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“DEFAMATION ON SOCIAL MEDIA.”

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ABSTRACT

Defamation is the act of harming a person's reputation through words; gestures; [slander] or visible representation in written [libel]. In today's modern era social media plays a vital role in everyone's life. As everyone like to be updated on social media platforms. Once post is made online goes viral in milliseconds. The main key feature of this research paper is reputational harm. It also deals with complex balance between freedom of speech and preventing individual reputation. As it is our fundamental right of freedom of speech under Article 19 [1] [A]. Many people tends to misuse this right by online defaming someone by false accusation on an individual. which also impact individual 's both personal and professional life. Even though there are some laws enacted in India to prevent cyber defamation but these laws are not exactly helpful. As different jurisdiction have different defamation laws which makes it difficult. Many user have anonymous accounts from fake id's it make difficult for victim to identify it is the major research gap. It is also social media platforms liability to ensure to safeguards the reputation of their users. To overcome research gap we have some recommendation which enables to prevent cyber defamation such as clarifying jurisdiction for cross border defamation, collaborative governance with digital platforms.

Key word: Fake Accusation, Online defamation; Freedom of speech, Social media platforms liability, Jurisdiction

INTRODUCTION

Defamation is a type of tort where an injury to the reputation of a person is caused. Every person has an absolute right to preserve his reputation. This right is acknowledging as an inherent personal right of every person. It is *right in rem i.e.*, a right available against the whole world. Defamation can be done in two ways **Libel and Slander**. In libel the defamatory statement is made in a permanent form it can be either in written or publish by wireless

telegraphy it is for eyes. It is actionable per se which means no additional proof of damage is required. In England libel is a criminal offence. In slander the defamatory statement is made in a temporary form it is spoken it is for ear. It is not actionable per se it means damage is required to be proved separately. In England slander is a civil wrong.

Social Media has transformed communication at very vast level. Technological age in which society currently resides Digital Communications have propelled the earth into advanced and fast paced world. Information is disseminated in milliseconds. As it allow people to connect with other across geographical distance, share information and enhance connections.

The research paper will focus on the role of social media in defamation , the legal frameworks of defamation in different jurisdiction , what are the impacts of defamation on an individual , what preventive measures and solutions an individual can take for cyber defamation , The importance of freedom of speech and protection against defamation . The objective of this research paper is to provide a way of dealing with cyber defamation and to prevent cyber defamation and what action a person can take on cyber defamation. Also what are the liability of social media platforms in preventing cyber defamation.

SOCIAL MEDIA 'S ROLE IN DEFAMATION

Online content remains accessible and can easily retrieved, giving defamatory statement a prolonged lifespan. Due to Internet's global nature defamatory statement are visible to much larger audience. Information shared online goes viral in seconds and reach millions of people. The role social media platform plays in moderating defamatory content is very critical as these platforms have their own policies to protect an individual reputations. It self delete any defamatory statement like twitter was secretly removing and banning some accounts.

The role of anonymity in spreading online defamation

The core challenge of online defamation is anonymity often provided by digital platforms. Individuals can make anonymous accounts making it difficult for victim to identify the predator. Social media platforms allow user to post anonymously. So identifying such user required help from digital platforms which may or may not comply as depending upon their own privacy policies.

LANDMARK CASE RELATED TO SOCIAL MEDIA DEFAMATION

SHREYA SINGHAL VS UNION OF INDIA

DATE: 24 MARCH ,2015

COURT: SUPREME COURT OF INDIA AUTHOR: R. F. NARIMAN

BENCH: R.F. NARIMAN, J. CHELAMESWAR NATURE OF THE CASE: CIVIL & CRIMINAL

ISSUES INVOLVED

- Whether section 66 A of IT Act is violate of Article 19 [1] [A] of Indian Constitution?
- Whether section 69 A and 79 of IT Act are Constitutionally valid?
- Whether section 118 [D] of the Kerala Police Act is liable to be struck down?

FACTS OF THE CASE

The present writ petition have been filed under Article 32 of the Indian Constitution for challenging the validity of section 66 A; 69 A and 79 of the Information Technology Act, 2000 [IT Act]. Along with that the petitioner has challenged section 118[D] of the Kerala Police Act. The court further determine the section was not safeguarded by the fact that it constituted a “reasonable restriction ” on the right to free speech as defined by Art. 19[2]. It was decided that content removal requests from courts or other government agencies would be the only times online intermediaries would be required to remove something. In India, the case is regarded as a turning point for online free speech.

JUDGEMENT OF THE CASE

The Hon’ble Apex Court also successfully carried out its role as a court of law for Indian citizens by reaching its decision in this landmark case. The court provided extraordinary and improved clarity to India’s free expression jurisprudence in Shreya Singhal vs. Union of India. The case decision is still recognized as an important court rebuke of government interference with the right to free speech and expression.

LEGAL FRAMEWORKS & KEY CONCEPTS

Defamation Law in India

India has established many legal provisions to address the problem of cyber defamation. These provisions also helps to maintain a balance between the right to free speech and preserving a

person's reputations.

- **Indian Penal Code [IPC]:** The IPC's sections 499 and 500 address general defamation [offline defamation,] but they also apply to some types of online defamation. The act of making or publishing any accusation about a person with the intent to damage their reputation is referred to as defamation.
- **Information Technology [IT] Act , 2000 :** The IT act lays out the legal guidelines for dealing with a variety of cybercrimes such as cyber defamation which also includes online harassment , defamatory comment or review , impersonation , false accusation . In the case of online libel the following
- **Section 66A:** which made illegal to send offensive message using any electronic device was overturned by the Supreme court in 2015. Although it is no longer in effect, but it once helped in cyber defamation.
- **Section 66C:** This section address identity theft and impersonation, which are frequently related to cyber libel cases the involve the creation of fictitious profiles or accounts in order to slander people.
- **Section 66D:** This section address impersonating someone with the intent to defraud and cause reputational harm, which is referred to as cheating by personification.
- **Section 67 & 67 A :** The law address the dissemination of pornographic or sexually explicit material . Although not directly related to defamation these provisions are frequently used in situations involving revenge porn or the distribution of explicit defamatory material.
- **The 1872 Indian Evidence Act:** When it comes to the admissibility of electronic evidence, cyber defamation cases must adhere to the Indian Evidence Act. The requirement or the admissibility of electronic records as evidence in court proceedings are outlined in section 65 B and 65 A of the act .

Defamation Law in Russia

The help of Criminal Code and the law on Information Technologies & Protection of Information. Russia has put laws in place to address cyber defamation. These laws make it unlawful to spread false information that harm's someone reputation.

Defamation law in United Kingdom

Defamation is covered by a well – established legal system in the UK that also applies to online media. Guidelines for identifying and responding to defamatory content, including online

defamation are provided by the Defamation Act of 2013. In the UK, courts weigh a variety of factors including the public interest, the truth defence, and the severity of the harm in determining how to balance the right to freedom of speech and needs to protect one's reputation.

BALANCING FREEDOM OF SPEECH AND PROTECT INDIVIDUAL 'S REPUTATION

As freedom of speech is a fundamental right under Art. 19 [1] [A] of the Indian Constitution, which is indirect contract with tort of defamation. Every citizen has right to express their views freely by speech, writing, printing under this article. However all fundamental rights are not absolute. This right is subject to reasonable restriction provided under Art. 19 [2]. According to Art. 19 [2] allows the government to impose reasonable restrictions in the interests of national security, friendly relation with foreign states, defamation. Online platforms have emerge as powerful tools for individuals to express their views and connect with people with geographical distance. However this digital age it also bring new challenges as freedom of speech by sharing information also lead to online harassment, disinformation. Balancing the need to protect individual reputation along with the their fundamental right of freedom of speech & expression. As many individual misuse their this fundamental right and cause cyber defamation to another person. Freedom of speech is a powerful weapon on internet as on the same platform we share thoughts but these same platform lead to cyber defamation, online harassment. Now the question arise that whether freedom of speech & expression on internet should be restricted to protect an individual reputation. Sometimes, the statement may prima facie be innocent but because of some secondary meaning it may considered defamatory.

IMPACT OF DEFAMATION ON AN INDIVIDUAL

The impact of online defamation is much vast as the information on online goes viral in few seconds. It is very difficult to remove these posts once goes viral. It impacts an individual's mental health as the person will have emotional distress. It also lead to the downfall of the person's reputation. Along side the good will of business also goes down, which lead to an individual to become job less. As no one is ready to collaborate with the person who is facing cyber defamation as it can also effect their reputation. As in today's era people believe on the information available on social media platforms. An individual will be facing erosion of trust which will also lead to damage personal relationship. Even in some online defamation cases an

individual may experience physical harm as well. Defamation is both civil as well as criminal offence

PREVENTIVE MEASURES AN INDIVIDUAL CAN TAKE FOR DEALING WITH CYBER DEFAMATION

As cyber crimes are ongoing threats these days. Cybercrime are happening online which also include cyber defamation, hacking, revenge pornography, cyber stalking so some preventive measures an individual can take are listed below :

- Use full service internet security suite.
- Monitoring your online presence.
- Privacy settings
- Secure your Accounts by maintaining strong passwords.
- Think before you post. Avoid sharing sensitive information.
- Report and block if you encounter any defamatory content.
- Request the removal of defamatory content from the social media platform
- Issue a Public statement to clarify the truth.
- Keep record of any negative impact you faced professional or personal life.

CONCLUSION

In this research paper reputation is the key finding. As this research paper also explores the complex relationship between freedom of speech and balancing the individual's reputation. It consists of various legal perspectives on online defamations. It also states various laws for preventing online defamation such as Indian Evidence Act; Indian Penal Code; Information Technology Act 2000. It also states various legal frameworks of different jurisdictions Russia; UK. As the information shared online goes viral in milliseconds and it becomes very difficult to remove that defamatory post because many users use anonymous accounts to post something defamatory about an individual which becomes difficult to track as many times a person who posts some defamatory content may be staying in countries like USA so it becomes out of reach to track as it requires permission from higher authority and support of cyber security but as India does not want to spoil their relation with other countries so some of the times the permission is denied but in some extreme cases if permission is granted till that time the cyber department can could take any action till that time post has become so viral that it is difficult to remove it. Even if the online defamation is done within a state of India still it is difficult to track down as

each states have different laws related to cyber defamation. Defamation is both civil as well as criminal offence under BNS section 356. It is our fundamental right to speech and expression national and international. But many people tends to misuse there freedom of speech and expression right. Regarding to this issue we also address a case law **SHREYA SINGHAL vs. UNION OF INDIA 2015**. which addresses this issue in a border way to understand it's important to maintain a balance between freedom of speech and expression along with protecting individual reputation. In this research paper we also study the types of defamation along with that what are impacts of cyber defamation on an individual. We also learnt about the preventive measure an individual can take to protect themselves from cyber defamation. I would also like to make some recommendations for future enhancing intermediary liability and responsibility; enhance content modern protocols; clarifying jurisdiction for cross border defamation; promoting self regulation & collaborative governance with digital platforms.

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