

SEDITION CLOSELY ALLIED TO TREASON- CRITICAL ANALYSIS OF SEC 124 OF I.P.C.

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The word Nation comes from the Latin, and when first coined clearly conveyed the idea of common blood ties. It was derived from the past participle of the word "Nasci" meaning to be born. Where all state nation states, no great harm would result from referring to them as nations and people who insisted that the distraction between nation and state be maintained could be dismissed as linguistic purists or semantic nitpickers. Where nation and state essentially coincide, their verbal underutilization is inconsequential because the two are indistinguishably merged in popular perception. The concept nationalism should come to mean identification with the state rather than loyalty to the nation.

The Assembly Constituted many such members who were active in the anti-colonial struggle and had been charged with sedition under the British Rule. There were many voices within the Assembly that felt that sedition, for its chilling on free speech, must not be included in the exceptions to the exercise of the freedom of speech and expression. K. M. Munshi was one of the staunchest supporters of the above views who argued that the word sedition must be dropped from the list that empowered state to make any law relating to libel, slander, defamation, sedition, and other matters that would offend the decency or morality of the State or undermine the authority or foundation of the state.

He said:

"Our notorious Section 123-A of Penal Code was sometimes construed so widely that I remember in a case a criticism of a District Magistrate was urged to be covered by Section 124-A. But the public opinion has changed considerably since and now that we have a democratic Government a line must be drawn between criticism of Government which should be welcome and incitement which would undermine the security or order on which civilized life is based, or which is calculated to overthrow the state.... As a matter of fact the essence of democracy is criticism of Government. The party system which necessarily involves an advocacy of the replacement of the one Government by another is its only bulwarck; the advocacy of a different system of Government should be welcome because that gives vitality to a democracy...."

Munshi's speech challenged the validity of the offence of sedition in a democracy. It was reflective of nature of a democratic polity in which public opinion was imperious. The farmers were completely conversant with the fact that critical public opinion was indispensable for a democracy to function and sedition law curbed it. Munshi's speech was also one of the earliest expressions regarding the ambiguous formulation of the law which exposed it to abuses.

Munshi had moved an amendment to delete the word 'Sedition' from the section on the restriction to the fundamental rights and replaced it with more definite phraseology of 'undermining the security of, or tending to overthrow, the State'. This was an attempt at some kind of a compromise between upholding people's freedom while maintaining a strong consolidated state. This view was also reflected in Krishnamachari's speech-a member of Madras Legislative Assembly who supported Munshi's proposal to remove sedition from the section on the fundamental rights. There was an implicit understanding that in case the law has to be used in 'times of necessity' to protect the State, its retention within the Penal Code, is useful.

He said:

" It is quite possible that then years hence the necessity for providing in the Fundamental Rights an exclusion of absolute power in the matter of freedom of speech and probably freedom to assemble, will not be necessary. But in the present state of our country I think its very necessary that there should be some express prohibition of application of these rights to their logical ends. The state here as it means in the amendment moved by my Hon'ble friend Mr. Munshi as I understand it, means the Constitution and I think it's very necessary that when we are enacting a Constitution which in our opinion is a compromise between two possible extreme views and is one suited to genius of our people, we must take all precautions possible for maintenance and sustenance of the constitution and, therefore, I think the amendment moved by Hon'ble Friend Mr. Munshi is a happy mean and one is capable of such interpretations in times of necessity, should such time unfortunately come into-being so as to provide the State adequate protection against the forces of disorder.

We have to see how far the saving clause, namely, clause 2 of article 19 protects the portion aforesaid. The expression 'in the interest of...public order' are words of great amplitude and are much more comprehensive than the expression 'for the maintenance of as observed by this court in the case of Virendra V State of Punjab AIR 957 SC 896, 899. Any law which is enacted in the interest of public order may be saved from the vice of constitutional validity. If, on the other hand, we were to hold that even without any tendency to disorder or intention to create disturbance of law and order, by the use of the words written or spoken which merely create disaffection or feelings of enmity against the Government, the offence of sedition is complete, then such an interpretation of the sections would make them unconstitutional in the view of Article 19(1)(a) read with clause 2.

The provisions of the section read as a whole, along with the explanations, make it reasonably clear that the section aim at rendering penal only such activities as would be intended, or have tendency, to create disorder or disturbance of public peace by resorting to violence.

The explanations to the section make it clear that criticism of public measures or comments on Government action, however strongly worded, would be within reasonable limits and would be consistent with fundamental freedom of speech and expression. It is only when the words, written or spoken, etc. have the pernicious tendency or intentions or creating public disorder or disturbance of law and order, that the law steps in to prevent such activities in the interest of public order. The section strikes the correct balance between the individual fundamental rights and interests of public order.

The language of the clause (d) of the Section 4(1) Press (Emergency powers) Act (23 of 1931) is borrowed word from Section 124-A, Penal Code, commonly known as "Sedition".

There is nothing in the law to prevent a person from attacking Government for its shortcomings in one or other respects with a view to remove them or correct them. It is also not prohibited to call upon the people to elect their representatives from one or the other political party which promises greater chances of religious or economic advancement. The state is, however, sacred, transcending all political parties and the Government as a whole cannot be brought into hatred or contempt without fear of disastrous consequences to all and sundry living in the State.¹

After correctly noticing that nation may comprise part of a state, or extend beyond the borders of a single state it elsewhere says of nationalism that it makes the state ultimate focus of the individual's loyalty.

To apply S. 124 A against any person whose disloyalty and all feelings of almighty required to be scrutinized by his all done in context of that words, deeds or writing constitute sedition punishable under section 124 A, Indian penal code only if they violence 2or disturb law and order or create public disorder or here the intention or tendency to do so 2

2 The book Nationalism written by John Hutchinson and Anthony d Sonith published by oxford Univ. press in 1994.² plans and olton.op.cit.119.

In Emperor Vs Sadashiv Narayan Bhalerao³ the word Sedition dose act recur in the section it is only found as marginal note to the section. But merely provides the name by which the crime defined in the section will be known. Where the section speaks of salred, contempt and disaffection, but of the same time it speaks of disapprobation, without existing hatred. Contempt disaffection if anyone speaks anything about the Govt Basically it is fundamental right of the every citizen of country in the demoralize state stat people have fundamental right if freedom of speech and expression of art 19(1)(a) of the constitution, to speak regularly policies of the state existing laws,

bills etc. if does not mean that, people have any kind or hatred or exciting hatred, contempt and disaffection towards the state. It is a soul of democratic country by allowing or guarantying their right to speak and express their views about the Govt. It is not anything against the state so for as contempt and disaffection.

4. Kedarnath V/s State of Bihar ⁴the constitutional Bench held that this Section 124 A of IPC is not unconstitutional and opined that the words written or spoken etc. which have the intention of creating public disorder or disturbance of law and order the law steps in to prevent such activities in the interest of public order, then only the section strikes the correct balance between individual F.R. and the interest of public order. The Court also held that a citizen has a right to say or write whatever he likes about the Govt. or its measures, by way of criticism or comment so long as he does not invite people to violence against the Govt. established by law or with the intention or creating public disorder.

If I appreciate this above mentioned judgment which was formed constitutional bench for delivery this matter with reference to exact meaning of Sedition as well then some of the questions would still remain there like if I make criticism or comment so long as. I do not incite people to violence against the Government established by law or with the intention of creating public disorder.

My words or speech or comment or criticism does not create any kind of public disorder or incite people to violence against the Govt established by law or intention of creating public disorder but the words of comment is very much found to be falls in the ambit under section 124 A under such circumstances whether I am liable to punished by section 124 A of IPC?

In BalGangadharTilak V/s Queen Express ⁵

The charge was under sec 124 A as it then stood, Confined to disaffection without any reference to hatred contempt. This interpretation was approved by the privy council but in MiharendraDatt V/s Emperor⁶

The federal court considered that public disorder or the reasonable anticipation or likelihood of public disorder, is the gist of the offence but in subsequent case Sadashiv Narayan V/s Emperor⁷the privy council held that a wrong construction of u/s 124 A the privy council said that they were unable find out anything in Language of S. 124 A which could suggest that the acts or words complained of must either incite or disorder or must be such as to satisfy reasonable men that is their intention or tendency explanation to S. 124 A provides that the expression disaffection includes disloyalty all feelings of enmity. This is quite unconstitutional with ILR 22 Bom 528 excite or attempts to excited disaffection, involves not only excitation of feelings of disaffection but also exciting disorder.

At the end, in *Kedarnath V/s State of Bihar*⁸ the S.C. held that a citizen has a right to say or write whatever he likes about the Govt. or its measures, by way of criticism or comment, so long as he does not incite people to violence against the Govt. established by Law or with the intention of creating public disorder.

Recently the Supreme Court ordered in 2016, In common cause *V/s Union of India*¹⁰ that under section 124 of IPC shall be divided by the principles said down by the constitutional bench in *Kedarnath Singh Case*.

Art 19 (1) (a) which is also part III guarantee's that all citizens shall have right to freedom of speech and expression. There can be no doubt that sec 124 A and 153A of the IPC are restrictions on the freedom of speech and expression so guaranteed by article 19 (1) (a) of the constitution.

The criticism of government exciting disaffection or bad feelings towards it is not to be justifying around for restricting the freedom of expression and or the press. For democratic country it is required create such an atmosphere wherein people are free to expression their opinion about their government.

It is duty of the every democratic country ensured their own subjects to make their opinion expression or of the press against their government instead of initiating action against them under section 124 A or IPC and suppress their fundamental rights.

The words used in the amended clause (2) or Art 19 are Interest of Public order, necessary trends to maintenance or it so there must still be some real likelihood of public disorder taking place either immediately or in the near future, and where there is no such possibility, the interest or public cannot be said to be affected. Section 124 A is capable of being applied not only to cases where danger to public order could arise but also to cases where such a danger could not arise. In making all disaffection punishable section 124 A places a restriction on freedom of speech and expression which is not in the interest of public order of me.

Making of agitation by Hardik Patel in Gujrat for Reservation for Patel Community, the real question is that some of the people or group of people from Gujrat especially Patel community) made a violence protest against the government and the moment leading Hardik Patel by saying that, rather advise to resort to violence by killing four to five police officer, he could be said to have criticized the police force. In such circumstance a prime facie case of waging war against the Government could be said to have been made out ¹⁰

Especially the word disaffection used in explanation or section 124 A of IPC that includes disloyalty and all feelings of enmity.

Disaffection means a feeling contrary to affection, is other word dislike or hatred. This section lays down the penalty of sedition have to suffer. Whether they excise disaffection or attempt to excite disaffection, they are in each case equally guilty and their criminality does not cease even if, failing to excite disaffection, their words only bring the Govt. in two hatred or contempt.

The same speech or writing may produce different feeling in different mind; one may feel contempt, hatred and third may feel disaffected by the same speech at the same time. And it is possible for the same person to feel hatred and contempt as well as disaffection in the senses those words have been used. It is not necessary to say that feeling was created at a given time, not it is possible as the section 124 A demands the matter to be seditious should have influenced to the public generally and not only particular members of it. At the end, one can say that the Govt is to hatred or contempt.

With the feeling of hatred the law can do nothing because it cannot see in to the heart and cannot reforms it but law lose step in when any attempt is made to excite the feeling in others¹²

At the end, there are two types of people involved in the sedition offence therein at the first type, the person who takes part in the committing of act by way of either words or spoken attempts to excite disaffection towards the government established by law in India.

Due to actual disaffection towards the government by way of words spoken by the person, the listener who has not actually acted on the attempt made by the accused but the accused who has shows his disaffection towards the Government shall be punished according to Section 124 A of IPC

But certain accused persons were convicted for listing to some cassettes containing speeches of sedition nature. There was no other evidence to show that they either committed or conspired or attempted to commit or advocated or advised or knowingly Facilitated commission of disruptive activities under TADA 1987, their conviction was set aside¹²

On the basis of above mentioned confusion, S. 124 of IPC sedition is required to eliminate from the IPC and for the same kind act done by the person should be punished according to respective act i.e. nuisance disturb etc. waging war against the state public tranquility.

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- 3 AIR 1962 Supreme Court 955
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- 6 AIR 1947 PC 82 at P 84
- 7 AIR 1962 Supreme Court 955
- 8 Amount Petition civil No. 683/2016
4. Hardik Patel vs State of Gujrat 2016 Cr.L.J. 225 (Gujrat)
5. Bhaskar 8 Bom L.R. 431 at P 437
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POPULATION DYNAMICS OF PHYTOPLANKTON OF KUDALA DAM WATER, DISTRICT NANDED, MAHARASHTRA

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Key Words: Phytoplankton, Kudala Dam, Population dynamics, Chlorophyceae, Cyanophyceae

Abstract:

Present investigation has been undertaken to study the population dynamics of phytoplankton of kudala dam water during the year 2017. The monthly variations of phytoplankton were studied. During the present study Phytoplankton from four families with total 23 species were reported. Among the phytoplankton species members of Chlorophyceae were found to be dominant throughout the study period.

Introduction:

Phytoplankton is an important component of ecosystem, which responds to ecosystem alterations rather rapidly. It is due to the fact that planktonic organisms play a key role in the turnover of organic matter and energy through the ecosystem (Telesh, 2004) Phytoplankton plays an important role of primary producer in aquatic environment, hence it is the first component in the trophic level. Phytoplankton which includes blue- green algae, green algae, diatoms, desmids, euglenoids etc. are important among aquatic flora. They are ecologically significant as they form the basic link in the food chain of all aquatic animals (Misra *et al.*, 2001). When in large numbers they make the water greenish. Phytoplanktons are important in an environmental impact study in as much as they are extremely responsive to change in the environment and thus indicate environmental change and fluctuations that may occur. Phytoplankton acts as a biological indicator of water pollution. The phytoplankton composition of reservoir indicates that water of this reservoir is slowly getting mesotrophic and leading to eutrophy. Substantial contribution of algal forms like *Chlorella*, *Navicula*, *Nitzschia*, *Synedra*, *Phormidium*, which are part of a palmer's list of sixty more pollution tolerant genera in the world (Palmer, 1969). Phytoplankton is the pioneer of an aquatic food chain. The productivity of an aquatic environment is directly correlated with the density of phytoplankton. The Phytoplankton is the base of most of the lake food webs and fish production is linked to the

phytoplankton (Ryder *et al.*, 1974); the growth of Phytoplankton is directly correlated to phosphate, silicates as well as nitrogen. These three elements are essential for the bloom of phytoplankton.

Material and Methods:

For the phytoplankton analysis, samples were collected monthly for a period of twelve months during year 2017 from three sampling sites namely site A, site B, and site C, over the dam by using plankton net of mesh size 25 μ m.

Phytoplankton were preserved by using Lugol's iodine solution and 4% formalin and counted by using Sedgwick- Rafter cell and identified by using keys, Trivedi and Goel (1986), Kamat (1985), Palmer (1968) and Patric Reimer (1966) and photographed by using phase contrast microscope. Zooplankton were preserved in 4% formalin and counted by Sedgwick- rafter cell. Standard keys and other literatures were used for identification of different species and the identified species were expressed in number per liter.

Results and Discussion:

The monthly fluctuations and average values of phytoplankton population are illustrated in the table 1 and 2. During the present study, Phytoplankton from four families with total 23 species were reported. The total number of phytoplankton population were found to be varied from 5 to 300 number per litre at site A, 8 to 290 number per litre at site B and 10 to 302 number per litre at site C. The family Chlorophyceae was represented by 10 species with dominance *Pediastrum* sp. and *Oedogonium* sp. The maximum Population of members of Chlorophyceae was recorded in May, 297.33/L. Bacillariophyceae was represented by 6 species with dominance of *Navicula* sp. The maximum population of Bacillariophyceae was recorded in January 236.67/L. Cyanophyceae was represented by 5 species, maximum population was observed in May 122.30/L Euglenophyceae was represented by 2 species, maximum population of Euglenophyceae was recorded in the month of May 112.00/L. The average population of Chlorophyceae was observed 40%, Bacillariophyceae was 36%, Cyanophyceae was 13% and Euglenophyceae was 11%.

The group wise population density was in the order;

Chlorophyceae > Bacillariophyceae > Cyanophyceae > Euglenophyceae.

List of Phytoplankton species observed

Chlorophyceae: *Ankistroesmus falcatus*, *closterium limneticum*, *Cosmarium contractum*, *Hydrodictyon*, *Oedogonium patulum*, *Pediastrum duplex*, *Pediastrum simplex*, *Spirogyra*, *Ulothrix zonata*, *Zygnema* sp.

Bacillariophyceae: *Bacillarioparadoxa*, *Diatom sp.*, *Diatom vuloare*, *Fragillaria capurina*, *Navicula radiosa*, *Navicula viridula*.

Cyanophyceae : *Anabaena constricta*, *Anacystis species*, *Nostoc*, *Oscillatoria chlorina*, *Oscillatoria limosa*.

Euglenophyceae : *Euglena stellata*, *Euglena viridis*.

Sirsat *et al.*, (2004) reported 24 genera of phytoplankton belonging to four groups *Chlorophyceae*, *Bacillariophyceae*, *Cyanophyceae* and *Euglenophyceae* during study period at Dharmapuri in Beed district. Kumawat and Jawale (2003) recorded 59 genera of phytoplankton from a fish pond at Anjale.

Somani and Pejavar (2003) reported 14 genera of Chlorophyceae, in the Lake Masunda, Thane, Maharashtra.

Rao and Raju (2001) observed the Bacillariophyceae species such represented by *Melosira*, *Synedra*, *Navicula*, *Nitzschia*, *Gyrosigma*, *Cymbella* and *Amphora* in fish culture pond at Nambur near Guntur, Andhrapradesh.

Pendse *et al.*, (2000) observed the Euglenophyceae species, *Euglena*, *Phacus* and *Trachelomonas* in percolation tank of village Dasane Maharashtra.

Perumalsamy *et al.*, (2003) reported 43 species of phytoplankton in perennial ponds in Tamilnadu. Among these 11 species belong to Bacillariophyceae, 18 species to Chlorophyceae, 11 species to Cyanophyceae and 3 species to Charophyceae.

Khapekar *et al.*, reported 20 phytoplankton species during the study period of Naik Lake. The group of Chlorophyceae was found to be dominant with % composition of 49% and. The group of Cyanophyceae was found to be sub dominant with percent composition 25 %. Jayabhaye. *et al.*, recorded (2004) 43 species of phytoplankton belonging to 4 major groups; *Chlorophyceae*, *Bacillariophyceae*, *Cyanophyceae* and *Euglenophyceae*; out of which Chlorophyceae was dominant. The group wise population density was in the order; Chlorophyceae > Bacillariophyceae > Cyanophyceae > Euglenophyceae. The 18 species of Chlorophyceae, 10 species of Bacillariophyceae 10 species of Cyanophyceae and 5 species of Euglenophyceae. In Parola Dam of Hingoli District, Maharashtra, maximum phytoplankton population was during summer and minimum during rainy season.

Sakhare and Joshi (2002) recorded 31 phytoplankton species in Yeldari reservoir Maharashtra. Pawar *et al.*, recorded 61 genera of phytoplankton from Pethwadaj Dam, Taluka

Kandhar, District Nanded, Maharashtra. Nafeesa . Aijaz *et al.*, 2004, reported 100 species of phytoplankton Bacillariophyceae contributed 42 species, Chlorophyceae 43 species, Cyanophyceae 10 species, Euglenophyceae 3 species while Dinophyceae and Chrysophyceae contributed 1 species each from Wular Lake Jammu and Kashmir India.

Monthly fluctuations of Phytoplankton (Organisms/L) of Kudala Dam during January 2017 to December 2017

Site-A	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec	Total
Chlorophyceae	198	235	220	250	300	110	70	55	22	85	132	137	1814
Bacillariophyceae	245	230	180	170	235	88	60	40	27	55	115	205	1650
Cyanophyceae	9	25	80	90	120	50	27	25	20	70	30	10	556
Euglenophyceae	5	10	85	70	110	40	22	20	10	20	32	27	451
Total	457	500	565	580	765	288	179	140	79	230	309	379	4471

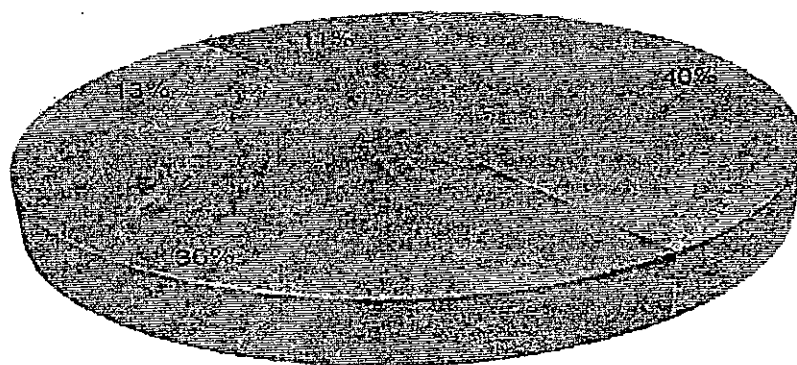
Site-B	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec	Total
Chlorophyceae	175	225	220	225	290	98	75	60	25	90	135	139	1757
Bacillariophyceae	230	220	160	150	225	85	55	45	28	60	120	210	1588
Cyanophyceae	10	30	70	60	122	55	25	27	22	75	40	8	544
Euglenophyceae	8	20	95	80	112	45	20	18	15	25	35	25	498
Total	423	495	545	515	749	283	175	150	90	250	330	382	4387

Site-C	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec	Total
Chlorophyceae	195	220	210	245	302	115	80	60	27	100	140	142	1836
Bacillariophyceae	235	205	170	175	200	80	72	45	29	62	120	202	1595
Cyanophyceae	22	35	90	100	125	58	28	29	25	80	42	12	646
Euglenophyceae	10	18	75	82	115	42	25	20	12	22	30	26	477
Total	462	478	545	602	742	295	205	154	93	264	332	382	4554

**Average values of Phytoplakton (Organisms/L) of Kudala Dam during January 2017 -
December 2017**

Months	Chlorophyceae	Bacillariophyceae	Cyanophyceae	Euglenophyceae
Jan.	189.33	236.67	13.66	7.67
Feb.	226.67	218.33	30.00	16.00
Mar.	216.67	170.00	80.00	85.00
Apr.	240.00	165.00	83.33	77.30
May	297.33	220.00	122.30	112.00
Jun.	107.67	084.33	54.33	42.30
Jul.	075.00	062.33	26.66	22.30
Aug.	058.33	043.33	27.00	19.30
Sep.	024.66	028.00	22.33	12.30
Oct.	091.66	059.00	75.00	22.30
Nov.	135.67	118.33	37.33	32.30
Dec.	139.33	205.67	10.00	26.00
Total	1802.30	1611.00	582.00	475.00
Average	150.19	134.25	48.50	39.60

Average Values of Phyttoplankton from Jan.2017 to



Conclusion:

Present study shows population dynamics of phytoplankton of Kudala dam water. It was observed that maximum phytoplankton was found in summer season while minimum were observed during winter season. Among the four families Chlorophyceae were dominant throughout the year while species of family Euglenophyceae were observed very less number. Thus population dynamics varies according to seasonal fluctuations and various physicochemical factors.

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