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SHIELDING THE VOTE OR CLOAKING CORRUPTION? A DOCTRINAL CRITIQUE OF LEGISLATIVE PRIVILEGE POST- SITA SOREN

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I. ABSTRACT

This is a landmark decision in Sita Soren v. Union of India (2024) 5 SCC 629, which has introduced a historic paradigm shift in constitutional jurisprudence and has completely upended the twenty-six-year-old precedent set in P.V. Narasimha Rao v. State (1998). This judicial loophole in the Indian Constitution has been created by the interpretation of Articles 105(2) and 194(2) for more than two decades, which granted absolute immunity to legislators who took bribes provided that they do their part under the corrupt bargain in the House. The case comment delivers detailed doctrinal analysis of the unanimous judgment of the 7-judge Constitution Bench, which essentially separated legislative privilege from criminal malfeasance. This paper looks at the ratio decidendi and explains how the Court shifted the nature of bribery to be a complete and independent offence in Prevention of Corruption Act, 1988, which occurs when an undue advantage is accepted, without any relation to the later enactment. Moreover, this comment challenges the Court's development of a rigid 'two-fold functional test' for parliamentary immunity, and its conscious rejection of antiquated British Westminster practices. In the end, the paper argues that Sita Soren has reestablished institutional morality and systemic probity in India's representative democracy and has dealt with the possible future conflicts with parallel jurisdiction between judicial proceedings and legislative restrictions on privilege.

II. KEYWORDS

Legislative Immunity, Parliamentary Privilege, Functional Necessity Test, Corruption, and Doctrinal Realignment.

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III. INTRODUCTION

The right of legislators and their free and unfettered freedom to contend, speech, debate and vote in the presence of others without fear of external reprisals, both in Parliament and in the State Legislature is widely considered as the supporting pillars of the representative democracy. In order to protect this institutional independence, drafters of the Constitution of India have framed a strong apparatus of parliamentary and legislative privileges/immunity.

However, when the safeguards of the democratic process are leveraged to undermine its core integrity, it leads to a severe constitutional crisis. Indian anti-corruption law for the past twenty-six years has been burdened with an ethical and legal dilemma that has emerged from judicial misinterpretation and in effect rendered legislative chambers a haven for financial malfeasance.²

Article 105(2) of the Constitution, which relates to the immunities of Members of Parliament³, and Article 194(2) of the Constitution, which relates to the immunities of Members of Legislative Assemblies, are textually similar. Article 194(2) explicitly dictates:

No member of the Legislature of a State shall be liable to any proceedings in any court in respect of anything said or any vote given by him in the Legislature or any committee thereof.⁴

The expression “in respect of” became the central point of constitutional controversy, particularly regarding the extent to which the immunity attached to legislative speech and “any vote given” could shield legislators from criminal prosecution. A 5-judge Constitution Bench in the infamous judgment of *P. V. Narasimha Rao v. State (1998)* gave a wide and elastic interpretation to this clause.⁵ Most of them believed that the legislative immunity extended to legislators who took bribes and then went ahead and

² Nishith Desai Assocs., Overview of Anti-Corruption Laws in India (2020), https://www.nishithdesai.com/fileadmin/user_upload/pdfs/Research_Papers/Overview-of-Anti-Corruption-Laws-in-India-Web1.pdf.

³ India Const. art. 105, cl. 2.

⁴ India Const. art. 194, cl. 2.

⁵ *P.V. Narasimha Rao v. State*, (1998) 4 S.C.C. 626.

voted or spoke as agreed under the corrupt law. This meant that, given a corrupt legislator who had carried out his bargain, this one was completely invulnerable to prosecution for the crime, whereas another, equally corrupt, but who voted his conscience (or refused to do it) could be prosecuted under normal criminal law.

This was to be overcome by the historic and unanimous decision of the 7- Judge Constitutional Bench in the case of *Sita Soren v. Union of India* (2024) 5 SCC 629.⁶ The Supreme Court, led by Chief Justice D.Y. Chandrachud, cleared this paradox from Indian constitutional law, saying parliamentary privilege can't coexist with criminal impunity.

This commentary holds that the present case is a landmark shift in the doctrine which effectively puts the Rule of Law over legislative exceptionalism.

The Court's innovation was not just to correct a mistaken doctrine of law but to reattach the idea of constitutional privileges to the right to have them, which is to maintain the integrity of the institution, not the individual legislator's personal power.

IV. BACKGROUND

A. The Ghost of Precedent: The Anomaly of P.V. Narasimha Rao (1998)

The jurisprudential correction that was carried out in *Sita Soren* can only be understood when a careful analysis of the doctrinal dimension of the jurisprudence under the jurisprudence of the 1998 judgment in *P.V. Narasimha Rao v. State (CBI/SPE)* is undertaken. The case emerged out of the turbulent political scenario of a no-confidence motion against the minority government of prime minister *P.V. Narasimha Rao*, and it posed a chilling question for the 5- Judge Constitutional Bench: Does the constitutional protection for free legislative debate apply to a legislator accused of a criminal conspiracy to secure a payment of bribes?

The split 3:2 *verdict* of the Narsimha Rao government ended with a *yes*. The core of the majority opinion was a hyper-literal construction of the words "in respect of" in

⁶ *Sita Soren v. Union of India*, (2024) 5 S.C.C. 629.

Articles 105(2) and 194(2), where, most suggested that the meaning of the word "in respect of" was broader than other words such as "for" or "on account of."

This led them to conclude that this phrase should be understood as "having a nexus with" or "relating to". With this broad concept, it was assumed that:

1. The bribe was given to influence the vote.
2. The vote was then given as per the bribe.
3. The vote and the bribe were thus one single, ongoing transaction.

The majority found that there exists an unsaid nexus between accepting a bribe and voting. Thus, if someone is prosecuted for taking bribe to vote, there must be an investigation into the vote itself. The Supreme Court ruled that it lacks jurisdiction to review "anything said or any vote given" as it was a specific prohibition in the Constitution. Hence the court ruled that it could not consider the bribery charge unless the corrupt bargain occurred on the floor of the legislature.

B. The Judicial Paradox: Penalizing Honesty, Protecting Corrupt Performance

The first blow to the haphazard structure caused by the Narasimha Rao doctrine was a legal lunacy that was downright bizarre. *The Supreme Court drew two distinct categories of corrupt legislators, by equating those who were "skilled in the art of soliciting" with those who actually voted:*

- 1. Compliant Corrupt (Immune):** A legislator who accepted a bribe, who then voted according to the suggestion of the bribe-giver. They finished the act in the House, so they were under the protection of Article 105(2)/194(2).
- 2. Non-Compliant Corrupt (Prosecutable):** A legislator who accepted the bribe, later had a change of heart, defected or did not attend the House when it was voting (like MP Ajit Singh during the Narasimha Rao scandal). They were not bound to vote in support of the bribe and therefore did not have to act under an act of the Parliament and could thus be tried in common criminal law.⁷

⁷ *Id.*

This division ushered in a disturbing moral inversion in Indian public law. The law essentially punished the legislator who backed off a corrupt contract and protected the one who was able to make a successful compromise of the sanctity of the democratic process. It is visible that the Narasimha Rao majority has downplayed bribery as a threat to the legislators' ecosystem and made the act of playing by the rules a premium, with constitutional immunity. This doctrinal sickness is the reason why the 7-judge bench stepped in in Sita Soren.

V. FACTS

This controversy has its roots in March 2012, when the Election Commission of India posted a notification to fill the two vacancies in the State of Jharkhand in the Rajya Sabha. The appellant, Sita Soren was an elected Member of the Legislative Assembly (MLA) from the *Jharkhand Mukti Morcha (JMM) party*.⁸ The *Central Bureau of Investigation (CBI)* had put the allegation of criminal conspiracy against Sita Soren, accusing her of taking ₹1.5 crore from an independent candidate in exchange for casting her vote in his favour during the Rajya Sabha Election.⁹

Under the new open ballot procedure adopted for Rajya Sabha elections, the ballot of a legislator will be visible to party's authorised agent. Sita Soren was caught in a no-win situation, between her illegal quota responsibility and party pressure, and instead of voting for the candidate she is under the threat of being kicked out of the party for, she voted for another member of her own party. After investigation, the Central Bureau of Investigation (CBI) filed a chargesheet against Sita Soren under Sections 120B (Criminal Conspiracy) and 171E (Punishment for Bribery at Elections) of the Indian Penal Code, 1860,¹⁰ along with Section 13(1)(d) (Criminal Misconduct by a Public Servant) of the Prevention of Corruption Act, 1988. The allegations stemmed

⁸ Sita Soren, Wikipedia, https://en.wikipedia.org/wiki/Sita_Soren (last visited June 14, 2026).

⁹ Abhishek Angad, *Under CBI Cloud, Miffed by Kalpana Soren Rise, JMM Chief's Other Daughter-in-Law Joins BJP: Who Is Sita Soren*, Indian Express (Mar. 20, 2024, 4:26 AM), <https://indianexpress.com/article/political-pulse/under-cbi-cloud-miffed-by-kalpana-soren-rise-jmm-chiefs-other-daughter-in-law-joins-bjp-who-is-sita-soren-9223446/>.

¹⁰ India Pen. Code, §§ 120B, 171E.

from the acceptance of illegal gratification in connection with the Rajya Sabha election process.¹¹

A. Paradoxical dilemma of the High Court and its preservation

Sita Soren had instituted Writ Petition (Criminal) No. 128 of 2013 before the High Court of Jharkhand under Articles 226 and 227 of the Constitution of India,¹² seeking the quashing of the CBI chargesheet. She relied upon Article 194(2) of the Constitution, contending that the allegations of bribery were intrinsically connected with a legislative electoral process and that she was therefore entitled to constitutional immunity from judicial proceedings.

In the impugned order, the High Court of Jharkhand quashed her plea, but the logic it followed was flawlessly exposing the moral debauchery of the Narasimha Rao standard. The High Court held that the appellant's actions did not create a prima facie link with the vote she cast as a legislator, as she did not actually vote for the bribe-giver. This meant, therefore, she was not entitled to the protection of constitutional immunity.

The High Court had to hold that had Soren succeeded in her dirty deal and betrayed her party, she would have walked away free. She defaulted the corrupt contract and thus she was legally prosecutable.¹³

B. The course of constitutional escalation

Recognising the worrying implications of this legal stance, Sita Soren took the matter up to the Supreme Court of India. By an iterative escalation of the structure, the case brought to the judiciary's attention its increasing uneasiness with its own precedent.

A 3-judge bench in 2019 pointed out that the actual question of scope of bribery and immunity had far-reaching structural implications and restricted the hearing to a 5-judge bench. In *September 2023*, Chief Justice D.Y. Chandrachud and his 5-judge

¹¹ The Prevention of Corruption Act, No. 49 of 1988, § 13(1)(d), India Code. Section 13(1)(d).

¹² Criminal Appeal No. 451 of 2019 and order dated 17 February 2014 in Writ Petition (Criminal) No. 128 of 2013, High Court of Jharkhand; see also Supreme Court Observer, MLA Bribery Case (Sita Soren).

¹³ *Sita Soren v. Union of India*, 2014 SCC OnLine Jhar 1428.

Constitution Bench questioned the correctness of the majority opinion of Narasimha Rao. The bench said only a bench of equal bigger strength could reconsider the previous 5-judge bench decision formally.¹⁴

The matter was referred to a 7-judge Constitution Bench of the Court “to safeguard the integrity of the institutions and to clean public life”. After hearing broad arguments from the Attorney General, the Solicitor General and high-quality counsel, this bench issued its historic ruling on *March 4, 2024*.

VI. LEGAL ISSUES

Recognizing the gravity of the matter, the Supreme Court framed the substantial issue of laws.

1. Whether a member of parliament or a state legislature can claim absolute immunity from criminal prosecution under article 105(2) or article 194(2) of the constitution for accepting a bribe to vote or speak in a particular manner within the house.
2. Whether the majority opinion in *P.V. Narasimha Rao v. State (1998)* represents the correct interpretation of constitutional privileges or if it creates an anomalous position that undermines public interest and the rule of law.
3. At what point is the offense of bribery complete under the prevention of corruption act, 1988? Is its commission dependent on the subsequent performance of the promise made by the bribe-taker?
4. Whether the doctrine of *stare decisis* acts as an absolute bar to reconsidering a long-standing, 25-year-old constitutional precedent of a five-judge bench.
5. Whether voting in a Rajya Sabha election falls within the protective remit of article 194(2) as part of the "proceedings of the house".

¹⁴ Advay Vora, *MLA Bribery Seven-Judge Constitution Bench | Day 2: Bench Reserves Judgement*, Supreme Court Observer (Oct. 5, 2023), <https://www.scoobserver.in/reports/mla-bribery-seven-judge-constitution-bench-day-2-bench-reserves-judgement/>

VII. ARGUMENTS ADVANCED

A. Arguments by the side of Sita Soren

Sita Soren contended that the court should strictly adhere to the doctrine of *Stare Decisis*.¹⁵ The majority ruling in *P.V. Narasimha Rao* has held steady for more than 25 years. Courts shouldn't rule out long-settled precedents unless it's truly unworkable or causing clear harm. Parliamentary immunities matter because they keep lawmakers safe from harassment or targeted prosecution by an unfriendly executive, especially when big votes are coming up.

She also contended that the phrase "in respect of" in Articles 105(2) and 194(2) needs to be interpreted broadly. As soon as a member speaks or votes, there's a direct link to their legislative/parliamentary function. That link protects everything that leads to the act, giving absolute immunity.

She argued that even when bribery technically happens before the Parliament i.e. when money changes hands outside the moment the lawmaker casts their legislative vote, constitutional immunity strikes in. That protection overrides when the offense actually happened.

B. Arguments by Union of India (CBI)

Counsel of the CBI contended that granting blanket immunity for bribery carves out a *privileged class, people untouchable by law, defying Article 14*. The *P.V. Narasimha Rao* judgment stands justice on its head. A legislator who goes through with a corrupt bargain walks away immune. Only if they hesitate or back out do they risk prosecution. *This setup doesn't deter corruption, it rewards it*.

The counsel stated that *Section 7 of the Prevention of Corruption Act* spells it out; bribery is complete the moment someone obtains, accepts, or even just seeks an undue advantage¹⁶. The outcome, whether the favor is delivered or not is irrelevant. The

¹⁵ *MLA Bribery | Judgment Summary*, Supreme Court Observer (Mar. 4, 2024), <https://www.scobserver.in/reports/mlas-bribery-judgment-summary-sita-soren/>.

¹⁶ The Prevention of Corruption Act, No. 49 of 1988, § 7, India Code.

crime sits outside legislative proceedings, with no true tie to what happens on the floor.

The Union contended to introduce the *Functional Necessity Test*. Parliamentary privileges exist to uphold the dignity of the House as a whole, not to shield individuals from accountability. Individual immunity only makes sense if it's needed for legislators to do their jobs without fear. Bribery is the opposite; it's a betrayal of legislative responsibility.

VIII. RESEARCH

A. A Parallel Jurisdiction Dilemma: Houses v. Courts

The landmark decision in *Sita Soren*, made a transparent separation of judicial investigation of corruption from internal legislative disciplinary procedures, calling them two "*textually distinct and mutually autonomous spheres of public law*". Theoretically elegant as it might sound, it makes for some serious conflict between institutions within the Indian context.¹⁷

Imagine a scenario where a Member of Legislative Assembly is brought under the judicial glare for bribery charges by the Central Investigative Agencies and at the same time the Committee of Privileges of the House of Representatives conducts an inquiry of its own and exonerates the MLAs in order to maintain the dignity of the institution. The judgment frames these legal avenues as completely separate, allowing for a divided constitutional world. A legislator may be imprisoned by a special anti-corruption court but remain 'fully vindicated' by his or her own legislative body. Finally, *Sita Soren* fails to comment on mechanisms for addressing such blatant structural tensions between coordinate arms of the state, which justifiably leave him in an uncomfortable silence.

B. The functional necessity standard: a double-edged sword

The Supreme Court thus concluded the constitutional question of essentiality while replacing the historic status-based immunity with the new "functional necessity"

¹⁷ *Sita Soren v. Union of India*, (2024) 5 S.C.C. 629, 708

standard. It's easy to see that receiving a bribe is not part of the job of a judge, but this sweeping judicial transformation has the potential to usher in a dangerous era of judicial overreach. This malleable standard would be at the mercy of an activist judiciary that might be able to remove constitutional immunities when there is great friction between parliament and the executive.¹⁸

For example, if opposition MPs resort to disruptive behaviour during their votes on the floor or resort to provocative political rhetoric that leads to criminal charges for defamation or obstructing a public servant, it is possible for a court to rule that such disruptive behaviour is not "functional to the business of government". But by eroding the absolute nature of the legislative shield, *Sita Soren* ends up giving to majoritarian executives a powerful tool for harassing the vocal minority legislators, a power to be used judiciously and with bad faith.

C. Proposal to Redefine Right to vote in Parliamentary Elections

Lastly, the decision effects the very nature of legislative suffrage as a right of the constitution. The Court has decided that bribery is a complete offence under section 7 of the Prevention of Corruption Act as soon as the acceptance of the unearned advantage is an act and held that the legislative act of voting was not necessary. The court has ruled that bribery is a complete offence and crime when a corrupt person takes an unearned advantage as soon as it is done and said that the act of voting was not required. This paper's doctrinal development establishes a strong foundation for legislative voting that is rooted in public trust. In *Sita Soren*, the legislator's vote which was previously just an individual privilege of an elected official, becomes a constitutional duty, one that is tied to a commitment to overall demands of a clean constitutional democracy.¹⁹

IX. JUDGMENT

A. Ratio Decidendi

1. The Chronology of Corruption and the PCA 1988

¹⁸ *Id.* at 734

¹⁹ *Id.* at 701

In concluding the landmark decision, the 7-judge bench in *Sita Soren* put a lid on the scope of criminal responsibility as interpreted by the court in *P.V. Narsimha Rao*, which erred in two ways i.e., in its 'temporal' and 'causal' understanding of criminal liability.

The Court in the case of *S. 7 of PCA 1988* found that the offence of Bribery is completed at the very moment that the corrupt public servant acquires or tries to acquire an illegal gratification. The Court removed the connection between the bribery and the eventual vote in the legislation and created two important sub-doctrines.

First, the performance of the illegal contract, either that the legislator votes according to his agreement, or that he fails to vote, or that he votes against the contract, is legally irrelevant to the completion of the crime.²⁰

Second, the discrimination implicit in the notion of criminal culpability is not a legitimate issue for the court, outside the context of legislation, to consider because that notion exists separately from the legislative process. The Court clearly established that bribery is already a criminal offense and therefore cannot be the subject of legislative privilege—a privilege that can only be given to the integrity of the lawmaking process.²¹

2. Functional Necessity Test for Privileges

To avoid the erosion of the constitutional norms, the Court established the "*Functional Necessity Test*", changing privilege from an indemnity based on status to an objective one based on utility. The Court explained that parliamentary privileges are not privileges for the individual but privileges as part of the structure of the Parliament to ensure its autonomy. As a result, a claim for privilege will face a strenuous two-part test. The "*Collective Nexus*" is an examination of whether the immunity maintains the dignity and authority of the House, and, in the context of bribery, the court found that corruption degrades the integrity of the institution. It's asking under the "*Functional Nexus*", the question is whether the freedom is necessary to the discharge of the

²⁰ *Id.*

²¹ *Id.*

legislative jobs. The Court determined that bribery is an anathema to independent judgment, so it did not meet the requirement. This move is meant to make sure that only when the immunity "is clearly necessary for the constitutional purpose of democratic government" is it granted.²²

3. Detaching the Constitutional Text from Westminster History

Last but not least, Sita Soren is a clear break from the trend of common law precedents which were previously relied upon to support the Narasimha Rao anomaly. The Court emphasized there was a basic difference between the two jurisdictions: *Westminster privileges* are unwritten, historical vestigial rights to resist authoritarianism of the Crown, but the Indian privileges are tightly constrained by a written constitution which is supreme. The bench held that in a "constitutional democracy", individual rights do not prevail over the Rule of Law or the basic pillars of public good conduct. The Court's rejection of the idea of an elite class that would operate outside common penitentiary laws served as a further restriction on the parliamentary immunities. The Court's limitation on parliamentary immunities further came via its subordination of parliamentary immunities to the constitution.

B. OBITER DICTA

Deliberation on the floor of the House is free and fair. This is utterly ruined when someone is manipulated to vote or speak for some monetary reward. While in the UK House of Commons privileges emerged through historic power struggle with the Crown and a long-standing custom of the House, Indian legislative privileges are narrowly drawn and based on the Constitutional document, as such they can be subjected to judicial review.²³ The criminal courts and the House committees are completely separate entities. The court prosecutes ordinary offences against the public; the House has disciplinary powers in respect of contempt or breach of house discipline. The duality of the functions does not clash with the principle of separation of powers.

²² *Id.* at 688

²³ *Id.* at 714

X. JUDICIAL REASONING AND INTERPRETIVE FRAMEWORK

- 1. Elimination of Paradoxical Absurdity:** *“The P.V. Narasimha Rao precedent was a fundamental mistake that made corruption possible”* the statement laid down in the *Sita Soren* judgment. The old law established a clear incentive to be immune from prosecution for those who managed to consummate a “bribery bargain” while leaving others liable to criminal prosecution for ignoring the other party's wishes. The Court's decision in overturning this interpretation changed the course of the law, making it more moral and closer to the public.
- 2. The Transactional Nature of Bribery:** The Court drew inspiration from the statutory provisions of the *“Prevention of Corruption Act, 1988”* to brand bribery a transaction-based crime. The moment of acceptance or attempted acceptance of illegal gratification is the moment of criminal liability. The voting or speech itself is not relevant to the completion of the crime, and the lawful act is still a legally and factually distinct one.
- 3. The Purport of Parliamentary Immunity:** The Court stated that immunity provided to legislators under Articles 105 and 194 was limited to the protection of the legislative setting, during which legislators are able to conduct their work without fear of malicious litigation. It is not an individual dispensation from rules which are generally applicable to the penitentiary system; it is merely a protection for the institutional autonomy.
- 4. Flexibility of Stare Decisis:** Lastly, the Bench reiterated that stare decisis does not guarantee judicial mistakes but rather provides for stability. Where interpretations in the past have had “baneful effects” on the public's probity, the Court has a constitutional duty to correct the deficiencies.

XI. CONCLUSION

The landmark judgment in *“Sita Soren v. Union of India by the 7-judge Constitution Bench of Indian Supreme Court”* is a turning point in the constitutional jurisprudence of India. The Supreme Court in the country has rectified a loophole that was being exploited by criminal corruption under the majestic umbrella of parliamentary privilege for twenty-six years since the days of P.V. Narasimha Rao.

This jurisprudential adjustment places the balance between legislation and the rule of law back in order. The Court used a painstaking analysis of the "*Prevention of Corruption Act 1988*", with a breakdown of each part of the legislation as well as in terms of time, to establish that the offence of bribery is a complete crime committed completely off the floor of the legislature. At the same time, the objective *Functional Necessity Test* restores the articles 105(2) and 194(2) to the status the framers intended for them to serve, as a protection for courageous and independent lawmaking, not a protection for criminal impunity in cash-for-vote schemes.

XII. COMMENTS

1. The Textual Breakthrough

As I started to do the analysis of the judgment of Justice P.V. Narasimha Rao in 1998, I found myself in a textual trap of the previous majority. They interpreted the words 'in respect of' in Articles 105(2) and 194(2) as a legal black hole which absorbed every element surrounding it. They were the introduction of a hideous idea: that a corrupt contract was valid, could be made holy by being done on the floor of the House, and was a "continuous transaction."

The issue was so blurry that it felt so challenging to address as a student. The unhinged interpretation leads to one answer; the Apex court had set up a system which gave the law the power to punish the legislator who had backed out of a bad deal (the dishonest bribe-taker) and to excuse the one who had taken it (the honest bribe-taker).

2. The Deconstructed 2024 Correction

For the defence to be populated in the Sita Soren judgment, I needed to observe the criminal law chronology. When I did draw the agenda of Section 7 of the Prevention of Corruption Act (PCA) I got the whole case.

Temporal decoupling was the key to my breakthrough in analysis. I came to understand that bribery is not a process; it's a point in time offence. The offence is consummated the moment the politician accepts or agrees to accept the undue advantage.

Whether they vote for him/her, against him/her, or fail to show up to vote, this is not a legally relevant vote. Once I had set this time frame, I could then be certain to claim that the trial of the criminal is a trial of an action that was taken outside of the House, had no causal connection to "anything said or any vote given" within the House.

3. Functional Necessity Test: A Hidden Trap

But, if you are to be a fine lawyer, you must not simply glory in a judgment, you must discover its fault lines. While I heartily endorse the efforts of the Chief Justice D.Y. Chandrachud in cleaning up public life, I feel that it is necessary to be alert to two important concerns:

An amendment was added to the rule that there could be no privilege unless it was strictly necessary for lawmaking. This is a positive step in addressing bribery but a frightening precedent. The Court has granted itself a huge power by making judiciary the final judge of what is "necessary" within a legislative house.

What will happen if tomorrow a ruling party arrests an opposition leader for a rowdy assembly mob outside for a "disruptive" speech, or an opposition leader for a heated speech on the floor of the assembly, who says "disruption is not functionally necessary for lawmaking"? Sita Soren perhaps may have unintentionally created a back-door opportunity for the judiciary to intrude into the law-making process.

4. The Parallel Jurisdictional Contradiction

The decision boldly states that the work of criminal courts and ethics committees in parliament are in entirely different worlds. So as a realist, here is a showdown I see coming. A special CBI court sentences an MLA for bribery, the state assembly's privilege committee exonerates the MLA from any wrongdoing, and we have a terrifying constitutional standoff. The judgement in turn skirts the issue of how to reconcile a head-on conflict of findings between two parallel, state agencies.

5. My Final Take

While concluding, I would be remiss if I didn't say that I think this is an example of public trust over political elitism. For twenty-six years the legislators had an immunity lifted from them, which essentially put them in a gilded cage, above the common folk.

The judgement in Sita Soren splintered that cage away with success. It reaffirmed the fundamental unassailable principle that privileges are for the purposes of securing independence for the office, and not to shield the criminal conduct of the man. It's a truly brave and righteous decision on a history that "over the years" got the passage of time's wrath, though it left some loose ends for lawyers of the future to pick up.

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