Breach of Privilege Offence

What is the issue?

With no codified laws for what constitutes a breach of privilege offence or prescriptions for punishment, this is largely a grey area in legal terms.

What happened recently?

- On June 21 2017, the Karnataka assembly Speaker ordered the imprisonment of two journalists for a year based on recommendations in two separate reports of its privilege committees.
- The order for the arrest of Ravi Belagere and Anil Raj has drawn widespread criticism as an effort to throttle the media.
- In Karnataka, over the years, prominent journalists have been summoned by privileges committees of the legislature.
- These motions have mostly ended with journalists apologising or clearing their stand and the committees have dropped proceedings after a few hearings.

What provisions protect the privileges of the legislature?

- Article 105 pertains to the powers, privileges, etc, of Parliament, its members and committees while Article 194, protects the privileges and powers of the houses of legislature, their members and committees in the states.
- These sections protect the freedom of speech of parliamentarians and
legislators, insulate them against litigation over matters that occur in these houses, and give powers to define the powers, privileges and immunities of a house, its members and committees.

What constitutes a breach of privilege?

- There are no clearly laid out rules on what constitutes breach of privilege and what punishment it entails.
- In other words, these powers and privileges are not codified.
- In Karnataka, privileges panels often refer to ‘Practice and Procedure of Parliament’ by M N Kaul to define breach of privilege.
- The book states speeches and writing about the House or its committees or members can be punished as contempt on the principle that these actions “tend to obstruct the Houses in the performance of their functions by diminishing the respect due to them”.
- This ‘breach of privilege laws’ are often criticized for allowing politicians to become judges in their own cause, raising concerns of conflict of interest and violating basic fair trial guarantees.

Source: The Indian Express