LAW OF SEDITION IN INDIA

Today, the law of Sedition in India has assumed controversial importance largely on account of change in the body politic and also because of the constitutional provision of freedom of speech guaranteed as a fundamental right. The law of sedition as contained in S. 124-A IPC was also embodied in some other statutes.[1] However, the general statement of law was similar in all the provisions and could be gathered from S. 124-A, IPC. The legislative history of this section of the Indian Penal Code dealing with sedition is of interest. The draft prepared by the Indian Law Commissioners in 1837 contained a provision[2] on the topic and it was proposed to include it in the Indian Penal Code. It was omitted from the IPC as enacted in 1860 for some unaccountable reason. In 1870, S. 124-A was inserted by IPC (Amendment) Act.[3] This provision was later on replaced by the present S. 124-A, by an amending Act of 1898.[4] Some changes of an inconsequential character were made by Adaptation of Laws Orders issued in 1937, 1948 and 1950 and by the Part B States (Laws) Act, 1951. Together with these changes S. 124-A IPC now stands as follows: "Whoever by words, either spoken or written, or by signs, or by visible representation; or otherwise, brings or attempts to bring into hatred or contempt, or excites or attempts to excite disaffection towards the Government established by law in India shall be punished with imprisonment for life to which fine may be added, or

1. *E.g.* Press Emergency Powers Act, 1931; Defence of India Rules, 34.
2. "Whoever by words whether spoken or intended to be read attempts to excite feelings of disaffection to the Government established by law in the territories of the East India Company, among any class of people who live under the Government shall be punished with punishment for life or for any term .... to which fine may be added, or with simple imprisonment for a term which may extend to three years, to which fine may be added or with fine."
   "Explanation – Such a disapprobation of the measures of the Government as is compatible with a disposition to render obedience to the lawful authority of the Government and to support the lawful authority of the Government against unlawful attempts to subvert or resist that authority is not disaffection. Therefore, the making of comments, on the measures of the Government, with the intention of exciting only this species of disapprobation is not an offence within this clause".
3. Section 5 of Act XXVII of 1870.
4. Section 4 of Act IV of 1898.

with imprisonment which may extend to three years, to which fine may be added, or with fine. Explanation – 1. The expression "disaffection" includes disloyalty and all feelings of enmity. Explanation – 2. Comments expressing disapprobation of the measures of the Government with a view to obtain their alteration by lawful means, without exciting or attempting to excite hatred, contempt or disaffection, do not constitute an offence under this section. Explanation – 3. Comments expressing disapprobation of the administrative or other action of the Government, without exciting or attempting to excite hatred, contempt or disaffection, do not constitute an offence under this section.

The difference between the old S. 124-A and the present one is that in the former the offence consisted in exciting or attempting to excite feelings of "disaffection" but in the latter, 'bringing or attempting to bring into hatred or contempt the Government of India' is also made punishable.

The Common law on the subject was too wide and severe in the initial stages.[5] In England the growth of liberty of speech and expression, particularly with regard to the criticism of Government, was gradual.[6]

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5. In the seventeenth century (*Seven Bishop's Case*, 1688, 12 St. T. 183) it was held to be right of the State to punish anyone who had the temerity to arraign the sovereign or any of his acts or the policy of his government either while uttering seditious words or writing or publishing seditious libel.
   Sir James Fitz James Stephen has defined the common law of sedition thus:-
   "Everyone commits a misdemeanour who publishes verbally or otherwise any words or any document with a seditious intention."
   "A seditious intention is an intention to bring into hatred or contempt, or to excite disaffection against the person of Her Majesty, her heirs, and successors or the Government and the Constitution of the United Kingdom (U.K.) as by the law established or either House of Parliament, or the Administration of justice, or to excite Her Majesty's subjects to attempt otherwise than by lawful means the alteration of any matter in Church or State by law established, or to raise discontent or disaffection amongst Her Majesty's subjects, or promote feeling of ill-will and hostility between different classes of Her Majesty's subjects."
   An intention to show that Her Majesty has been misled or mistaken in her measures, or to point out errors or defects in the Government or Constitution as by law established, with a view to their defamation, or to excite Her Majesty's subjects to attempt by lawful means the alteration of any matter in Church or State by law established or to point out, in order to their removal, matters which are producing or have a tendency to produce, feelings of hatred and ill-will between different classes of Her Majesty's subjects is not a seditious intention."
6. The abolition of Star Chamber in 1641 and the expiry of Licensing Act in 1694 did not make much difference with respect to law of seditious libel (Holdsworth History of English Law Vol. VII, 341) in *R.* v. *Tutichin*, (1704) S.T.I. 1125, it was held that it was very necessary for all governments that the people should have a good opinion of it. A century later Lord Ellenborough gave vent to similar feelings in *R.* v. *Covett.* (1804) S.T.I. The passing of Fox's Libel Act, 1792 (32 Geo. III C. 60) however, improvised a safeguard in such trials by leaving the whole matter in the hands of the Jury.

Consequently, the courts began to introduce guiding principles so as to govern the judges in deciding when an intention to excite ill-will and hostility is seditious and when it is not. Fitzerland, J in *R.* v. *Sullivan*[7] which was later followed and approvingly quoted in *R.* v. *Burns and Others*[8] observed: "Sedition in itself is a comprehensive term and it embraces all those practices 'whether by word, deed, or writing which are calculated to disturb the tranquility of the State, and lead ignorant persons to endeavour to subvert the Government and the laws of the Empire. The objects of Sedition generally are to induce discontent and insurrection, and stir up opposition to the Government ... and the very tendency of sedition is to incite the people to insurrection or rebellion."

A substantially similar view was expressed by Coleridge, J in *R.* v. *Aldred*[9] when he said that the "word 'sedition' in its ordinary natural signification denotes a tumult, an insurrection, popular commotion or an uproar; it implies violence or lawlessness in some form".

Thus in English law it can now be taken to be established that in order to constitute sedition the feelings expressed to the acts done must not only bring the government into hatred or contempt or disaffection but should generate or tend to generate or excite the feelings to a degree likely to lead to tumult or public disorder.[10] Two important factors may be noted in connection with the operation of law of sedition in England, *viz.*

(i) that the law of sedition has not been used since 1909.[11]

(ii) Jury is the sole Judge to determine 'seditious intention' according to circumstances. This acts as a checkmate on the efforts of touchy rulers to push forward their annoyance successfully.

The provisions of S. 124-A IPC are based on the common law. While introducing the bill in the Legislature Sir James Fitz James Stephen emphatically reiterated that this section freed from obscurity and stripped

7. 11 Cox. C.C. 44.
8. 16 Cox. C.C. 355, 361.
9. 22 Cox. C.C. 1, 3.
10. Since the passing of the Reform Act, 1832, prosecution for seditious offences has become both infrequent and unsuccessful. The trend in English decisions ever since has been on the lines of the proposition laid down by Sir James Fitz James Stephen, namely, that the rulers rule by the sufferance of the people and if the former did not discharge their duty properly the ruled had the right to correct them or change them. (See Stephen, *History of Criminal Law* Vol. II p. 298).
11. *R.* v. *Aldred* 22 Cox C.C.I. The modern tendency is to ignore offences falling under this category but to try them as ordinary libel. *R.* v. *Mylins* (1911) Times News. In this case King Geroge V was alleged to have contracted a morganatic marriage, before marrying the queen. It was tried as an ordinary libel although it was sedition also. See however, *R.* v. *Caunt* (1947). *The Times Newspapers*, Nov. 18, 1947. Also Comment by Prof. Wade (1948) 64 L.Q.R. p. 203.

away of technicalities corresponds to the English law of sedition.

In *Nazir Khan* v. *State of Delhi*,[12] the Supreme Court explained meaning and content of sedition thus:[13]

> Sedition is a crime against society nearly allied to that of treason, and it frequently precedes treason by a short interval. Sedition in itself is a comprehensive term, and it embraces all those practices, whether by word, deed or writing, which are calculated to disturb the tranquility of the state, and lead ignorant persons to endeavour to subvert the Government and laws of the country. The objects of sedition generally are to induce discontent and insurrection, and stir up opposition to the Government, and bring the administration of justice into contempt; and the very tendency of the sedition is to incite the people to insurrection and rebellion.

The court further observed:

> "Sedition" has been described as disloyalty in action, and the law considers as sedition all those practices which have for their object to excite discontent or dissatisfaction, to create public disturbance, or to lead to civil war; to bring into hatred or contempt the sovereign or the Government, the laws or constitutions of the realm, and generally all endeavours to promote public disorder.

The decisive ingredient for establishing the offence of sedition under S. 124-A IPC is the doing of certain acts which would bring to the Government established by law in India hatred or contempt etc.[14] Raising of some slogans only a couple of times by the two lonesome appellants, which neither evoked any response nor any reaction from anyone in the public cannot attract the provisions of S. 124-A. Some more overt act was required to bring home charge of the sedition.[15]

II

A glance at the provisions of S. 124-A will disclose that the main body of the section is phrased in language used by English judges and jurists. Explanation I to the Section sets out the scope of disaffection and in Explanations II and III is indicated what under the English Law is not considered seditious intention. It is, however, not clear from the provisions of the section whether exciting or attempting to excite feelings of

12. (2003) 8 SCC 461.
13. *Id.*, para 37 at 488.
14. *Bilal Ahmed Kaloo* v. *State of A.P.*,(1997) 7 SCC 430.
15. *Balwant Singh* v. *State of Punjab*, (1995) 3 SCC 214.

disaffection, hatred or contempt is punishable *per se* or whether exciting or attempting to excite people to tumult and disorder is a necessary ingredient of the offence.

An examination of the judgments of the courts of law would reveal the existence of two different views on the question. One view is that the statutory offence of sedition in India is different from the Common Law offence of sedition inasmuch as it seeks to punish expression of all types of bad feelings and unlike the English law fails to prescribe what has been described as an external standard for the purposes of measuring the nature and quality of bad feelings.[16] The other view is that S. 124-A is substantially the same as the law of England "though much more compressed and more distinctly expressed."[17]

By far the largest number of cases takes the view that exciting or attempting to excite feelings of disaffection hatred or contempt is punishable as such irrespective of whether or not disorder follows or is likely to follow.[18] In *Q.E.* v. *Balagangadhar Tilak*[19] Strachery, J pointed out that S. 124-A IPC is a statutory offence and differs in this respect from its English counterpart which is a common law misdemeanour elaborated by the decision of the judges. He observed that "the amount or intensity of the disaffection is absolutely immaterial ... if a man excites or attempts to excite feelings of disaffection great or small, he is guilty under this section."[20]

The observations of Strachey, J in *Tilak's* case[21] on the scope of S. 124-A were approved by the Privy Council as having indicated the correct law on the question of sedition. The rule as laid down in that case was followed

16. See *Queen Empress* v. *B.G. Tilak, I.L.R.* (1897) 22 Bom. 112 and also *King Emperor* v. *Sadashiv N. Bhalerao, L.R.* 74 I.A. 89.
17. Per Ranade, J., in *Queen Empress* v. *Ramachandra Narain,* I.L.R. (1897) 22 Bom. 152, 160; and also Gwyer, C.J., in *Niharendu Mujumdar* v. *K.E.,* 1942 F.C.R. 38, 43.
18. In *Queen Empress* v. *Jogendra Chunder Bose,* I.L.R. (1891) 19 Cal. 36, Sir Petheram, CJ, in the charge to the jury explained that the words "disaffection" in S. 124-A "means a feeling contrary to affection and, therefore, to excite or attempt to excite a feeling contrary to affection would render a person liable to prosecution under the section."
19. I.L.R. (1897) 22 Bom. 112.
20. *Id.* at 134; at p. 135. Strachey, J, further observed : "The offence consists in exciting or attempting to excite in others certain bad feelings towards the Government. It is not the exciting or attempting to excite mutiny or rebellion, or any sort of actual disturbance, great or small. Whether any disturbance or outbreak was caused by these articles is absolutely immaterial. If the accused intended by the articles to excite rebellion or disturbance, his act would doubtless fall within other sections of the Penal Code. But even if he neither excited nor intended to excite any rebellion or outbreak or forcible resistance to the authority of the Government, still if he tried to excite feelings of enmity to the Government, that is sufficient to make him guilty under the section."
21. *B.G. Tilak* v. *Queen Empress,* I.L.R. (1897) 22 Bom. 528 (PC).

by the High Courts[22] in India and was again affirmed by the Privy Council in the case of *K.E.* v. *Sadashiv Narayan.*[23]

The other view rejects the strict and literal interpretation of Section 124-A IPC and attempts to bring the offence of sedition in line with the English law on the question. Ranade, J was the first Judge to give expression to it in *Q.E.* v. *Ramachandra*[24] as follows:

> Disaffection ... is a positive feeling of aversion which is akin to disloyalty, a defiant insubordination of authority, or when, it is not defiant ... Makes men indisposed to obey or support the laws of the realm, and promote discontent and public disorder.[25]

Another case relating to sedition, which marks a departure from the strict rule of construction, is *Niharendu Majumdar* v. *K.E.*[26] Gwyer, CJ explained the need for the law of sedition in the following words: "The first and most fundamental duty of every government is the preservation of order, since order is the condition precedent to all civilization and the advance of human happiness. The duty has no doubt been sometimes performed in such a way as to make the remedy worse than the disease; but it does not cease to be a matter of obligation because some on whom the duty rests have performed it ill. It is to this aspect of the functions of Government that in our opinion the offence of sedition stands related. It is the answer of the State to those who, for the purpose of attacking or subverting it, seek to disturb its tranquility, to create public disturbance and to promote disorder, or who incite others to do so. Words, deeds, or writings constitute sedition, if they have this intention or this tendency, and it is easy to see why they may also constitute sedition, if they seek, as the phrase is, to bring Government into contempt. This is not made an offence in order to minister to the wounded vanity of Governments, but because where Government and the law cease to be obeyed because no respect is felt any longer for them, only anarchy can follow. Public disorder, or the reasonable anticipation or likelihood of public disorder, is the gist of the offence. The acts or words complained of must either incite to disorder or must be such as to satisfy reasonable men that that is their intention or tendency."

The liberal interpretation of the provisions of S. 124-A of the Penal Code in *Niharendu Majumdar's* case brought the Indian law of sedition at par

22. *Queen Empress* v. *Amba Prasad,* I.L.R. (1897) 20 All. 55; *In re Mylapore Krishnaswami,* 21 C. 33 *Mrs. Besant* v. *Emp.*, I.L.R. (1916) 39 Mad. 1085; 1133.
23. L.R. 74 I.A. 89.
24. I.L.R. (1897) 22 Bom. 152.
25. *Id.*at 163.
26. 1942 F.C.R. 38.

with English law.[27] However, the binding effect of the rule in *Niharendu's* case was nullified by a subsequent decision of the Privy Council in *K.E.* v. *Sadashiv Narayan*.[28] In the absence of any Supreme Court decision *Sadashiv Narayan's* case will continue to be binding on the High Courts in India by virtue of Article 372 read with Article 225 of the Constitution of India.[29]

III

Inter-related to the above problems of meaning and scope of S. 124-A of IPC is the question of *vires* which arises because of the guarantee of freedom of speech in the Constitution of India and the power of the courts under the Constitution to act as the guarantors and protectors of liberties. Clause (1) of Art. 19 secures "freedom of speech and expression" and clause (2) contains a limitation on the right of freedom of speech guaranteed by clause (1). The limits set out on the freedom of speech and expression by article 19(2) as originally enacted came to be considered by the Supreme Court in a few cases.[30] Referring to the limits set out by Art. 19(2) to permissible legislative abridgement of the right of free speech and expression, the court held that they were very narrow and stringent.[31]

In *Tara Singh* v. *State*[32] the validity of S. 124-A of the Indian Penal Code was directly in issue. The East Punjab High Court declared the section void as it curtailed the freedom of speech and expression in a manner not permitted by the Constitution. The court was of the opinion that S. 124-A had no place in the new democratic set up.[33]

By the Constitution (First Amendment) Act, 1951, two changes as consequence were introduced in the provisions relating to freedom of

27. The grounds for a liberal interpretation of the law were thus stated by Gwyer, CJ.
28. L.R. 74 I.A. 89.
29. *Punjabai* v. *Shamrao*, I.L.R. (1954) Nag. 805, 811; AIR 1955 Nag. 293. In this case it was held that any law laid down by the Privy Council which does not conflict with any decision of the Supreme Court is binding on the Indian High Courts, because S. 212 of the Government of India Act, 1935, invested the Privy Council decisions with binding authority and Art. 225 of the Constitution lays down that the law administered in any existing High Court remains the same as immediately before the commencement of the constitution.
30. *Romesh Thappar* v. *State*, [1950] S.C.R. 594; *Brij Bhushan* v. *State*, AIR 1950 S.C. 129; *Dharam Dutt* v. *Union of India*, AIR 2004 SC 1295. See also *Surjan Singh* v. *State of Rajasthan*, AIR 1965SC 845; *Supdt. Central Prison* v. *Dr. Lohia*, AIR 1960 SC 633; *Madhu Limaye* v. *S.D.M. Monghyar*,1970 (3) SCC 746.
31. See *Romesh Thappar's* case, p. 602.
32. *Tara Singh Gopichand* v. *State*, AIR 1951 E.P. 27.
33. "India is now a sovereign democratic state. Governments may go and be caused to go without the foundations of the State being impaired. A law of sedition thought necessary during a period of foreign rule has become inappropriate by the very nature of the change which has come about." Per Weston, C.J. *id* at 29.

speech and expression. Firstly, it considerably widened the latitude for legislative restrictions on free speech by adding further grounds therefor; Secondly, it provided that the restriction imposed on the freedom of speech must be reasonable.

It is to be seen now, whether S. 124-A of the Indian Penal Code is in conflict with the amended clause (2) of Article 19 or not. There appears to be three different views on the question as reflected by the decisions of the courts. These can be summarized as under:

(i) Section 124-A IPC is *ultra vires* the Constitution inasmuch as it infringes the fundamental right of freedom of speech in Art. 19(1)(a) and is not saved by the expression "in the interest of public order".[34]

(ii) Section 124-A is not void because the expression "in the interests of public order" has a wider connotation and should not be confined to only one aspect of public order *viz.* to violence ..... It has a much wider content, and embraces such action as undermines the authority of Government by bringing it into hatred or contempt or by creating disaffection towards it ..... From this point of view S. 124-A IPC is saved under clause (2) of Art. 19.[35]

(iii) Section 124-A IPC is partly void and partly valid. In *Indramani Singh* v. *State of Manipur*[36] it has been held that S. 124-A which seeks to impose restrictions on exciting mere disaffection or attempting to cause disaffection is *ultra vires*, but the restriction imposed on the right of free-speech which makes it punishable to excite hatred or contempt towards the Government established by law in India, is covered by clause (2) of Art.19 of the Constitution of India and can be held *intra vires*.

Whether restrictions under Art. 19(2) may be imposed in the interest of public or not has been clarified by the Supreme Court; it held that restrictions imposed must have a reasonable and rational relation with the

34. *Ram Nandan* v. *State*, AIR 1959 All. 101.

35. *Debi Soren* v. *State*, AIR 1954 Pat. 254. The Supreme Court has also endorsed the view of Patna High Court in so far as the expression "in the interest of public order", is concerned. The SC is also of the opinion that the expression has a wider connotation, see *Ramji Lal Modi* v. *State*, AIR 1957 S.C. 620 and also *State of U.P.* v. *Ram Manohar Lohia*, 1960 SCJ 567.
Another view is that the words "in the interests of public order" is equivalent to "for reasons connected with public order". Walliullah, J, observed in *Basudev* v. *Rex*, AIR 1949 All. 523. (F.B.), that the expression 'for reasons' connected with "must mean a real and genuine connection between the maintenance of public order on the one hand and the subject of legislation on the other". See also *Ram Nandan* v. *State*, AIR 1959 All. 101.

36. AIR 1955 Manipur 9.

public order, otherwise it would be invalid.[37]

The desirability of having such a law as S. 124-A has been questioned in the present context of events.[38] Thus it may be observed that the courts appear to be differing in their view points with regard to its constitutional validity. The desirability of having a law of sedition in our statute book may be examined and its proper meaning and scope determined so that a law of sedition, if it is necessary must fit in not only within the four corners of the constitutional provisions but must also be in consonance with the democratic spirit and traditions which pervade our Constitution. A suitable amendment, therefore, of S. 124-A in the light of the Federal Court decision in *Niharendu Majumdar's* case would perhaps remove the conflict which appears to confront the problem of freedom of speech in this country.[39]

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37. *V.K. Javali* v. *State of Mysore*, AIR 1966 SC 1387. See also *R.Y. Prabhoo* v. *P.K. Kunte*, AIR 1996 SC 1113; *Peoples Union for Civil Liberties* v. *Union of India*, AIR 2003 SC 2363.

38. See Report of Press Commission. The Press Commission has recommended that S. 124-A should be repealed. See also the observations of Beg. J, in *Ram Nandan* v. *State*, AIR 1959 All 101.

39. The Supreme Court has held in *Kedarnath* v. *The State of Bihar*, (AIR 1962 SC 955) that the provision of S. 124-A Penal Code are not constitutional as being violative of the fundamental right of freedom of speech and expression under Art. 19(1)(a) of the Constitution of India. After discussing the case law on the matter the Court observes that if we accept the interpretation of the Federal Court in *Niharendu Majumdar's* case (1942) F.C.R. 38, as to the gist of criminality in an alleged crime of sedition, namely, incitement of disorder or tendency or likelihood of public disorder or reasonable apprehension thereof the section will lie within the ambit of permissible legislative restrictions mentioned in clause (2) of Art. 19, but that if on the other hand we are to hold that, even without any tendency to disorder or intention to create disturbance of law and order, by the use of 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 section would make it unconstitutional in view of Art. 19(1)(a) read with clause (2).
The Supreme Court held (i) that it is well settled that if certain provisions of law construed in one way would make them consistent with the constitution and another interpretation would render them unconstitutional, the court would lean in favour of the former construction; (ii) that the provisions of S. 124-A read as whole, along with the explanations make it reasonably clear that the section aims at rendering penal only such activities as would be intended or have a tendency to create disorder or disturbance of public peace by resort to violence, (iii) that even assuming that S. 124-A is capable of being construed in the literal sense in which the Judicial Committee of the Privy Council construed it, it is open to the Court to construe the section in such a way as to avoid the unconstitutionality by limiting the application of the section in the way in which the Federal Court intended to apply it (applying the *ratio decidendi* of the case in *R.M.D. Chambarbaugwalla* v. *Union of India*, 1957 S.C.R. 930). The Court in the end declared that the provisions of S. 124-A impose restrictions on the fundamental right of freedom of speech but those restrictions cannot but be said to be in the interests of public order and within the ambit of permissible legislative interference with that fundamental right.[Ed.].

The position hitherto taken has been altered. It is only when the words have the pernicious tendency or intention of creating public disorder or disturbance of law and order that the law steps in. In order to save S. 124-A of IPC from being questioned as infringing the freedom of speech and expression guaranteed by the Constitution, the apex court in *Kedar Nath* v. *State of Bihar*[40] limited the application of the provision to acts involving intention or tendency to create disorder, or disturbance of law and order, or incitement to violence.[41] A Constitutional Bench explained the meaning of the words, 'excite disaffection' and also upheld the constitutional validity of S. 124-A. The Supreme Court observed:[41a]

> [T]he security of the State, which depends upon the maintenance of law and order is the very basic consideration upon which legislation, with a view to punishing offences against the State, is undertaken. Such legislation has, on the one hand, fully to protect and guarantee the freedom of speech and expression, which is a *sine qua non* of a democratic form of Government that our Constitution has established...But the freedom has to be guarded against becoming a licence for vilification and condemnation of the Government established by law, in words which incite violence or have a tendency to create public disorder. A citizen has a right to say or write whatever he likes about the Government or its measures, by way of criticism or comment, so long as he does not incite people to violence against the Government established by law or with the intention of creating public disorder.

The Supreme Court further held: [42]

> 'Government established by law' is the visible symbol of the state. The very existence of the State will be in jeopardy if the Government established by law is subverted. Hence, the continued existence of the government established by law, is an essential condition of the stability of the State. That is why 'sedition' as the offence in S. 124-A comes under Chapter VI, relating to offences against State...In other words, any written or spoken words etc. which have implicit in them, the idea of subverting Government by violent means, which are compendiously included in the term 'revolution', which have been made penal by the section.

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40. 1962 Supp 2 SCR 769.
41. *Ibid.* See also *Ebrahim Suleiman Sait* v. *M.C. Mohammed*, (1980)1 SCC 398.
41a. *Id.* at 806.
42. *Supra* note 40.

The court held that valuable and cherished right of freedom of expression and speech may at times have to be subjected to reasonable subordination of social interests, needs and necessities to preserve the very chore of democratic life, preservation of public order and rule of law.[43]

The apex court has accepted that the line dividing preaching disaffection towards the Government and legitimate political activity in a democratic set up cannot be neatly drawn.[44]

43. *State of Karnataka* v. *Dr. Praven Bhai Thogadia*, AIR 2004 SC 2081.
44. *Nazir Khan* v. *State of Delhi*, (2003) 8 SCC 461.