

PEOPLE'S UNION FOR CIVIL LIBERTIES

332, Patpar Ganj, Opposite Anand Lok Apartments (Gate No. 2), Mayur Vihar-I, Delhi 110 091
Founder: Jayaprakash Narayan; **Founding President:** V M Tarkunde

President: Ravi Kiran Jain (U.P.); **General Secretary:** V Suresh (Tamilnadu); **Treasurer:** Surendra Kumar (Bihar).
Vice-Presidents: (all names in alphabetic order) Binayak Sen (Chhattisgarh); Daisy Narian (Ms.) (Bihar); G. Saraswathi (Ms.) (TN); Mihir Desai (Mumbai); N.D. Pancholi (Delhi); Sanjay Parikh (Delhi). **Secretaries:** Kavita Srivastava (Ms) (Rajasthan); Rohit Prajapati (Gujarat); R.Murali (Tamilnadu); Sudha Bharadwaj (Chhattisgarh); S.Balamurugan. (Tamilnadu); Y.J. Rajendra (Karnataka). **National Organising Secretaries:** Ajay T.G. (Chhattisgarh); Arjun Sheoran (Punjab); Arvind Avinash (Jharkhand); Deepika (Ms.) (Karnataka); Kailash Meena (Rajasthan); Nishath Hussain (Ms.) (Rajasthan).

E.mails: <puclnat@gmail.com> & <pucl.natgensec@gmail.com>

Please visit our website: www.pucl.org

The PUCL welcomes the initial step towards the complete repeal of the colonial law of Sedition.

12th May, 2022

The Peoples Union for Civil Liberties welcomes the order of the Supreme Court dated 11.05.22 in the petition filed by Army veteran Major-General SG Vombatkere (Retired) as well as PUCL and a range of other petitioners challenging the constitutional validity of Section 124-A of the Indian Penal Code, 1860. In its petition, the PUCL had pleaded that owing to the development of constitutional law, the law of sedition of the colonial era had no place; it was overbroad, vague, arbitrary, violating the sacrosanct freedom of speech and expression, hence it was imperative to strike it down as it was unconstitutional.

The order of the Supreme Court is a significant landmark in the struggle against sedition law which began with the arrest of freedom fighters like Gandhi and Tilak in colonial times to the arrest and conviction for life of PUCL Vice President Binayak Sen, the conviction of PUCL UP office bearer and journalist Seema Azad, as well as the filing of cases against PUCL national secretary Sudha Bharadwaj and PUCL Jharkhand member the late Fr. Stan Swamy and many others under the draconian laws such as sedition and Unlawful Activities Prevention Act (UAPA). The use of this repressive provision led to the PUCL initiating a campaign to repeal the sedition law which garnered over 1,00,000 signatures. While the campaign did lead to the release of Binayak Sen, the petitions committee of the Rajya Sabha was also seized with the issue. But the law continued to be used by all governments to target their opponents.

As a study by online portal Article 14 indicates, sedition cases have been filed against 13,000 people between 2010 and 2021. While all governments have used the sedition provision to target their opponents and dissidents, however, with the coming to power of the BJP government the misuse of the sedition law has only become worse, thereby criminalizing and silencing voices of dissent. According to NCRB data, the number of sedition cases increased by 160% from 2016 to 2019, meanwhile the rate of conviction fell to 3.3% from 33.3%. An Article 14 study indicates that since 2014 when the Bharatiya Janata Party (BJP) came to power, there has been a 190% increase in the number of women charged with sedition. Among these women were artists, filmmakers, academics, Adivasis, activists, students, homemakers and politicians.

96% of sedition cases filed against 405 Indians for criticising politicians & governments between 2010 & 2021 were registered after 2014; 149 were accused of making “critical” and/or “derogatory” remarks against Prime Narendra Modi, and 144 against Uttar Pradesh (UP) chief minister Yogi Adityanath.

In the context of the serious abuse of this provision to target the constitutional freedom of speech and expression, the constitution of a bench to hear the challenge to the sedition provision came as a ray of hope. The Bench headed by Chief Justice Ramana had made repeated oral observations about the colonial nature of the law and the Union Government also filed an affidavit in which it acknowledged the ‘concerns’ about ‘abuse’ of the law and asked for time ‘for re-considering the law’ before an ‘appropriate forum’.

In the background of the acknowledgement by the Central Government of ‘abuse’ of the law, the Supreme Court in the operative part of its order expresses the ‘hope’ and expectation that, ‘Centre and State Governments will refrain from registering any FIR, continuing investigation, or taking coercive steps under Section 124 A IPC when it is under reconsideration. It will be appropriate not to use this provision of law till further re-examination is over’.

Further the Supreme Court has held that those already booked under Section 124A IPC and are in jail can approach the concerned courts for bail. It has also been ruled that if any fresh case is registered appropriate parties are at liberty to approach courts for appropriate relief and courts are requested to examine the relief sought taking into account this order passed by the Supreme Court.

It is up to the state and union governments to follow the Supreme Court’s order and refrain from filing FIRs under Section 124-A. It is also up to lower courts to follow this order and ensure that those arrested under this provision are released on bail forthwith without having to suffer unnecessary incarceration.

What should serve as a matter of some caution is that even in cases where the Supreme Court struck down a provision of the law, the provision continues to be used by the government. The PUCL is painfully aware of the fact that inspite of the Supreme Court striking down Section 66-A of the IT Act in Shreya Singhal v Union of India, the provision continued to have a zombie existence with governments filing FIRs using the provision.

However, human rights activists now have a large responsibility to ensure that the Supreme Court’s order becomes a concrete reality, and the sedition law fades into oblivion, over seventy years after the Indian Constitution recognized the freedom of speech and expression. To start with the PUCL would assist those booked under sedition in their state’s are able to file for bail in the appropriate court, along with their release from jail. It would also monitor in all states whether the state governments are complying with the SC orders to the hilt and the FIRs are not being filed.

Much as the PUCL welcomes this order of the Supreme Court, it is also constrained to point out that inspite of this order, a larger number of human rights activists, journalists, Muslims, Dalits, Adivasis and students will continue to languish in jail for exercising their constitutional right to freedom of speech and expression.

When Gandhiji was arrested under Section 124-A of the IPC, he famously described it as the ‘prince among the political sections of the IPC’. However in this time period the title of ‘prince’ has been usurped by the UAPA and there are numerous other members of this royal family of repressive laws including the Public Safety Act in Kashmir, the Control of Organized Crimes Acts in Maharashtra, Gujarat, Tamil Nadu and Karnataka, the National Security Act among the many other laws.

The most dangerous member of this royal family of repressive laws is undoubtedly the UAPA under which till today the Bhima Koregaon-16, anti-CAA protestors as well hundreds of other activists have been targeted and imprisoned. While those charged under the sedition law after great difficulty manage to get bail, those arrested under the UAPA have been deprived of even their right to bail, making the process itself the punishment. It is imperative that the Supreme Court also examine the constitutionality of the UAPA as well as other repressive laws and take forward the hope unleashed by this important order.

V. Suresh (General Secretary)

(9351562965, 9444231497, 9980010933)