Media and sedition

The Supreme Court's rulings on cases of sedition give hope the law will be re-examined

It has long been recognised that strident criticism of government will not amount to an attempt to excite disaffection and disloyalty towards government. Yet, the archaic and colonial view that an intemperate attack on an incumbent ruler should be met with fierce prosecution for sedition prevails among many in power even today. In a significant judgment, the Supreme Court has quashed a criminal case registered in Himachal Pradesh against journalist Vinod Dua by invoking the narrowed-down meaning of what constitutes an offence under Section 124A of the IPC, the provision for sedition, set out in *Kedar Nath Singh* (1962). Every journalist, the Court has ruled, is entitled to the protection of that judgment, which said "comments, however strongly worded, expressing disapprobation of actions of the Government, without exciting those feelings which generate the inclination to cause public disorder by acts of violence, would not be penal". The law on sedition has come a long way from the formulation of British-era judges Comer Petheram and Arthur Strachey that "feelings of disaffection" towards the government connote "absence of affection... hatred, enmity, dislike, hostility... and every form of ill-will towards the government" to the more rational reading that only a pernicious tendency to create public disorder would be an offence. Yet, it appears that every generation needs a judicial iteration of this principle, and that is because of two reasons: that Section 124A remains on the statute book and that powerful political figures and their minions are unable to take criticism in their stride.

Enacted to put down journalistic criticism of the colonial administration from an increasingly vocal press, Section 124A is essentially a provision which seeks to protect the government's institutional vanity from disapprobation using the interests of public order and security of the state as a fig leaf. It has often been criticised for being vague and "overbroad". Its use of terms such as "bringing (government) into hatred or contempt" and "disloyalty and all feelings of enmity" continues to help the police to invoke it whenever there is either strong criticism or critical depiction of unresponsive or insensitive rulers. The explanation that disapproval of government actions or measures with a view to altering them by lawful means will not amount to an offence is not enough to restrain the authorities from prosecution. The mischief lies in the latitude given to the police by an insecure political leadership to come down on the government's adversaries. It is unfortunate that the Bench did not go into the aspect of political motivation behind the police registering FIRs without checking if the required ingredient of incitement to violence is present. The Court's verdict brightens the hope that the section's validity will be re-examined. For now, it is a blow for free speech and media freedom.