

NO IMMUNITY FOR ACTS OF VANDALISM IN HOUSE: SC

Relevant for: Indian Polity | Topic: Judiciary in India: its Structure, Organization & Functioning, Judges of SC & High Courts, Judgments and related Issues

The court explained that the purpose of bestowing privileges and immunities to elected members of the legislature was to enable them to perform their “essential functions” without hindrance, fear or favour. The ‘essential’ function of the House is collective deliberation and decision-making.

“These privileges bear a functional relationship to the discharge of the functions of a legislator. They are not a mark of status which makes legislators stand on an unequal pedestal,” the court observed.

The Constitution only grants the members the freedom of speech that is necessary for their active participation in meaningful deliberation without any fear of prosecution. Focusing solely on the right to free speech, privileges and immunities of legislators without paying attention to their duties is like “missing the wood for the trees,” Justice Chandrachud said.

The judgment referred to the “growing recognition and consensus” in the Parliament and the Supreme Court for zero tolerance towards destruction of public and private property in the name of protests.

“Incidentally, the Kerala Legislative Assembly also enacted the Kerala Prevention of Damage to Private Property and Payment of Compensation Act 2019 to complement the Central legislation, Prevention of Damage to Public Property Act 1984, with a special focus on private property,” Justice Chandrachud addressed the Kerala government in his judgment.

The court held that withdrawal of prosecution in a case in which chargesheet has already been filed and cognisance taken by the trial court would amount to an “interference with the normal course of justice for illegitimate reasons.” The top court upheld the decision of the Chief Judicial Magistrate, Thiruvananthapuram, to decline the Public Prosecutor’s application to withdraw the criminal case.

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