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No. 08, Arul Nagar, Seera Thoppu,

Maudhanda Kurichi, Srirangam,

Tiruchirappalli – 620102

Phone : +91 94896 71437 - info@iledu.in / Chairman@iledu.in

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DEFAMATION LAWS IN INDIA

AUTHOR - ASHCHRYA RAJ SINGH & SATYA VRAT PANDEY, STUDENT AT INTEGRAL UNIVERSITY, LUCKNOW

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ABSTRACT

Defamation laws in India are designed to shield people and organizations from malicious and false remarks that damage their reputations. These laws are mainly governed by the Indian Penal Code (IPC) and the Code of Criminal Procedure (CrPC). Libel, which involves written or published assertions, and slander, which involves spoken words or gestures, are the two types of defamation. According to Section 499 of the Indian Penal Code, defamation is defined as any false statement made about an individual with the intent, knowledge, or reasonable belief that it will damage that person's reputation. Signs, visual representations, spoken or written words, or both, can be used for imputation. In India, however, the truth is a defence against accusations of defamation, which means that if a statement can be shown to be accurate, it might not be regarded as defamatory. Defamation is punishable under Section 500 of the Indian Penal Code by up to two years in jail, a fine, or both. In addition, the law provides civil remedies for defamation, enabling people to pursue damages for reputational loss. Notably, the Indian judiciary has acknowledged the value of free speech and expression while striking a balance with the necessity of maintaining one's reputation. Consequently, there exist specific exemptions from defamation rules, including remarks made in good faith in the public interest, reasonable remarks on topics of public concern, and remarks made by public officials while doing their official duties. Furthermore, with the rise of social media platforms in India, online defamation has become a major worry. Online defamation is a problem that is addressed by the Information Technology Act, of 2000 and its revisions, which give authorities the authority to take legal action against anyone who distributes defamatory content online. In conclusion, India's defamation laws aim to reconcile the preservation of free expression with the protection of one's reputation. The IPC makes defamation a crime, although there are exceptions to protect free speech and the public good, as well as truth as a defence. Legislators and law enforcement organizations continue to prioritise tackling the issues raised by online defamation as the digital landscape changes.

Keyword : Defamation, Reputation, Social Media, Character, Offences

Introduction

Defamation is a legal concept that protects the reputation of the individual or entity from statements of their individual character. According to *Black's law dictionary*, the term defamation is defined as "The offence of injuring character, fame, or reputation by false and malicious statement." enshrined within the Indian, legal framework, these laws aim to protect and balance freedom of expression with the right to protect one's reputation form false and damaging statements. Defamation refers to the act of making a false statement that harms the reputation of an individual. In India, defamation can be both a civil wrong, where the aggrieved party seeks monetary compensation for damages suffered, and a criminal offence, which can lead to imprisonment. Defamation is defined under section 356 of The Bharatiya Nyaya Sanhita 2023[1651] or Defamation is defined in Section 499 of the Indian Penal Code 1860[1652] as" Whoever, by word either spoken or intended to read, or by

[1651] Bharatiya Nyaya Sanhita, 2023, § 356, 45 of 2023, Act of Parliament, 2023
[1652] Indian Penal Code, 1860, § 499, 45 of 1860, Act of Parliament, 1860

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signs or by visible representations, making or publish any imputation concerning any person intending to harm, or knowing or having to reason to believes that such imputation will harm, the reputation of such person is to say, except in the cases hereinafter excepted, to defame that person, section 356 of the Bharatiya Nyaya Sanhita 2023 or section 499 Indian penal code 1860 have common definitions.

Definition: - There are many definitions of the term 'defamation':

1. Black's Law Dictionary: The offence of injuring a person's character, fame or reputation by false and malicious statements[1653].
2. Oxford: The act of damaging someone's reputation by saying or writing bad or false things about them.
3. Merriam-Webster: The act of communicating false statements about a person that injures the reputation of that person.
4. Layman: The act of communicating to a third party a false statement about a person that results in damaging that person's reputation.
5. Legal (Indian Law): As per Section 499 of the Indian Penal code, 'whoever, by words either spoken or intended to be read, or by signs or by visible representation, makes or publishes any imputation concerning any person intending to harm, or knowing or having reason to believe that such imputation will harm the reputation of such person, is said, except in the cases hereinafter expected, to defame that person[1654].

Legal Framework

Defamation in India is primarily governed by two statutes: The Indian Penal Code and the civil laws. Section 499 under the Indian Penal Code defines defamation as any imputation made orally or in writing. which harms the reputation of another person. This includes words, signs or visible representations intended to lower the reputation of a person. Section 500 outlines the punishment for defamation, which can include imprisonment for up to two years, A fine, or both it also provides for aggravated forms of defamation, such as making false accusations with the intent to harm someone's reputation or using defamatory statement against a public official or those holding public office. Legal framework of civil laws, individuals can seek recourse through civil defamation suits under the law of torts. Civil defamation allows the aggrieved party to seek compensation for the harm caused to their reputation, without necessarily involving criminal prosecution. In civil defamation cases, truth alone may not be sufficient to avoid liability. The defendant may need to prove that the statement was made in good faith and for the public good.

Two forms of Defamations

Defamation can manifest in two primary forms: Libel and Slander. Libel involves the written or published dissemination of false statements that harm someone's reputation. This can include newspapers, magazines, online, articles, social media posts or even graffiti. The permanence of libellous statements makes them particularly damaging, as they can reach a wide audience and endure over time. On the other hand, slander refers to a spoken false statement that injures someone's reputation. This form of defamation occurs when someone makes derogatory remakes about another person during conversations, speeches, broadcasts or other verbal communications. Unlike libel, slander is fleeting and can be challenging to prove, as there may be no tangible evidence of the defamatory statement.

Criminal Defamation

Criminal defamation is the act of making false statements about someone with the intent to harm their reputation, which is punished by simple imprisonment for a term which may

[1653] Shivi, Defamation Laws And Judicial Intervention: A Critical Study, https://ili.ac.in/pdf/paper10.pdf , (Accessed : April 28th 2024)
[1654] Indian Penal Code, 1860, § 499, 45 of 1860, Act of Parliament, 1860

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extend to two years and a fine or with both under section 500 of the Indian Penal Code. Unlike civil defamation, in a criminal case, the intention to defame another person is necessary which means the allegation should be made with the knowledge that the publication of such a statement is likely to defame another person. But the burden of proof lies with the prosecution, who must establish the elements of defamation beyond a reasonable doubt. Furthermore, in the case of *R. Rajagopal v. State of Tamil Nadu*[1655], this case established the principle that the right to privacy is a fundamental right implied in Article 21 of the Indian constitution[1656]. It involves defamation revealing details about a woman's private life without her consent. The Supreme Court ruled that the right to privacy can only be infringed upon in cases where the public has a legitimate interest, and individuals have a right to protect their private affairs from unnecessary publicity, even if they are public figures. The landmark case in *Mahendra Singh Dhoni v. Verraguntla Shysmsundar & anr.*[1657] In this case, Mahendra Singh Dhoni, the former caption of the Indian cricket team, filed a criminal defamation case against a television channel and its anchors for airing allegedly defamatory content regarding him. The case highlighted the use of criminal defamation laws to protect the reputation of public figures and the media's responsibility to report news accurately.

Civil Defamation

Civil defamation_occurs when making false statements about another person, damaging their reputation or character. Unlike criminal defamation, which involves legal action by the government, civil defamation, the plaintiff typically needs to demonstrate that the statement was communicated to a third party and that it caused harm to the plaintiff's reputation. In a civil defamation case, the burden of proof lies with the plaintiff, who false statement that caused harm to their reputation. The damages awarded in civil defamation cases are typically monetary, intended to compensate the plaintiff for the harm suffered. Furthermore, in the case of *Ram Jethmalani v. Subramaniam swamy*[1658], while a commission of inquiry examined the facts and circumstances relating to the assassination of late Shri Rajiv Gandhi, the defendant, at a press conference, alleged that the then chief minister of Tamil Nadu had prior information that LTTE, senior counsel to represent the chief minister of Tamil Nadu and to engaged in the plaintiff to discharge the his professional duties, the plaintiff cross-examination the defendant and during proceeding, the defendant written conclusive submission, alleged that plaintiff had receiving money from LTTE, the statement made by the defendant was held to be ex facie defamatory. To harm the professional reputation of the plaintiff and his social life, The Delhi High Court awarded damages of Rs. 5 lacs.

Exceptions in defamation

The exceptions are given under section 499 of the Indian penal code. The following are the covered by the Supreme Court in *Subramaniam Swamy v. Union of India*[1659]

1. Truth-seeking suggestions for the greater benefit

Any recommendation that is accurate regarding any individual, provided that it serves the public interest and is expressed or published, is not considered defamatory. But it is a matter of fact whether or not it serves the public interest.

2. Public employees of behaviour

It should not be considered defamatory to state, in good faith, any view regarding the behaviour of a public servant while they are carrying out their official duties or regarding their character, to the extent that it is

[1655] R. Rajagopal v. State of Tamil Nadu, AIR 1995 SC 264
[1656] INDIAN CONST. Art. 21
[1657] Mahendra Singh Dhoni v. Verraguntla Shysmsundar & anr. Transfer Petition (Criminal) No. 23 of 2016
[1658] Ram Jethmalani v. Subramaniam Swamy AIR 2006 DELHI 300
[1659] Subramaniam Swamy v. Union of India, Writ Petition (Criminal) No. 184 of 2014

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manifest in such behaviour and nothing more.

3. Conduct of any person touching a public question

It shall not be an act of honour to express an opinion in good faith about the conduct of any person who raises a public question and respect his character in so far as his character is manifested in such conduct, and no further.

4. Publication of reports on legal proceedings

Publication of reports that correspond to the truth in material parts of legal proceedings or their results, is not considered defamation.

5. Expression of opinions by judicial decision

It is not defamation, any view in good faith of any civil or criminal case decided by any court, or of the conduct of any person in part as a witness or agent, in any case, or of the character of such person as his character appears in such conduct. and no more.

6. Merits of Public Presentation

Where bona fide opinions are expressed about the performance or character of the performer for public evaluation of the maker, provided that his character appears in such performance, and no more.

7. Reprimand in good faith by a person who has legal authority over another

Defamation is not libel if a person who has legal authority over another, either legally or legally, with, communicates in good faith any criticism of another's conduct. in matters to which such legal authority relates.

8. Prosecution in good faith against an authorized person

Prosecution in good faith is not defamation against any person who has legal authority over that person with respect to the subject of the prosecution

9. A bona fide claim made by a person to protect his own interests or those of others

A claim against the nature of another person's claim made in good faith to protect the interests of the claimant or for the welfare of any other person or the public, it is not slander.

10. Warning intended for the welfare of the person to whom it is communicated or for the general welfare

It is not defamation for an individual to communicate a warning in good faith on behalf of another person if the warning is intended for the welfare. of the person. a person has been communicated to all persons in whom that person is interested or for the general welfare.

Social Media and Online Defamation

Social media and online platforms have become powerful tools for communication and expression, but they also present challenges when it comes to defamation, a legal term referring to false statements about someone's reputation. Defamation can take two forms libel, which involves written or published false statements, and slander, which involves spoken false statements. In the context, of social media, libel is more common, as posts, comments, and shares as quickly reach a wide audience. Defamatory statements on social media can have serious consequences, damaging a persona's reputation, career, and personal relationships.

To prove defamations, several elements must typically be established, including:

1. Publication:- the defamatory statement must be communicated to a third party. On social, media, this requirement is easily met when a post or comment is visible to others.
2. Identification:- The statement must be about the plaintiff and reasonably understood to refer to them. This can be straightforward on platform when users are easily identifiable.

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3. Falsehood:- The statement must be false. Truth is generally a defence against defamation claims.
4. Harm:- The false statement must have caused harm to the plaintiff's reputation, typically resulting in economic or non-economic damages.
5. Fault:- Depending on the jurisdiction and the status of the plaintiff (public figure or private individual) the plaintiff may need to prove that the defendant acted with negligence, recklessness, or actual malice.

To address online defamation, some jurisdictions have enacted laws specific to internet communications, while others rely on traditional defamation laws. Additionally, social media platforms often have their own policies and procedures for addressing defamation, including the removal of offending content and suspension of users who violate terms of service. Users must be aware of the legal implications of their posts and comments to avoid potential defamation claims. Two significant case laws regarding social media and online defamation in India are:

1. *Shreya Singhal v. Union of India* [1660]

This landmark case dealt with Section 66A of the Information Technology Act[1661], which allowed the arrest of individuals for posting allegedly offensive content online. The Supreme Court of India declared Section 66A unconstitutional as it violated the right to freedom of speech and expression guaranteed under Article 19(1)(a) of the Constitution[1662].

2. *Subramanian Swamy v. Union of India*[1663]

In this case, the Supreme Court of India upheld the constitutional validity of criminal defamation laws under Sections 499 and 500 of the Indian Penal Code (IPC). The court emphasized that the right to reputation is also a fundamental right under Article 21 of the Constitution[1664], and defamation laws serve a legitimate aim in protecting this right. However, it also cautioned against misuse of these laws to stifle criticism or dissent. In India, remedies for defamation laws typically include both civil and criminal actions:

Remedies for Defamations laws in India

Civil Remedies

1. Damages: The defamed individual can seek monetary compensation (damages) for the harm caused to their reputation.

2. Injunction: The court may issue an injunction, restraining the defendant from making further defamatory statements.

3. Apology: The court may order the defendant to publish a retraction or apology for the defamatory statement.

Criminal Remedies

1. Criminal Prosecution: Defamation can be prosecuted as a criminal offence under Sections 499 and 500 of the Indian Penal Code (IPC). If found guilty, the defendant may face imprisonment and/or a fine.
2. Filing a Complaint: The defamed individual can file a criminal complaint with the police, leading to an investigation and possible prosecution of the accused.

Conclusion

In conclusion, India's defamation laws are designed to safeguard individuals and entities from false and malicious statements that could damage their reputation. Rooted in the Indian Penal Code and supplemented by provisions in the Code of Criminal Procedure and the Information Technology Act, these laws aim to balance the right to freedom of speech with the need to protect reputation. While defamation is punishable under criminal law, truth serves as a defence, and exceptions exist to accommodate legitimate expression and public interest. With the rise of online platforms, addressing challenges posed by digital defamation remains an ongoing concern, necessitating

[1660] Shreya Singhal v. Union of India, Writ Petition No. 166 of 2012
[1661] Information Technology Act, 2000, § 66A, 10 of 2009, Act of Parliament, 2009
[1662] INDIAN CONST. Art. 19(1)(a)
[1663] Subramanian Swamy v. Union of India, Writ Petition (Criminal) No. 184/2014
[1664] INDIAN CONST. Art. 21

continued adaptation and enforcement measures. Overall, India's defamation laws reflect a commitment to maintaining a fair and just balance between protecting individual reputation and preserving freedom of expression in a rapidly evolving socio-digital landscape. Depending on the kind of defamation, people could be imprisoned for up to two years or forced to pay restitution. Because of this, it's crucial to use caution when speaking and to respect the rights of others while yet exercising the freedom that comes with having your own rights.