

Defamation Law in India

Defamation Law in India states that defamation is a criminal and civil offence. Section 499 of the IPC deals with the defamation of a living or a dead individual (criminal law on defamation), while the punishment for the civil offence falls under the law of torts. According to the Defamation Law in India, the term defamation refers to any written or verbal communication of a false statement that unfairly harms the reputation or constitutes a crime against someone else. The written form of defamation is called Libel, whereas the oral form is called slander.

From very early times, injurious, hostile, and disparaging statements made in public have been seen as defamatory. The first-ever case involving defamation was in New York in the 19th century when a police officer claimed that false allegations against him had appeared in the newspaper. Since then, laws have been in place to ensure citizens' reputations and privacy outweigh the right to free speech.

History of Defamation Law in India

The history of Defamation Law in India dates back to the 19th century. Lord Macaulay conceived the Defamation Law in India for the first time in 1837. The intention behind criminalizing the act of defamation during British rule was simply to protect the interest of the British rulers. However, after independence, the Rajiv Gandhi administration passed a bill that widened the definition of "defamation" and shifted the burden of providing proof from the accused to the victim. Consequently, a nationwide strike forced the government to withdraw the bill.

Current Defamation Law in India

According to the Constitution of India, the fundamental right of speech is subject to some reasonable restrictions. These restrictions have been defined in Section 499 of the Indian Penal Code, 1860. However, Section 499 outlines ten legitimate exceptions under which any verbal or written statement would not be considered defamatory. Punishment for defamation is fine or imprisonment, or both. It is a bailable, non-cognizable, and compoundable offence.

The three essential offences as per Sections 499, 500, 501, and 502 of the Indian Penal Code, 1860 are as follows-

- Making or publication of imputation
- Means of imputation
- The intention of harming the reputation

Section 499 makes the following explanations lucid to be regarded as defamation-

- Defamation of the dead
- Defamation of collection of persons or a company
- Defamation by innuendo
- Meaning of harmful reputation

Civil Defamation Law in India

Under civil Defamation Law in India, the statements made against the defamed person must be false and made without his/her consent. The defamed person can claim monetary

compensation under certain circumstances. However, certain requirements must be met to file a successful defamation lawsuit.

- Proof of a defamatory statement must be provided. The test of whether the statement harms a person's reputation must be done from the eyes of a common man and his/her comprehension of the matter.
- The defamatory statement must be directed towards a specific person or class. General broad statements like all men are shameless will not be considered defamatory.
- Written content will be considered defamatory only when the content is made available to the defamed person directly. If the written form is in a language incomprehensible to the defamed person, a third party must read it out to him/her.

Criminal Defamation Law in India

Under criminal defamation, the intention to defame a particular individual or body is necessary. It must be proved with reasonable evidence that the defamatory act was being done to affect the reputation of another person. For the same, Section 499 of the Indian Penal code clearly defines what defamation is and what are its ten exceptions.

The 10 exceptions are:

- .Conveying caution in good faith
- Imputation for protection of interests
- Accusation to authorized persons in good faith
- Censure by the authorizing person
- Opinion on any public performance
- Comments on cases
- Reports of proceedings of courts
- Conduct of any person touching any public question
- Public conduct of public servants
- Truth for the public good

Punishment for Defamation in India

The punishment for defamation in India is subjected to Sections 500, 501, and 502. If a person is found guilty, he is punished with imprisonment for upto 2 years, a fine, or both. The following offence can lead to punishment-

- Sale of any engraved or printed substances consisting of a defamatory matter.
- Engraving or printing of matter subjected to defamation
- Defamation of any other person

Landmark Defamation Cases in India

Two prominent landmark defamation cases in india include-

- Mohammad Abdulla Khan vs. Prakash K in 2018
- Subramanian Swamy vs. Union of India case in 2016
- Dogar Singh and Anr. vs. Shobha Gupta and Anr. in 1998
- Jawaharlal Darda vs. Manoharro Ganpatrao Kapiskar in 1998
- MP Pillai vs. MP Chacko in 1986
- G. Narasimhan & Ors. etc. vs. T.V. Chokappa in 1972
- Chaman Lal vs. State of Punjab in 1970
- MC Verghese vs. TJ Ponnann in 1970
- M.K. Parameswara Kurup vs. N. Krishna Pillai in 1966

- Kanwar Lal vs. State of Punjab in 1963

Subramanian Swamy v. Union of India, Min. of Law (2016)

Under sections 499 and 500 of the Indian Penal Code, 1860, the Constitutional validity of the defamation offence was challenged in this case against the right to freedom of speech and expression. However, the validity of such validations was upheld by the Supreme court of India. The following shows the facts of the case-

- Under Article 32 of the Constitution of India, a writ was filed. This challenged the constitutional vires of defamation offence under the Indian Penal Code.

The two-judge bench of the Supreme court of India made the following observations-

- The rule of construction cannot be applied.
- In the name of the right of freedom of speech and expression, one cannot defame any other person. So, it was difficult for the court to conclude that in terms of freedom of speech and expression, criminal defamation is obnoxious.
- The court could not accept that doctrine of proportionality saves the provisions for criminal defamation.