The sedition clause is a relic of British colonial rule that was originally enacted to silence dissident voices in the Indian independence struggle and has no place in a democratic country like India.

Sedition, as per the law is defined as any words, either spoken or written, or by signs, or by visible representation, that could bring or attempt to bring either hatred, or contempt, or excite or to excite any disaffection (including disloyalty or any feeling of enmity) towards the Government established by law .Under Section 124A of the Indian Penal Code, 1860 sedition is a criminal offence punishable by imprisonment for up to three 3 years or even life. Not only does the legislation provide for imprisonment, but it also empowers the courts to impose a fine in addition to imprisonment. Although the Law Commissioners advocated its inclusion in the drafts, this section was not included in the 1860 version of the IPC when it was initially passed. This clause was originally included in S. 113 of the Macaulay's Draft of 1837-39, but it was removed from the final enacted draft. The clause was added to the code by the British government in 1870. This inclusion seemed like a natural approach to silence dissenting voices at the time. Mahatma Gandhi was foresighted in seeing the fundamental threat it posed to democracy . In 1898, it was amended to include terms like 'hatred' and 'contempt' along with disaffection. These were based on Sir James Strachey's recommendations when presiding over Bal Gandadhar's trial. The case of Queen-Empress v. Jogendra Chunder Bose[2], in which Bose, the editor of the newspaper 'Bangobasi,' wrote an article criticising the 'Age of Consent Bill' for posing a threat to religion and for its coercive relationship with Indian citizens, was the first recorded state trial for sedition.

[2] (1892) ILR 19 Cal 35

IMPORTANT CASE LAWS

Three significant judgements concerning sedition legislation were made in the 1950s. Tara Singh Gopi Chand v. The State[3], Sabir Raza v. The State[4], and Ram Nandan v. State[5], (hence referred to as the "Ram Nandan Decision").In the Tara Singh and Sabir Raza decisions, the courts held that Section 124A of the IPC had become void as a result of the Constitution's enforcement.The Allahabad High Court had to decide the constitutional validity of Section 124A of the IPC in the Ram Nandan Decision. The High Court ruled that Section 124A of the IPC was unconstitutional because the ministers who made up the Government were men who framed major policy decisions that required substantial opposition in Parliament. The Court stated that, in addition to the opposition, the government is subject to popular acceptance or disapproval.The Court held that "if such criticism, without having any tendency to bring about public disorder, can be caught within the mischief of Section 124-A of the Indian Penal Code, then that Section must be invalidated because it restricts freedom of speech regardless of whether the interest of public order or the security of the State is at stake." [6]The Supreme Court overturned the Allahabad High Court's decision in Kedar Nath Singh v. State of Bihar[7] in 1962. The Supreme Court upheld the constitutional validity of Section 124A of the IPC by distinguishing between hostility to the government and commenting on government policies without inciting public disorder through acts of violence.

In the case of M/s Aamoda Broadcasting Company Pvt. Ltd. & Anr. v. The State of Andhra Pradesh & Ors. (W.P. (Cr.) No. 217/2021), a three-judge division bench of the Supreme Court declared on May 31, 2021, that "there is a need to define the parameters of sedition."In Vinod Dua v. Union of India & Ors., the court invalidated a FIR (first information report) for sedition filed against the petitioner, journalist Vinod Dua. The court stated in its decision that every journalist should be shielded against charges of sedition, based on the court's landmark decision in the case of Kedar Nath Singh v. State of Bihar (AIR 1962 SC 955). These cases which were followed by many such incidents and cases that brought back the debate of constitutional validity of the sedition law and hence the reexamination of the law was considered.

[3] 1951 Cri LJ 449
[4] Cri App No. 1434 of 1955, D/- 11-2-1958
[5] AIR 1959 All 101, 1959 CriLJ 1
[6] Ram Nandan v. State, (AIR 1959 All 101)
[7] 1962 AIR 955, 1962 SCR Supl. (2) 769

LEGAL CHALLANGES OF THE PROVISON

The colonial statute has been a handy tool for the police and allied state organisations to instil terror in individuals and repress any valid critiques or opposition against governments since its re-enactment in 1951. While succeeding regimes have abused the law, it has recently achieved a new degree of bravado. A review of recent cases shows that the law is increasingly being abused. Two dozen sedition complaints were filed against important figures in the Citizenship Amendment Act (CAA) protests, and 27 cases relating to the Pulwama event according to the portal Article 14.Seditious acts range from simply showing placards to raising anti-government slogans and personal communications on social media.[8]

Because of the uncertainty in the phrase, sedition has been used against political activists, human rights campaigners, and others who are exercising or demanding their constitutional rights. Criminal offences must be specified by law and adhere to the concept of legality, which is a universally recognised requirement for a fair trial. This means that they must be presented clearly and exactly in order for people to be able to adequately manage their behaviour. Vague regulations endanger the rule of law by allowing for selective prosecution and interpretation depending on the discriminatory policies of government officials and the personal preferences of judges.

Although the conversion rate from cases to convictions, is only 3% but the main concern is that, once detained under the sedition law, getting bail is incredibly difficult because the trial process might take a significant period of time. As a result, innocent people are harassed, while others are afraid to speak out against the administration.According to a news reporter in India, you can be punished with sedition for liking a Facebook post, criticising a yoga guru, supporting a rival cricket team, drawing cartoons, asking a provocative question at a university test, or not standing up during the national anthem in a movie theatre."[9]

WHERE LAW MEETS QUALITY

RECENT DEVELOPMENTS

The Supreme Court recently through an affidavit that it has chosen to reexamine and reconsider Section 124A of the Indian Penal Code which criminalise sedition.The affidavit was filed in a batch of petitions filed by journalists, activists, non-governmental organisations, and political figures contesting the constitutional validity of Section 124A of the Indian Penal Code. After a

[8] Sedition Law in India: Critical Analysis(October 23, 2020) <https://lexforti.com/legal-news/sedition-law-in-india/.

[9] Sedition Law in India: Critical Analysis(October 23, 2020) <https://lexforti.com/legal-news/sedition-law-in-india/.

number of hearings the supreme court essentially imposed a stay on present and future sedition prosecutions under Section 124A of the Indian Penal Code, noting that the Union Government acknowledges that it is a provision that is out of step with the current social climate and was designed for colonial control.[10]All pending trials, appeals, and actions relating to charges established under Section 124 A should be put on hold, according to a bench that included Chief Justice of India NV Ramana, Justice Surya Kant, and Justice Hima Kohli. It was decided that adjudication of other parts might proceed without prejudice to the accused.

The Court also ruled that persons who have been arrested under Section 124A IPC and are in jail can seek bail from the appropriate tribunals. It has also been decided that if a new lawsuit is filed, appropriate parties are free to approach courts for suitable remedies, with courts being asked to assess the relief sought in light of the court's order. These instructions shall remain in effect until further notice.

CONCLUSION

The present sedition law that exists has only ever been a handy tool for everyone in power to curb the voices of any activist, journalist or anyone who criticizes the one in power but did very little help to actually get hold of people who try to entice any violence or disaffection against the nation.

The present law needs to be scrapped and the legislators need to find a middle ground. If their excuse to not scrap the law is to combat anti-national and terrorist elements they need to amend the existing one in way which will only target anti nationalist or terrorist elements and not innocent people who are just voicing out their opinions and giving constructive criticism to the existing government which is very important in a democratic country. This is the only way forward where citizen's fundamental rights won't be in jeopardy.

It's an embarrassment that the world's largest democracy has restrictions that were once barriers in the way of its own freedom struggle but are now manifestly in violation of the very basis of democratic rights. Sedition, as defined and managed by the police and governments, is a deprivation of liberty, and democracy is worthless without it. Invoking or threatening to invoke sedition is a sneaky form of criminal self-censorship because it limits one's fundamental right to free speech and expression. India should also look to other countries for inspiration, such as the United Kingdom, New Zealand, and South Korea, where the sedition law has been repealed, and the United States, Germany, and other countries where the law is still in place but many of its

[10] Keep the sedition law in abeyance:supreme court rules in a historic order (10 may 2022) <https://www.livelaw.in/top-stories/breaking-supreme-court-urges-centre-states-to-refrain-from-registering-firs-invoking-section-124a-ipc-198810

provisions have been overturned. All speech-related offences should be declared non-cognizable and bailable, so that the police authority acting on politically motivated allegations is at least subject to judicial scrutiny. This will also lessen the negative consequences of employing detention and arrest to harass people exercising their rights to freedom of expression and expression under Article 19(1)(a).

All police agencies must be instructed that threats of violence or disturbance by individuals who oppose or are offended by the speech should not be used to justify arresting someone for that speech. Arresting someone for speaking out should be based exclusively on an evidential assessment of whether the person has broken the law.Mere criticism of the government or government policies cannot be the basis of prosecution under Indian Penal Code section 124A.

However, the Union government's last-minute U-turn from its earlier position of supporting Section 124-A before the Supreme Court's constitutional bench, as well as the latter's bold decision to put the colonial law on hold until the government reviews the contentious provision, provides a ray of hope. While repealing the sedition legislation will not be enough to save Indian democracy, it will open the door to a review of other anti-democratic provisions.

WHERE LAW MEETS QUALITY

Reserved Category applicants with higher score than last of General Category applicants to be placed in General Category: Supreme Court

According to the Supreme Court, reserved category applicants who score higher than the last general category candidate are entitled to a seat or office in the general category. The bench of Justices M R Shah and B V Nagarathna observed that candidates from reserved categories can also claim seats in unreserved categories provided their merit and position on the merit list entitles them to do so. It was decided in the case of Bharat Sanchar Nigam Limited vs Sandeep Choudhary[11] on 28th April, 2022. In this case, the Central Administrative Tribunal in Jodhpur granted a candidate's application, ruling that those candidates from the OBC category who had more merit should be adjusted against general category seats, and that seats reserved for OBC candidates should be filled from the remaining reserved category candidates on merit. The High Court dismissed BSNL's writ petition appealing the Tribunal's decision.

BSNL argued before the Supreme Court that where reserved category candidates are accepted on merit and included in a list of general category candidates, they might be adjusted against reserved category vacancies at the time of service allocation to acquire a service of greater choice. The respondents, on the other hand, argued that reserved category candidates who scored higher than the last applicant in the general category must be adjusted against the general category quota and must be considered in the general category pool, requiring the remainder reserved category applicants to be assigned against the reserved category quota. The question before the bench was whether reserved category candidates who scored higher than general category candidates should be first adjusted in the general category pool and then evaluated for appointment in the general category pool or against reserved category openings?

The court stated that candidates from any of the vertical reservation categories are eligible to be selected in the "open or general" category, and that if such candidates from reserved categories are eligible to be selected on their own merit, their selection can't be recorded against the quota reserved for the categories to which they belong. Candidates from the reserved categories who achieve higher marks than the last general category applicant are eligible for a seat/post in the unreserved categories. Even when adopting horizontal reservation, merit must be prioritised, and candidates from the SCs, STs, and OBCs must be evaluated against reserved seats for unreserved candidates if they have obtained higher marks or are more deserving. Reserved-category

[11] Bharat Sanchar Nigam Limited vs Sandeep Choudhary, 2022 LiveLaw (SC) 419. http://www.livelaw.in.elibrarydsnlu.remotexs.in/

candidates can also claim seats in unreserved categories provided their merit and location on the merit list allow it.

However, the court noted in this case that by reshuffling and inserting two OBC candidates onto the general category select list, two general category candidates who have already been appointed will have to be expelled and/or removed, and the entire selection process will be disturbed. As a result, it directed, utilising its powers under Article 142 of the Constitution, that on reshuffling, these two general category candidates would not be removed from service because they have been working for a long time.

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WHERE LAW MEETS QUALITY

THE CHIEF ELECTION COMMISSIONER OF INDIA V. MR VIJAYABHASKAR

Introduction:

In this appeal, a difficult subject of balancing the powers of two constitutional bodies has generated bigger problems of media freedom of speech and expression, people' right to knowledge, and the judiciary's accountability to the public. The ability of a judge to conduct legal processes and engage in dialogue during a hearing, as well as the media's freedom to publish not just judgements but also judicial proceedings, have been debated.

Facts:

The Election Commission (EC) called general elections for the Legislative Assemblies of Tamil Nadu, Kerala, West Bengal, Assam, and Puducherry on February 26th, 2021. The election in the state of Tamil Nadu was set for April 6, 2021, with the results being announced on May 2, 2021. During the election preparations, the EC sent a letter dated March 12, 2021 to the presidents and general secretaries of all national and state political parties, emphasising the importance of following COVID-19 protocol requirements during the election. During the polling phase on April 9, 2021, another letter was delivered addressing candidates' noncompliance to social distancing, mask wearing, and other similar restrictions imposed by political parties. After failing to fulfil the criteria, the EC issued an order on April 16, 2021, prohibiting protests, public meetings, and street performances between the hours of 7 p.m. and 10 a.m. on election days. On the same day, another letter was sent out emphasising the importance of following safety measures to the letter. Following repeated violations of these rules, the District Secretary, who was also a candidate of the All India Anna Dravida Munnetra Kazhagam AIADMK for the 135th Karur Legislative Assembly Constituency, filed a writ petition before the Madras High Court Division Bench under Article 226 of the Indian Constitution. In light of the rising number of COVID-19 cases, the respondent, M.R. Vijayabhaskar, filed a representation to the EC on April 16, 2021, requesting that reasonable safeguards and steps be taken to ensure the safety and health of officials in the counting booths. After receiving no response, the respondent went to the High Court to ask for a

directive to ensure that votes are counted fairly on May 2, 2021, by taking effective procedures and arrangements in accordance with protocols.

The Court heard the appeal and ruled that, while the polling was mainly peaceful, the EC failed to ensure that political parties followed protocol during campaigns and rallies. Despite numerous court orders to maintain the rules, the EC stayed silent when the orders were broken.

Even though the situation in the state was under control, the polling and counting of ballots should not have served as a stimulant for an increase in the number of cases. The issue of public health is vital, and the court finds it sad that the constitutional authorities must be reminded of this situation. That the current situation is one of survival, and that in order to enjoy the privileges of a democratic republic, citizens must first survive. With consultation from the State Health Secretary and the Director of Public Health, the EC must also ensure regular sanitization, hygiene practices, the necessary using of masks, and compliance to the distancing rules. The matter was subsequently adjourned until April 30th, 2021, for a hearing to examine the efforts made. The petition was later dismissed on April 30th, in light of the actions taken in conjunction with the miscellaneous application.

The EC filed a Special Leave Petition before the Supreme Court, aggrieved by the order dated 30 April 2021 under WP 10486 & 10812 of 2021, for the miscellaneous application not really being assessed on merits and the oral observation made by the Division Bench pertaining the EC's responsibilities as the cases continued to rise due to their failure to properly implement the COVID-19 safety protocols during the conduct of elections not being addressed. As a result, the issue remains these remarks, which the EC claims are unfounded and taint the EC's image as an independent constitutional institution.

Contentions:

In its appeal, the Election Commission asked the Supreme Court to examine the balance of powers between the two constitutional agencies. In the context of issues relating to media freedom of speech and expression, the Court had to determine the scope of citizens' right to information under the jurisdiction of the judiciary's accountability to the nation. The EC contested the April 30, 2021 order, and interim relief in the form of a stay order was obtained. The decision addressed the limits that define judicial conduct, the judge's authority to engage in discourse during hearings, and the degree to which the media is authorised to record court procedures in a free flow of information beyond just publishing decisions. They further questioned whether a constitutional

body (EC) can establish a constitutional status like immunity from judicial oversight in light of the multiple checks and balances in place.

On behalf of the EC, the council stated that the High Court should not have made insulting remarks such as the EC being "singularly responsible for the second wave of COVID-19" and that the EC "should be charged with murder." It was also argued that the observations made had no bearing on the nature of the occurrence or the need to maintain safety measures. The polling was completed, and the only vote counting would take place on May 2nd, 2021. That the EC was not given an opportunity to clarify their safety measures before making such observations. That the High Court made such observations without providing any evidence or substance, and subsequently dismissed the writ petition without considering EC's miscellaneous application. That the High Court's words were extensively reported in the media, undermining the EC's sanctity as an independent constitutional authority and eroding people's faith and confidence in it. The court should exercise discretion when making such remarks regarding the authority or the electoral process since the scope of judicial review is limited in such topics pertaining to the EC's conduct of the election. That the EC did its part in putting in place suitable mechanisms to enforce safety procedures, and that the actual execution of these measures is under the control of the State, with which the EC does not meddle due to a lack of people. That the instances were under control during the decision-making process for holding elections, and that analysis would show that the elections were not a substantial driver to an increase in cases. Other states, which did not even hold elections, had a significant increase in instances. The EC had taken necessary steps and issued guidelines for campaigning, as well as limiting the scope of engineering. The media must guarantee that only accurate information is made public without sensationalising the proceedings, as this might lead to a loss of public confidence. There should be criteria for framing court procedures, and a balance between conducting court processes and the media's freedom of reporting must be maintained. Though the High Court's views are expressed in its judgements, the media has been repeating judges' oral remarks, which goes beyond judicial propriety and gives the impression of an institutional viewpoint.

These arguments were subsequently countered by the respondent's counsel, who emphasized that the EC has broad powers in a state during elections. To guarantee that all guidelines and orders are followed, powers such as sending paramilitary forces, suspending or replacing officers such as District Magistrates, police officers, and even the Director-General of Police might be used. As a result, they were in charge of carrying out the safety protocols and guaranteeing compliance with COVID-19 during the elections.

Legal Analysis:

The EC has requested 2 things in the miscellaneous application. To begin with, media reports only include what is part of the judicial record before the Madras High Court, not the judges' oral observations. Second, on the basis of the complaint lodged with the Khardah Police Station in Kolkata, issue a directive that no coercive action be taken against EC staff. For the first prayer, the Court said that assessing what should be included in the media report is based on two important criteria. These are open judicial procedures, as well as the fundamental right to freedom of expression and speech.

These are necessary to protect constitutional liberties and provide citizens with access to information about court procedures. The discussion that takes place during the course of the proceedings should be made public since it reveals the framework of the process. Oral arguments are based on an open exchange of ideas that is used to test and analyze them. Citizens have a right to know about the arguments presented to the court, opposing counsel's responses, and concerns made and resolved in court, all of which would ensure that the judicial process is open to public scrutiny. It is required to ensure transparency and accountability in the operation of democratic institutions and to restore public confidence in them. 'They further substantiated by relying on Lord Widgery's remarks in the case of R v. Socialist Workers Printers, ex p Attorney General[12] (1974) on the role of public hearings on the conduct of the judge and judicial behaviour as well the parties and their witnesses. They referred to a few more cases, such as Naresh Shridhar Mirajkar v. State of Maharashtra[13] (1966) regarding the conduct of the judge, and Swapnil Tripathi v. Supreme Court of India[14] (2018) stressing the importance of the live streaming of judicial proceedings with an exception to the rule of open courts as observed in Mirajkar'[15].

As stated in the case of Express Newspaper (P) Limited v. Union of India (1959), the right to freedom of the press is guaranteed under Article 19(1)(a) of the Constitution, and while this freedom is guaranteed in order to distill information and express ideas and opinions, it is subject to regulatory provisions in Article 19(2), as stated in the case of LIC v. Manubhai D. Shah (Prof.) (1992). That fundamental freedom includes reporting on judicial proceedings, and that courts are

[12] [1974] 3 WLR 801
[13] (1966) 3 SCR 744
[14] (2018) 10 SCC 639
[15] Murder charges on the Election Commissioner on COVID -19 grounds : a look into the scenario, Raslin Saluja, ipleaders, August 6, 2021.
https://blog.ipleaders.in/murder-charges-election-commission-covid-19-grounds/

entrusted with performing critical legal responsibilities that have a direct impact on citizens' rights and expectations of responsibility from the administration. The ability of citizens to be informed is directly related to the seamless availability of information on court procedures, emphasizing the necessity of media freedom to react and write about them, as recognized by the Madrid Principles on the Media and Judicial Independence. This has also been acknowledged in Indian jurisprudence, which grants the media the right to report on ongoing litigation before the courts with specific constraints that do not hinder the parties' access to justice. The Court focused on technology and its impact over time, stating that accepting new reality is the best way to adapt to it, and that public constitutional institutions must find ways to keep up with it rather than complain, as restricting the flow of such knowledge would be counterproductive.

The EC's grievance stemmed mostly from the judges' oral remarks made during the hearing, it was discovered. Those words got a lot of attention in the media, but they are not a verdict or a binding decision. They serve as a preliminary viewpoint that allows the judge to decide the final conclusion based on the parties' opposing viewpoints. An exchange of views by the Bench is an important aspect of open and transparent judging since it allows the parties to better influence the judge's decision. Thus, preserving the judiciary's independence and allowing judges freedom of expression, as well as imposing some type of limit and control on their powers to prevent them from using harsh and caustic rhetoric against an individual or organization, are two ends of the same spectrum. That is where the superior courts must strike a balance in order to no longer overstep the court's independent functioning and interfere when judges have gone beyond the bounds of judicial decorum.

The Apex Court went on to say that the High Court has to deal with a scenario as a constitutional court in order to ensure the protection of individuals' life and liberty in the face of the mounting COVID-19 cases. Despite the fact that the remarks were harsh and improper, they did not seek to assign blame on the EC. These remarks were not included in the official judicial record, and the formal view of the court is expressed in its judgements and orders, not in its oral observations.

WHERE LAW MEETS QUALITY

Conclusion:

As a result, the Court concluded that the EC's request to prevent the media from reporting on court proceedings lacked merit. Language is a crucial tool in the judicial process, and it must be sensitive to constitutional ideals. However, the remarks were made with the goal of urging the EC to ensure strict protocol compliance, and this issue would not have arisen if the High Court had taken a more careful approach following circumspection.

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LAXMI CHNADARANGI B VS THE STATE OF KARNATAKA

INTRODUCTION

In India, marriage is usually decided not just by the groom and bride, but by the entire family, and it is not uncommon for families to oppose to the the marriage. The question in this case is whether marriage is lawful if the groom and bride's families are opposed to the marriage and if their approval is required for the groom and bride to marry.

Ms. Laxmibai Chandaragi, Petitioner No.1 in this case went missing on october 14 , Mr. Basappa Chandaragi father of Ms. Laxmibai Chandaragi, filed a missing complaint to the Murgod Police Station in Savadatti Taluk, Belagavi District. A missing person's First Information Report was filed in response to the complaint, and the Investigating Officer acquired statements and phone numbers from the missing person's parents and relatives. According to the call data, Petitioner No. 1 was speaking with Petitioner No. 2 Mr. Santosh Singh Yadav. Despite objections from her family, Ms. Laxmibai travelled from Hubli to Banglore and then to Delhi without informing her parents to marry Mr. Santosh Singh Yadav.[16] The couple had been in communication with the family, and the daughter had sent her marriage certificate to the parents via WhatsApp.Instead of recording her testimony, the IO urged that the girl travel to the Murgod police station and provide a statement so that the case could be closed. The girl sent a letter in response stating that there is an apprehension of threat to her life from the family and relatives and thus, she cannot come to the police station.

According to the written transcript the coversation between the IO and the the woman submitted in the court it was revealed that threathned the woman and her husband of regestering a false case against the husband for kidnapping and the woman of theft.

Thus, on October 19, 2020, the woman and her husband petitioned Allahabad High Court for security and quashing of the 'Missing people' FIR. Even though it was sought to be listed for an urgent hearing, the subject was not taken up after a month. As a result, the couple filed a petition under Article 32 of the Constitution of India before the supreme court. According to the petitioner there is an issue of duality of jurisdiction arising from her residing with petitioner No.2 in the State of Uttar Pradesh while the petitioner No.1 came from Karnataka.

[16] https://main.sci.gov.in/supremecourt/2020/25061/25061_2020_39_31_25989_Judgement_08-Feb-2021.pdf

The Supreme Court ruled that the processes emanating from the Murgod Police Station's First Information Report in the Belagavi District of Karnataka were invalid.The bench of Justice Sanjay Kishan Kaul and Justice Hrishikesh Roy decided that once two adult adults choose to marry, the agreement of the family, community, or clan is unnecessary, and the consent of the couple must take precedence.

The police were ordered to take action within eight weeks to establish some rules and training programmes on how to deal with such socially sensitive issues.

BACKGROUND

The court relied upon a few previous cases where the autonomy of an individual inter alia in relation to family and marriage were held to be integral to the dignity of the individual.

Shakti Vahini v. Union of India, 2018[17] in this case SC determined that once two adults desire to marry, their approval must take precedence over that of their families, groups, or clans. Intolerant organisations that belong to the superiority complex or higher clan can no longer suffocate a person's fundamental right by relying on any form of moral or social theory or self-proclaimed elevation .

This Court emphasised, as it did in ***Shafin Jahan v. Asokan K M & Ors, 2018[18],*** that our society is in the midst of a critical transformation moment. The intimacy of marriage is ensconced in an impenetrable zone of privacy, where religious considerations are irrelevant. Everyone has the right to marry the person of their choice, according to Article 21 of the Indian Constitution.

Following the Supreme Court's decision in ***K.S Puttaswamy v. Union of India, 2017[19],*** the Bench stated unequivocally that the Right to Privacy, which is now a fundamental right under Article 21, embraces any person's marriage affairs. Article 21 preserves the most intimate of all the rights that make up personal liberty: the freedom to choose one's life partner. Marital intimacies are protected by an inviolable core of privacy, according to the Court, and religious elements have the least impact on them. As a result, Article 21 of the Indian Constitution is thought to include the right to marry the person of one's choice.

[17] (2018) 7 SCC 192.
[18] (2018) 16 SCC 408
[19] (2017) 10 SCC 1

In that context, it was also noted that an individual's choice is an inextricable aspect of dignity, because dignity cannot be considered where choice is eroded. Such a right or option is unlikely to be influenced by concepts like "class honour" or "group mentality.

ANALYSIS

The supreme court correctly stated that Young educated boys and girls choosing their life partners is a change from older societal customs in which caste and community played a large role, but it is also a step forward in eliminating caste and community tensions. Such children, however, fear threats from their elders, and the courts have stepped in to help them.This also demonstrates to parents and children that marrying someone is not unlawful or void when both parties consent and are willing to marry.

While acknowledging and relying on previous precedents, the Supreme Court rightly said that two mature adults can choose to marry and that their consent must take precedence over that of their family, community, or clan.

The case of Asha Ranjan v. State of Bihar, 2017[20], was also cited, which said that an individual's choice is intricately tied to dignity because dignity cannot be imagined without choice. 'Class honour' or 'group thinking' are unlikely to give way to such a freedom of choice.

The intimacies of marriage are enclosed within an inviolable zone of privacy, where even religious considerations have little impact. The right to marry a person of one's choice is protected under Article 21 of India's Constitution.

The way the investigation was conducted reflected poorly on the police department in general and the IO in particular. Petitioner No. 1 showed her marriage certificate, which clearly stated that she was married to Petitioner No. 2, and stated that she was hesitant to come to the police station because she felt threatened by her family's activities. The Hon'ble Supreme Court criticized the Investigating Officer for his actions and ordered that he be sent for counselling to learn how to deal with such circumstances. This establishes a strong precedent and serves as an example to other IOs handling similar cases, demonstrating the Court's strong views on how investigations should be conducted.

Individual autonomy, particularly in areas of family and marriage, is likewise vital to an individual's dignity, according to the Court. The Supreme Court also expressed its hope that

[20] AIR 2017 SC 1079, 2017(2) SCALE 709

Petitioner No. 1's parents would see reason and recognise the marriage, allowing both petitioners to resume social activities. Dr. B.R. Ambedkar remarked in his book "Annihilation of Caste" that alienating the child and son-in-law under the pretence of caste and community will not be a desirable social practise.[21]

CONCLUSION

Article 21 of the Indian Constitution guarantees the right to choose a life partner as a basic right. We also discover that an IO cannot compel someone to go to a specific police station to record a statement, and that police officers cannot intimidate someone with false charges, as the Apex Court has ruled.

The Apex court criticised the IO and other police officers in this case for not only compelling a lady to record her statements at a police station, but also for threatening her with a false case that her parents could file with the police, culminating in her husband's arrest. This establishes a strong precedent that will be followed in similar cases in the future.

Finally, the answer to the question of whether the agreement of family members is required once two people have decided to marry is no. There is no need for clan, family, or community approval in any situation when two individuals have willingly consented to marry.

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WHERE LAW MEETS QUALITY

[21] https://main.sci.gov.in/supremecourt/2020/25061/25061_2020_39_31_25989_Judgement_08-Feb-2021.pdf

JAYAMMA & ANR VS STATE OF KARNATAKA

CITIATION - (2021) 6 SCC 213.

BENCH - CJI N. V. Ramana, Hon'ble Justice Surya Kant and Hon'ble Justice Aniruddha Bose.

DATE OF JUDGEMENT - MAY 7 2021

RELEVANT ACT(s) - The "Evidence Act, 1872"; the "Indian Penal Code, 1860" and the "Code of Criminal Procedure, 1973".

INTRODUCTION

On May 7, 2021, the Hon'ble Supreme Court of India issued a decision on the topic of dying declaration. The decision was made in the CASE of Jayamma v state of Karnataka. with Lachma s/o Chandyanaika & Anr. It was handed by a two-judge panel led by Hon'ble Justice Surya Kant and Hon'ble Justice Aniruddha Bose.

The current case went through all Courts, including the Trial Court, the High Court, and the Supreme Court, where the ultimate judgement was issued. This case is an excellent illustration of how the Supreme Court explored the topic of dying declaration in great depth. In this instance, the Court emphasised the importance of a deathbed declaration, referring to it as a lone piece of evidence in a murder prosecution. In this essay, we will look at the legislation surrounding dying statements in light of Jayamma & Anr. v. The State of Karnataka.

CONCEPT OF DYING DECLARATION

Section 32 (1) of the Indian evidence act,1872 The term "dying declaration" refers to a statement of facts made by the deceased, either in writing or vocally. This statement is an explanation of the events that led to a person's death.

The notion of 'Leterm mortem,' which translates as 'words before death,' is a legal term for a deathbed pronouncement. The deathbed declaration should be meticulously recorded. If all of the basic elements of a dying declaration are satisfied, such a statement or declaration preserves its full legal significance.

The following are the necessary components for a dying declaration to be completely acceptable in a court of law:

- The person making the statement in a fit state of mind
- The fit state of mind must be certified by the doctor

- In the absence of a doctor, the witness must attest that the victim was in a fit state of mind.
- The statement must not be influenced in any way.
- If more than one statement is supplied and they are not all in agreement, then all of the dying statements lose their significance.

Facts of the case

In this scenario, both parties were well familiar with one another. According to the Prosecution, there existed hatred between both sides' families. The Appellant in this case is Jayamma, Reddinaika's wife, and the Respondent is Jayamma (dead), Ramanaika's wife.

On September 10, 1998, the two parties got into a fight in which Thippeswamynaika, the deceased's son, wounded and assaulted the Appellant's spouse, Reddinaika.

Angry by the deceased's son's actions, the Appellants proceeded to the deceased's residence for a confrontation concerning the assault on Reddinaika on September 21, 1998.

The Respondents were requested to pay Rs. 4000 for the expense of medical care. After a violent argument between the two parties, the Appellants poured kerosene liquid on Jayamma (dead) and lit her ablaze. The Appellants were clearly held responsible for Jayamma's death.

Hearing Jayamma's cries, Ravi Kumar, another son of the deceased, and Saroja Bai, the deceased's daughter-in-law and Thippeswamynaika's wife, rushed on the scene and attempted to put out the fire. Meanwhile, the Appellants had fled the scene.

Jayamma was gravely hurt, therefore Ravi Kumar requested assistance from Kumaranaika in transporting her mother to the hospital. Jayamma was brought by bullock cart to a primary healthcare centre (P.H.C.) (Thalak).

Jayamma received primary care from Dr. A. Thippeswamy, who also provided several pain relievers. The doctor then forwarded medico-legal case details to Thalak Police Station.

S.H.O. K.V. Mallikarjunappa arrived to the hospital after receiving the complaint and recorded the wounded Jayamma's statement in the presence of a doctor. Jayamma, in her view, signalled all of the Appellants in the case.

Based on a statement submitted by Jayamma, the Thalak police station recorded crime no. 101 of 1998 under Sections 307, 504, 114, and 34 of the Indian Penal Code, 1860.

Jayamma was transferred to the Government Hospital in Chitradurga due to her terrible condition, however she died on September 23, 1998, at 5:30 a.m.

The police then addressed the demand to the Court, seeking that the offence be registered under Section 302 read with Section 32 of the Indian Penal Code, 1860 rather than Section 307 read with Section 34 of the Indian Penal Code, 1860. Jayamma died of shock as a result of substantial burn injuries, according to the post-mortem results. The Appellants were arrested during the investigation, according to all of the evidence and witnesses. They were, however, able to get anticipatory bail and were so freed upon their arrest. The case was heard in the Trial Court, and during the investigation, numerous prosecution witnesses became hostile, with the exception of the doctor and the police officer. The issue before the Trial Court was not whether the dead died as a result of burn injuries, but whether the death was homicidal and suicide. The Court pointed out that the entire reliance was on the remark that was interpreted as a dying declaration.

However, the Court found no basis to condemn the Accused since, according to it, the Prosecution failed to discharge the proof. The Trial Court determined that the Prosecution could not show the veracity of their case beyond a reasonable doubt. The only item on record was Jayamma's statement, which was viewed as a deathbed declaration, witnesses, and the severity of the victim's burn injuries. The evidence presented was deemed ambiguous and inadequate. As a result, the Appellants were found not guilty. The prosecution filed an appeal at the Karnataka High Court. The following issues were raised before the High Court:

Was the death suicide or homicidal?

Is the statement recorded in front of the police made when the wounded was in a good mood?

Could the statement made before the officer be used to lay a solid foundation for showing the Appellants' guilt?

Did the prosecution prove beyond a reasonable doubt that the Appellants went to their residence to murder the victim?

The High Court determined that the facts presented and the dying declaration were sufficient to condemn the appellants. As a result, the Appellants were convicted under Section 302 read in conjunction with Section 34 of the Indian Penal Code.

Also worth noting is that all of the witnesses became hostile and refused to assist the Prosecution's case. Only the police officer and the doctor supported the Prosecution's admission that the Appellants killed her.

Following that, the Appellants, who were dissatisfied with the High Court's ruling, filed two criminal appeals before the Hon'ble Supreme Court.

Issues

The following are the issues before the Hon'ble Supreme Court:

Whether the Hon'ble High Court erred in overturning the Trial Court's findings while using its discretion under Section 378 of the CrPC?

Whether the Prosecution was successful in establishing that the deceased died as a result of homicide at the hands of the Appellants.

Relevant legal provisions

The following are the important law provisions implicated in the case:

The Indian penal code, 1860

Section 34: Section 34 describes a criminal act committed by a group of people with a common goal. In such a case, they are all accountable as though they committed the criminal conduct alone.

Section 114: Section 114 discusses the punishment of an abettor who is present at the moment the offence is committed. This Section states that if an abettor is present while the crime is done, the abettor is accountable as if they committed the crime themselves.

Section 302: Section 302 specifies the penalty for murder. The penalty is death or life imprisonment, as well as a fine.

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WHERE LAW MEETS QUALITY

Section 307: This section deals with the issue of a murder attempt. When a person with intent or knowledge causes the death of another person, the individual who committed the offence will be punished with either a sentence of 2 to 10 years in prison and a fine, or both.

Section 504: According to this section, the act of willfully provoking someone where the person pressing knows that the provocation will result in a violation of the public peace is punishable by imprisonment for up to two years, a fine, or both.

THE CODE OF CRIMINAL PROCEDURE 1973

Section 313 discusses the authority to interrogate the accused in a certain investigation or trial.

Section 378: Section 378 addresses the topic of appeal in the event of a party's acquittal. In this Section, an appeal is filed in the High Court disputing the decision of lower courts. In addition, an appeal against the High Court's ruling can be filed with the Supreme Court.

The Indian evidence act

Section 32 of the Indian Evidence Act of 1872 governs the instances of any individual who is either dead or cannot be traced who makes a statement of significant facts. Such assertions are considered to be relevant facts.

Contentions by the parties

The Appellants' learned Counsel claimed that the High Court's ruling was confused and wrong. It further said that the Trial Court's decision was well-reasoned and that it appropriately acquitted the Appellants in this matter.

Furthermore, reliance was placed on some Supreme Court decisions such as Chandrappa v. the State of Karnataka, 2007, Perla Somasekhara Reddy and Others v. the State of A.P., 2009; State of Rajasthan v. Shera Ram, 2012, Shyam Babu v. State of Uttar Pradesh, 2012, Murugesan v. State, 2012, Mookiah v. State, 2013, and Shivasharanappa v.the state of state of karnataka to assert that the High Court should have more diligently scrutinized the evidence before interfering with the order of the Trial Court.

The learned Counsel sought a reasonable explanation for why the Trial Court's findings and decision could not be upheld or why intervention was required. It was argued that the High Court did not consider all of the evidence and the Trial Court's conclusions. As a result, it failed to meet its duties under Section 378 of the CrPc.

The dying declaration cannot be used as the primary basis for convicting the Appellants. It also cited the 2011 judgement in Surinder Kumar v. State of Haryana. According to earlier decisions, the document (dying declaration) of Jayamma cannot be considered a piece of solo evidence in the absence of further strong evidence because it was veiled with dubious circumstances.

Furthermore, the case of Paparambaka Rosamma & Ors v. the State of A.P, 1999, was cited, in which it was argued that in the absence of a medical certificate attesting medical fitness as to the

state of mind of an injured person, reliance on the dying declaration of the deceased should not be made, and the High Court should have acknowledged this fact.

Finally, the experienced Counsel for the Appellants pointed out that the High Court overlooked some of the most important facts. As a result, it is difficult to understand how the Prosecution has failed to prove any purpose of the Appellants in this instance. As a result, the Appellants' conviction was illogical.

The learned State Counsel, on the other hand, stated its support for the High Court's conviction. He added that the High Court issued a well-reasoned decision while citing specific reasons for convicting the appellants.

JUDGEMENT OF THE COURT

The Supreme Court of India highlighted that the High Court had relied substantially on the statement interpreted as the deceased's dying declaration. Aside from that, it relied primarily on the corroborative testimony provided by the police officer and doctor who were there when the deathbed pronouncement was recorded. The deceased's mental state was also supported in making such a declaration.

The Court examined the deceased's dying statement and discovered that there had been some tampering in the original dying order, as it appeared that certain words had been substituted by the police officer using a different pen.

The Court cited a few cases that were related to the facts of the current case to proclaim the admissibility and reliability of the statement. The following are the summaries of all the decisions cited:

P.V. Radhakrishna v. Karnataka State, 2003: The Court was asked in this case whether the proportion of burns experienced might be a determining element in determining the veracity and recording of a dying declaration. The Court determined that there was no uniform rule in this respect, and that it would depend on the kind of the burn, the effect of the burn, and the part of the body injured.

Chacko v. State of kerala,2003: In this case, the Court refused to recognize the validity and probative significance of the deathbed declaration. In the current prosecution-based case, the deceased woman of 70 years old, who had received 80% of the burn injuries, gave a thorough dying declaration after 7 to 8 hours of burning. The Court found it impossible to believe that the

injured lady, who was 80 percent burned, could recount what had occurred to her. In this situation, the doctor also did not certify the deceased's mental and physical health. The Court questioned the authenticity of the paper since it could not have been supplied in such a precise location.

Sham Shankar Kankaria v. state of Maharashtra,2006: The Honorable Supreme Court reiterated in this instance that "the deathbed statement is just a piece of untested evidence that must convince the Court that what is said therein is the unalloyed truth and that it is safe to act upon."

Several more incidents were cited to demonstrate the probative importance of the dying declaration. The Court found various questions in the current instance about the dying declaration. It questioned whether the dead was of sound mind to make the statement.

In addition, the quantity of burn injuries that Jayamma sustained caused her significant pain, making it impossible for her to make her statement appropriately.

"The doctor's affirmation that the victim was in a fit state of mind to give the statement was made not before the statement but after the statement was recorded," the court said. It should normally be the opposite way around." Following that, the Court began to assert the dying declaration's evidentiary importance.

The Hon'ble Supreme Court provided a few reasons for not convicting the Appellants in the present case.

The Court remarked that the circumstances described in the dying declaration were so precise that even in a fit state of mind, a person could not have dealt with such clarity of facts. However, it is maintained that the police officer took the dying declaration in the form of a question and answer session. According to the recording's structure, it was not acknowledged. The police officer appears to have influenced the statement in one manner, both directly and indirectly

It was said that the dead was an illiterate elderly person, and it seemed remarkable that such a person could relate the events in dialogue with such precision.

Prior to her death, the deceased was given very sedative medicines. This was admitted by the doctor himself. It is clear by the injuries on her body that she was in a great deal of anguish and misery. It cannot be ruled out that she is experiencing delusions and hallucinations. According to the doctor, the victim was in a good mental condition after the dying pronouncement was recorded. Normally, this remark is made before recording the dying pronouncement, but in this case, it was made later.

The statements of the police officer and the doctor were diametrically opposed. The police officer reported that the deceased's hands were not wounded and that she could thus take a thumb imprint, while the doctor stated that the deceased's hands were injured.

The police officer stated that he did not seek the doctor's approval to determine whether or not the victim was in a fit state of mind. The doctor and cop had attempted to conceal this grave reality, and afterwards, the police officer took an odd endorsement on the state of mind.

There is no proof that the death was homicidal. The Prosecution made no attempt to prove that the Appellants poured kerosene on the Jayamma and started the fire. The Court further stated that nothing could be gleaned from the facts because the deceased's son and daughter-in-law disputed the occurrence and claimed she committed herself.

The Hon'ble Supreme Court ruled that if it had been a violent death, the deceased's son and daughter-in-law would have gone to the police station. However, the inverse occurred. The doctor was the one who alerted the police about the occurrence, not the deceased's son or daughter-in-law. This compilation of facts raises serious doubts and lends credence to the theory that the deceased committed suicide.

The officer had sufficient time to summon an Executive/Judicial Magistrate to record the dying declaration. It is claimed that such officials have the necessary training to judicially record a death declaration after meeting certain requirements such as certification and endorsement from a medical officer. Although it is not required by law to record a court officer's deathbed declaration, it is desirable to bolster the case.

The contents of the dying declaration were not accepted by the Supreme Court. It went on to say that the victim was sent to the Civil Hospital around 12:30 p.m. on September 22, 1998. She died approximately 30 hours later, at 5:30 a.m. on September 23, 1998, as a result of burn injuries. There was ample time to summon the Executive Magistrate, but this did not occur.

The Supreme Court also overturned the Appellants' conviction because it believed that the High Court's power of authority under Section 378 of the Code of Criminal Procedure, 1973, should not be used habitually where the Trial Court's opinion is the possible and accurate one. The Trial Court's decision should not be overturned just because the High Court believes it is more right and fair.

The High Court should only intervene if it determines that the Trial Court misinterpreted the main evidence, resulting in a total miscarriage of justice. The Trial Court's conclusions may be accurate as well, and hence high courts should limit their jurisdiction under Section 378 of the CrPC.

Hence, answering the potential issues involved in the case, it can be said that:

The Hon'ble High Court erred in overturning the Trial Court's conclusions while exercising its discretion under Section 378 of the CrPC. It should have handled with the material more rationally and factually, and hence the Trial Court was justified in concluding that the Appellants were not guilty of the offence.

The Prosecution failed to demonstrate that the deceased died a homicidal death at the hands of the Appellants since the police officer and the doctor's testimony and the dying declaration were not substantiated. Furthermore, the dead's son and daughter-in-law made no complaint, leading us to believe that the deceased committed suicide

As a result, the Hon'ble Supreme Court considers it impossible to convict the Appellants solely on the deathbed declaration. Both criminal appeals were granted, and the Appellants were found not guilty.

CONCLUSION

The current case epitomises the adage, 'Justice delayed is justice denied.'

It took years for the Appellants to be found not guilty of any crime. Furthermore, the exact cause of death of the dead Jayamma became revealed after the Supreme Court ruled that the Appellants are not guilty under Section 302 read with Section 34 of the Indian Penal Code, 1860.

Despite the fact that our criminal system philosophy states that "No one is guilty unless proven." However, society treats the accused as criminals notwithstanding the fact that the issue is before the Hon'ble Court.

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Has anybody considered the slander and anguish the Appellants may have endured over the years? Can they be compensated for the economic, financial, and personal losses they may have suffered?

The Appellants proceeded to the Prosecution's office and demanded Rs. 4000 as compensation for the injuries caused to Jayamma's husband, Reddinaika. But who could have guessed that the need for rupees 4000 would become a curse and devastate their lives?

The case also emphasises the importance of treating the Trial Court's conclusions with caution since they may not always have performed the correct inquiry. The Appellants were acquitted by the Trial Court in this case. When the Prosecution appealed to the High Court, the ruling was reversed, and the Appellants were found guilty. Following that, the Appellants filed an appeal with the Supreme Court against the High Court's ruling.

The Hon'ble Supreme Court, in acquitting the Appellants, presented a clear and logical explanation for its reasoning. It meticulously recorded all important details and examined the issue. The Hon'ble Justices' analysis in the case is quite valuable.

However, two questions must be addressed. The first question is why the High Court did not take into account all of the relevant facts and circumstances. It depended directly on the deathbed declaration if the Appellants were found guilty. If it had investigated it as thoroughly as the Hon'ble Supreme Court did, the issue would not have been listed in the Supreme Court, saving a significant amount of litigation time.

The second question concerns the prosecution witnesses, namely the police officer and the doctor who testified in favour of the prosecution. Even the deceased's son and daughter-in-law were opposed and confessed that Jayamma committed suicide. There were inconsistencies in the police officer's and doctor's testimony, casting serious doubt on the relevance of the dying declaration.

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