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JMM bribes for votes ruling

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Why is in news? JMM bribes for votes ruling: How Supreme Court interpreted privilege for lawmakers

A seven-judge Constitution Bench of the Supreme Court, headed by Chief Justice of India DY Chandrachud, ruled that **lawmakers facing bribery charges in connection with their speech and votes in the House cannot be immune from criminal prosecution.**

In doing so, the Court held that claims to **parliamentary privilege by lawmakers can be subject to judicial review**, and only Parliament cannot have the last word on the issue.

JMM bribery case:

Jharkhand Mukti Morcha (JMM) bribery case, in 1998 is also known as **P.V. Narasimha Rao versus State.**

In 1991, battling economic instability and Babri Masjid demolition pressure, P V Narasimha Rao govt faced no-trust motion. Then came the charge that it was **won by "bribing" JMM MPs.**

The case upheld the: MPs and MLAs **immunity from prosecution for taking a bribe** to make a speech or vote in Parliament and state legislatures.

Key Takeaways from the Ruling:

The Supreme Court unequivocally stated that **parliamentary immunity does not serve as a shield for legislators** who accept bribes from **facing criminal prosecution.**

Central to the Court's decision was the recognition of the **corrosive impact of corruption and bribery** on the foundational principles of Indian parliamentary democracy.

The Court emphasized that **allowing immunity for bribery would undermine trust and accountability** in public institutions, posing a significant threat to the democratic process.

The Court clarified that the offense of bribery is deemed complete upon the acceptance of money by the legislator. This assertion highlights that the **criminal act occurs irrespective of the subsequent actions or votes made by the lawmaker** within the legislative body.

Parliamentary immunity was **redefined to apply only when a legislator's actions** contribute to enhancing the dignity and authority of the House or are within the purview of their rights to free speech, protest, and freedom from arrest.

The ruling **affirmed the parallel jurisdiction of criminal courts and legislative bodies** in addressing allegations of bribery.

It clarified that one jurisdiction does not negate the authority of the other, ensuring that lawmakers can be held accountable for their actions both within and outside the legislative sphere.

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Lastly, the Court underscored the **vital importance of maintaining probity in public life**.

By rejecting the notion of immunity for bribery-related offenses, the ruling upholds the integrity of democratic institutions and reinforces the principle of accountability for public officials.

Related Constitutional Articles:

Articles 105(2) and 194(2) – Immunity provisions that protect MPs and MLAs from criminal or civil proceedings in any court “in respect of” anything said or any vote given in Parliament/State Legislative Assemblies.

Article 105 and Article 194 to the Constitution of India grant privileges or advantages to the MPs (Article 105) and to the MLAs (Article 194) of every State.

These powers, privileges and immunities should be **defined by the law** from time-to-time.

These privileges are considered as special provisions and have an overriding effect in conflict.

It must be clarified here that **these privileges do not extend to the President (or Governor)** who is also an integral part of the Parliament (or state legislature).

Privileges mentioned in the Constitution:

It gives the **MPs** freedom of speech [**Article 115 (1)**].

It provides that no MP will be liable to any proceedings before any Court for anything said or any vote given by him/her in the Parliament or any committee thereof [**Article 105(2)**].

Also, no person will be held liable for any publication of any report, paper, votes or proceedings if the publication is made by the parliament or any authority under it.

The same provisions are stated under **Article 194**, where **MLAs** of a state are referred instead of MPs.

Difference between Article 19 and Article 105:

Both the Articles, (Article 19(1)(a) and Article 105) of the Constitution **talks about freedom of speech**.

Article 105 applies to the members of parliament **not subjected to any reasonable restriction**. But, Article 19(1)(a) applies to citizens and is **subject to reasonable restrictions**.

This means, Article 105 is an **absolute privilege** given to the members of the parliament but this **privilege can be used in the premises of the parliament and not outside the parliament**.

Background of the present case:

1998 P.V. Narsimha Rao Case

In 1993, Jharkhand Mukti Morcha (JMM) leader Shibu Soren and some of his party MPs were accused of taking bribes to vote against the no-confidence motion against the then P V Narasimha Rao government.

The apex court (by a 3:2 majority) granted immunity from prosecution to MPs who took bribes and voted to save the then Congress government in Parliament.

The SC held that **legislators enjoy immunity from criminal prosecution for bribery** in matters connected to their speech and votes in Parliament and Legislative Assemblies.

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Matter reached Supreme Court again:

An MLA from the JMM, Sita Soren, was accused of accepting a bribe in return for her vote for a candidate during the 2012 Rajya Sabha elections.

She moved the Jharkhand HC for quashing the chargesheet and criminal proceedings against her, relying on the provisions of Article 194 (2), but the HC had declined to do so.

As a result, she appealed in the Supreme Court

In March 2019, SC observed that the **decision in P.V. Narasimha dealt directly with such cases.**

However, the bench took note of the fact that the case was **decided by a narrow margin** (a 3:2 split among the five judges) and stated that the **issue was a matter of substantial public importance.**

As a result, they **referred the matter to a larger bench.**

In September 2023, a five-judge bench led by CJI Chandrachud demarcated three issues that needed to be reconsidered from the case and referred the case to a seven-judge bench.

Parliamentary Privileges:

Parliamentary privileges are **special rights, immunities and exemptions** enjoyed by the two Houses of Parliament, their committees and their members.

These privileges are defined in **Article 105** of the Indian Constitution.

Under these privileges, the members of Parliament are **exempted from any civil liability (but not criminal liability)** for any statement made or act done in the course of their duties.

The privileges are claimed only when the person is a member of the house.

As soon as s/he ends up being a member, the privileges are said to be called off.

Parliament has **not made any special law** to exhaustively codify all the privileges. They are rather based on **five sources** - Constitutional provisions, Various laws made by Parliament, Rules of both the Houses, Parliamentary conventions, Judicial interpretations

Privileges:

Freedom of Speech in Parliament:

The freedom of speech and expression guaranteed to a citizen **under Article 19(2)** is **different from the freedom of speech and expression provided to a member of the parliament.**

It has been guaranteed under Article 105(1) of the Indian constitution. But the freedom is subject to rules and orders which regulate the proceedings of the parliament.

Limitations:

Freedom of speech should be in **accordance with the constitutional provisions** and subject to rules and procedures of the parliament, as stated **under Article 118** of the Constitution.

Under **Article 121** of the Constitution, the members of the parliament are **restricted from discussing the conduct of the judges** of the Supreme Court and the High Court.

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Freedom from Arrest:

The members **enjoy freedom from arrest in any civil case** 40 days before and after the adjournment of the house and also when the house is in session.

No member can be arrested from the limits of the parliament without the permission of the house to which s/he belongs so that there is no hindrance in performing their duties.

If the detention of any members of the parliament is made, the **chairman or the speaker should be informed** by the concerned authority, of the **reason for the arrest**.

But a member can be **arrested outside the limits of the house on criminal charges** against him under the Preventive Detention Act, the Essential Services Maintenance Act (ESMA), the National Security Act (NSA), or any such act.

Right to Prohibit the Publication of Proceedings:

Article 105(2) of the Constitution, no person shall be held liable for publishing any reports, discussions etc. of the house under the authority of the member of the house.

For paramount and national importance, it is essential that the proceedings should be communicated to the public to aware them of what is going on in the parliament.

Right to Exclude Strangers:

The members of the house have the power and right to exclude strangers **who are not members of the house from the proceedings**. This right is very essential for securing free and fair discussion in the house.

Way Forward:

Ensure transparency in legal proceedings involving legislators.

Support investigative journalism and strengthen civil society watchdog groups.

Prevent the abuse of immunity for purposes unrelated to legislative duties.

Establish **impartial ethics committees** to investigate ethical breaches by lawmakers.

Strengthen **laws and enforcement procedures** against corruption.

Regularly review legislative immunity regulations and make necessary changes.