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**DEFAMATION IN INDIA**

**ABSTRACT-** *This article basically talks about the defamation in India, what does defamation mean, what are laws and famous case laws related to it, how it is related to various fields such as legal field, political field, technical field etc. We are seeing in the recent times that the cases related to defamation in India in newspapers, television channels, legal journals etc. are rising at a very high rates because everyone wants to rise at the topmost position in his particular field or wants to improve his status in the society or wants to become richest in the society and for that according to the viewpoints of some jealous minded people, greedy and egoistic people, the malpractices that they follow in the society and especially the dirty tricks that they use in order to demean to make one person inferior of the another has now become day to day practice in the Indian Society whether it is related to politicians, common people, businessmen, engineers, doctors etc through the means of defamation. We shall be able to know much more about the topic defamation in India, what the origin is, how the problem of defamation has become common in both professional as well as personal lives amongst all the sections of society and most importantly what is the solution and case laws which are related to it. We shall be studying all these in detail through this article and the readers after reading this article can form their own opinions and could know in depth about what actually defamation is.*

**KEYWORDS-** [Defamation in India, Case Laws Related to Defamation, Defamation Problems and Its Solutions]

1

**INTRODUCTION-** The actual meaning of defamation is that it is a oral or a written communication of a false statement about another individual that unjustly harms their reputation

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<sup>1</sup> Legal Information Institute of India (LIIofIndia)

OF INDIA, SUPREME COURT (16 August 2001)" Writ Petition (Civil) 232 of 1991 LATA WADHWA AND ORS VS. STATE OF BIHAR AND ORS" All SCR (All Supreme Court Cases Reporter): 501- via Print Journal, Bound Volume

and usually it constitutes a tort or a crime. In several countries, including South Korea, a true statement can also be considered defamation. In countries like India, cases related to defamation in India are constantly rising because of the mala fide intention of one individual towards the another individual because he wants to achieve bigger things in the society or wants to rise at the topmost level both at his/her professional as well as personal lives which he thinks that he/she can only achieve through malpractices, by demeaning the reputation of the person in terms of property, mind, reputation or any other form where an individual has a respect in the society and a certain individual tries to defame him/her by falsely advertising his/her bad deeds to other individuals which are not at all committed by him/her or tries to malign his/her image in the society through various malpractices and by showing his negative image falsely to the whole society.

**DEFAMATION IN INDIA AND FACTS RELATED TO IT** - Defamation in India has become a quite common issue due to the evil minded people in the society and who are basically jealous of the success of the other people in the society and hence they go at any level to defame that person in the best possible manner. It is not a greatest sin or the crime, but because of that some people even take extreme steps such as committing suicide because they start thinking that they are unworthy in the society, they have not contributed anything significantly in the society, they start thinking they are really worthless in the society, they have no right to live in this society and hence defaming a person can be that dangerous where he/she compelled to take the extreme step. Article 19 of the Constitution grants various freedoms to its citizens. However, Article 19(2) has imposed reasonable exemption to freedom of speech and expression granted under Article 19 (1) (a). Contempt of court, defamation and incitement to an offence are some exceptions. Under the civil as well as the criminal law defamation is considered as an offence. Defamation is made punishable in Civil Law, under the Law of Torts by imposing punishment in the form of damages to be awarded to the claimant. Defamation is bailable, non-cognizable offence and compoundable offence under the Criminal Law. Hence a warrant issued by a magistrate can be executed by the police by arresting only with an arrest warrant. The Indian Penal Code punishes the offence with a simple imprisonment up to two years, or with fine or both. It is given in **SECTION 499-500** of the IPC deals with defamation in India. **SECTION 499 OF IPC states that –**

**Whoever, by words, either spoken or intended to be read, or by signs or by visible representations, 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.**

**Explanation 1- It may amount to defamation to impute anything to a deceased person, if the imputation would harm the reputation of that person if living, and is intended to be hurtful to the feelings of his family or other near relatives.**

**Explanation 2- It may amount to defamation to make an imputation concerning a company or an association or collection of persons as such**

**Explanation 3-** An imputation in the form of an alternative or expressed ironically, may amount to defamation

**Explanation 4-** No imputation is said to harm a person's reputation, unless that imputation directly or indirectly, in the estimation of others, lowers the moral or intellectual character of that person, or lowers the character of that person in respect of his case or of his calling, or lowers the credit of that person, or causes it to be believed that the body of that person is in loathsome state, or in a state generally considered as disgraceful

ILLUSTRATION- A says- "Z is an honest man, he never stole B's watch", intending to cause it to be believed that Z did steal B's watch. This is defamation, unless it fall within one of the exceptions

### **EXCEPTIONS RELATED TO DEFAMATION**

**First Exception-** It is not defamation to impute anything which is true concerning any person, if it be for the public good that the imputation should be made or published. Whether or not it is for the public good is a question of fact.

**Second Exception-** It is not defamation to express in a good faith any opinion whatever respecting the conduct of a public servant in the discharge of his public functions, or respecting his character, so far as his character appears in that conduct, and no further.

**Third Exception-** It is not defamation to express in good faith any opinion whatever respecting the conduct of any person touching any public question, and respecting his character, so far as his character appears in that conduct, and no further.

**Fourth Exception-** It is not defamation to publish substantially true report of the proceedings of a Court of Justice, or of the result of any such proceedings.

**Fifth Exception-** It is not defamation to express in good faith any opinion whatever respecting the merits of any case, civil or criminal, which has been decided by a Court of Justice, or respecting the conduct of any person as a party, witness or agent, in any such <sup>2</sup>case, or respecting the conduct of any person as a party, witness or agent, in any such case, or respecting the character of such person, as far as his character appears in that conduct, and no further.

**Sixth Exception-** It is not defamation to express in good faith any opinion respecting the merits of any performance which its author has submitted to the judgment of the public, or

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<sup>2</sup> LATA WADHWA AND ORS V STATE OF BIHAR AND ORS [2001] 3 LRI 1112: 2001 ALL SCR 501

JACOB MATHEW V STATE OF PUNJAB [2005] S.C. 0547

Ramanathan, Usha, Tort Law in India 1994 (PDF), International Environmental Law Research Centre, retrieved 16 October 2011

**respecting the character of the author so far as his character appears in such performance, and no further.**

**SECTION 500- Whoever defames another shall be punished with simple imprisonment for a term which may extend to two years, or with or with both**

**SECTION 500.1 Ingredients-** The section requires three essentials-

1. Making or publishing any imputation concerning any person
2. Such imputation must be made by-
  - (a) Words, either spoken or intended to be read; or
  - (b) Signs; or
  - (c) Visible representations
3. Such imputation must have been made with the intention of harming or with knowledge or reason to believe that it will harm the reputation of the person concerning whom it is made. It is clear that intention to cause harm is the most essential sine qua non for an offence under SECTION 499, IPC 1860. An offence punishable under SECTION 500, IPC, 1860 requires blameworthy mind and is not a statutory offence requiring any mens rea.

This is law which defines what basically defamation means and the exceptions related to it. There are basically 3 forms of defamation. These are as follows-

- (a) **Libel Defamation-** It is printing statement about something which is not true in written words or pictures. False and malicious statements made in writing, printed on signs or published on a public forum are the most important examples of Libel defamation along with Consideration of Libel Defamation is public defamatory statements or pictures through the media. The plaintiff was directly or indirectly identified, the remarks were defamatory towards the plaintiff's reputation, and the published information is false and that the defendant is at fault are the most essential elements which constitutes the offence of Libel Defamation.
- (b) **Slander Defamation-** making false spoken statements damaging person's reputation. It is basically a spoken statement about somebody that is not true and that is intended to damage the good opinion that other people have of him/her, the legal offence of making this kind of statement. Basically it is an oral or spoken defamation and it is the legal term which can be seen as the method of harming the reputation of an individual by telling about him/her to another all the untrue facts and false statements. Slander can be the basis for a lawsuit and is considered a civil wrong. In order to constitute the offence of slander there should be two elements –

**. The Statement should be made- A statement can be made by words either spoken or intended to be read, or by signs or by visible representations**

**. The statement must refer to the plaintiff- The defamatory statement must refer to the person, class of persons or the trustees of a company**

(c) **Innuendo-** an allusive or oblique (must expressed in a direct way) hint having secondary meaning or it can be said as an indirect way of talking about somebody/something, usually suggesting bad or rude. Examples related to innuendo are-

**Imagine a friend is dating someone in secret. A possible use of innuendo would be to say:**

**Mark's been spending a lot of time with Allison, if you know what I mean**

**For a second example, imagine a friend is preparing to cheat on a test with a stolen answer key. He says:**

**I've found a way to get some "extra help" on the test.**

These are some of the types of the defamation. Some of the facts which are related to defamation in India are as follows-

**Defamation is something which is labeled by those who have a public image, such as celebrities, renowned writers or journalists, people holding high offices, eminent professionals, etc. Recent case which is related to defamation in India is associated with journalist-turned-politician MJ Akbar against one of the journalists who accused him sexual harassment during his days as a scribe. The Minister, who is the Minister of State for External Affairs, is the most prominent name to come up as an accused in the #Me Too Movement which has exposed many celebrities as alleged harassers.<sup>3</sup>**

**Another recent case which is related to defamation in India is related to defamation against Javed Akhtar by the actress Kangana Ranaut where the Mumbai Court issued summons to actress Kangana Ranaut after the city police informed it that an offence of defamation, as alleged by lyricist Javed Akhtar against the actress, is made out and further probe into it is required. The Andheri Metropolitan Magistrate in December 2020 directed the Juhu Police to conduct an inquiry into the complaint of defamation filed by Mr Akhtar against Ms Ranaut before the court in November last year.**

These are some of the recent cases and laws which are there for defamation in Indian Penal Code 1860.

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<sup>3</sup> P.S. Atchuthen Pillai (1987) *Law of Tort, India: Eastern Book Company. ISBN 978-0-7855-3491-4*

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*Tort Liability For Environment Claims in India: A Comparative View (1<sup>st</sup>) Author Name: Charu Sharma ISBN 9788131250693*

## **CASE LAWS RELATED TO DEFAMATION IN INDIA**

### **CASE 1- DP CHOUDHRY VS MANJULATHA**

A publication was made in the local newspaper, Dainik Navjyothi that the plaintiff a 17 year old college girl ran away with a boy after she went out of the house by saying she was having lectures. This false news item had adverse effects on her and ruined her marriage prospects. It was actionable per se and she was awarded damages of Rs. 10000/- by way of general damages.

### **CASE 2- RAM JETHMALANI VS SUBRAMANIAM SWAMY**

The court held Dr. Swamy for defaming Ram Jethmalani by saying that he received money from a banned organization to protect the then Chief Minister of Tamil Nadu from the case of assassination of Rajiv Gandhi.

### **CASE 3- ARUN JAITLEY VS ARVIND KEJRIWAL**

The court held that statements made by Arvind Kejriwal and his five other leaders to be defamatory. The matter was sort out when all the defendants apologized for their actions.

### **CASE 4- T.V. RAMASUBHA IYER VS A.M.A MOHIDEEN**

Defendants published a statement without any intention to defame the defendants. It is related to a particular person carrying on business of Agarbathis to Ceylon has been arrested for the offence of smuggling. The plaintiff was also a person carrying on similar business and since his reputation was damaged, the court awarded him damages.

### **SHREYA SINGHAL VS UNION OF INDIA**

It is a landmark judgment regarding internet defamation. It held unconstitutional the **SECTION 66A OF THE INFORMATION TECHNOLOGY ACT, 2000** which punishes for sending offensive messages through communication services.

## **CONCLUSION**

A person earns his reputation through his hard work and devotion towards his particular field or profession but it doesn't take even a second to lose his reputation or respect in the society just because of the malicious intention of the another person in order to defame that person just for the sake of getting fame and attention in the society and for that they can go to any extension, even a defamatory remarks that they have made against the another individual is quite normal for them. They do such things in order to fulfill their ambition of reaching at the topmost position in their professions and gain name and respect in the society without doing the actual hard work and dedication

The number of cases related to defamation in India is constantly rising and hence the issue of defamation has become quite common due to which people are facing problems related to migration, depression, stress, anxiety, panic attacks etc. and hence we as common citizens need to take this problem seriously and should find effective solution to the offence of defamation because of which it causes many problems to honest and hard-working citizens. The problem of defamation is not only related to **artisans, politicians, actors, businessmen, scholars, researchers etc** but the problem of defamation is related to common individual as well and hence we should see the seriousness of the problem and should be vowed to find the effective solution of the problem.

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