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Megha Middha, is working as an Assistant Professor of Law in Mody University of Science and Technology, Lakshmangarh, Sikar (Rajasthan). She has an experience in the teaching of almost 3 years. She has completed her graduation in BBA LL.B (H) from Amity University, Rajasthan (Gold Medalist) and did her post-graduation (LL.M in Business Laws) from NLSIU, Bengaluru. Currently, she is enrolled in a Ph.D. course in the Department of Law at Mohanlal Sukhadia University, Udaipur (Rajasthan). She wishes to excel in academics and research and contribute as much as she can to society. Through her interactions with the students, she tries to inculcate a sense of deep thinking power in her students and enlighten and guide them to the fact how they can bring a change to the society

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Avinash Kumar



Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship. He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi. Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi. He has qualified UGC - NET examination and has been awarded ICSSR - Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research methodology and teaching and learning.

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SUGGESTIO FALSI

AUTHORED BY- CHARVI MAHAJAN¹

ABSTRACT-

The analysis provides a comprehensive overview of suggestio falsi, examining its elements, impact on various industries, and legal implications. The inclusion of case laws, such as the Pioneer Urban Land and Infrastructure Ltd. case, adds practical context to the theoretical framework. The breakdown of suggestio falsi's effects on trademarks, including infringement, dilution, loss of trust, and trademark cancellation, offers valuable insights into its implications for intellectual property. The case law involving Reckitt and Colman of India vs. Kiwi TTK Ltd. illustrates the legal consequences of misrepresentation in a trademark dispute, highlighting the court's stance on "suggestio falsi" and its potential impact on claims. In conclusion, the paper emphasizes the importance of raising awareness about the dangers of false suggestions, particularly in influencing individual decision-making, societal beliefs, and public disclosure. This analysis serves as a valuable resource for understanding the multifaceted aspects of suggestio falsi across different sectors.

KEY WORDS-

Suggestio Falsi, Contracts, Suggestio Veri, Trademark

INTRODUCTION-

Suggestio falsi is a Latin term which means "suppression of truth" or "suggestion of the untrue", is a legal principle that holds significance in various legal contexts². Rooted in the idea that honesty and transparency are essential in legal transactions, this principle plays a crucial role in contract law, particularly in the recession of agreements between parties. In the realm of contract law, it provides a remedy for individuals who have been misled or deceived due to suppression of truth or the presentation of false information. The principle aligns closely with the broader concept of good faith in contracts, emphasizing the need for parties to deal with each other honestly and fairly. One prominent application of the principle is in the field of insurance contracts, in insurance agreements the insured party is obliged to provide accurate and complete

² Wellesley, Kenneth. (1960). SUGGESTIO FALSI IN TACITUS.

information to the insurer. If there is a deliberate suppression of relevant facts or the introduction of false information during the contractual process, it can be grounds for rescinding the contract. This underscores the importance of full disclosure and transparency in insurance transactions. It is essential to note that suggestio falsi is not merely about silence or non disclosure it specifically pertains to the active suppression of truth or the presentation of false information. Mere silence without an affirmative act of misleading may not constitute suggestio falsi. The legal implications of this find expression in IPC particularly in section 191 and section 192. Section 191 addresses the offense of giving false evidence, while section 192 focuses on the fabrication of false evidence. Both of these sections highlight the criminal consequences of intentionally misleading through false statements or evidence in legal proceedings. Section 193 of IPC outlines the punishment for the offenses under the sections mentioned before. The uniformity in punishment for both offenses reflects the seriousness with the legal system views dishonestly and the manipulation of evidence in legal proceedings. This aligns with the broader societal value of upholding truth and integrity in the pursuit of justice.

STATEMENT OF PROBLEM-

Suggestio falsi is a deceptive tactic of communication that is used by individuals to deceive others. One of the area where Suggestio falsi is majorly available is media outlets and online platform as in today's world we can see that media has become more of a source of entertainment rather than sore of information. The spread of misinformation depends on various factors. Social media platforms such as face book, twitter and youtube are known for this very reason, due to their wide user bases and the ease to load content make it easier. In the case of trademark suggestio falsi isn't very prevalent but posses a huge threat to both the consumers who are getting deceived and harmed as well as the firm whose trademark has been used as their reputation will get destroyed.

RESEARCH QUESTIONS-

1. How prevalent is suggestio falsi in different online platforms and media outlets, and what are the commonly affected sectors and industries?
2. Effects of suggestio falsi in trademark.

ANALYSIS

Suggestio falsi or false suggestion refers to an act of intentionally misleading or manipulating individuals through the presentation of false information. By understanding the mechanisms behind suggestio falsi, we can develop strategies to mitigate its influence and enhance critical thinking skills. The principle of suggestio falsi is often mixed with another Latin term “suggestio veri” which means suppression of truth. Together these concepts gives the idea that a party may be held liable not only for affirmatively stating falsehood but also for concealing material information that if known would have influenced the decision of another party.

Elements of Suggestio Falsi-

1. False representation- Involves the communication of a false statement or suggestion of the false fact must be made by one party to another. It can be an outright lie, a misleading fact or a half-truth. Occurs through spoken or written words, actions or failure to disclose material information. The other party must not have any knowledge of true fact or any kind of opportunity by which they might know the truth and any kind of legal damage must be there to the party being misled.
2. Intent to deceive- Another important element is that the party making the misrepresentation must have had the intent to deceive the other party to whom the false statement is made. Implies awareness that the information is false and an understanding of its potential influence on the recipient’s decisions. There must an establishment of a level of culpability for intentional misrepresentation.
3. Reliance- The party which have been deceived have been reasonably relied on the false representation and the misleading statement should have been an important party in the decision making process. If the party that has had not taken due care and because of their own lack of care and not verifying the information the case weakens and the misleading party is considered not at fault.
4. Damage- There must have been resulting damage by the misrepresentation of the facts to the party which has been misled by the other party. Harm can be financial, reputational or any detriment directly linked to misleading information. Without any demonstrable damage establishing a valid claim based on false representation becomes challenging.

Suggestio falsi in social media and other effected industries-

Social media platforms are hotbeds of misinformation due to their vast user base. False

information can easily go viral and reach to a large audience before fact checking measures can catch up. The challenges posed by misinformation extend beyond social media, as the news media can also become a reason for the false information spread, whether it is cause of insufficient fact checking, biased opinions or intentional disinformation. Pressure to publish breaking news quickly in this competitive environment can lead to error or unverified information. Legal implications arise in this context, touching on issues of responsibility, accountability and potential harm caused by the unchecked dissemination of false information. Unlike traditional media, social media lacks stringent editorial controls, making it easier for inaccurate information to go viral. The consequences of this unchecked spread can be significant, ranging from public panic and confusion to damage to individuals' reputations. Efforts to regulate and hold platforms accountable for the spread of false information have been topics of debate, with some arguing for increased responsibility and oversight. News media, traditionally seen as a reliable source of information also faces challenges in digital age. Legal frameworks often require news organizations to uphold journalistic standards and verify information before dissemination, but the practical challenges of a fast paced news cycle can sometimes undermine these principles.

In the legal context, individuals or entities harmed by false information may pursue defamation claims against those responsible for spreading misinformation. Defamation laws aim to protect individuals from false statements that harm their reputation. However, proving defamation can be complex, requiring a demonstration of false statements, harm and in some cases, a showing of actual malice. The role of intermediary liability comes into play. Social media platforms may be shielded from legal responsibility for user-generated content, but questions persist about their obligation to address misinformation. Legislative efforts are underway to strike a balance between protecting free speech and holding platforms accountable for the potential harms associated with the spread of false information.

Some of the most affected industries-

1. Technology and social media- The major player in suggestio falsi is social media and technology as most of the population has it's excess which results in rapid spread of misinformation. The unchecked spread of false information through these platforms impacts user behavior, potentially causing harm due to misguided decisions or beliefs. The prevalence of technology amplifies suggestio falsi, emphasizing the need for measures to curb the rapid propagation of misleading information and protect individuals from its adverse effects.

2. Financial services- Financial market is a huge place where the financial reports of the companies misrepresent the data and give the false information to the public. Which results in wrong decision making, risk assessment etc. which leads to financial fraud or mismanagement affecting investors and consumers alike. Investors and consumers bear the brunt of such representations, facing financial losses and a breach of trust, highlighting the critical need for transparency and accurate reporting in financial services sector.
3. Consumer products and services- In the consumer service industry the companies provide the consumers the false information or misrepresent their products so that the sales of their product increases which can harm consumers trust and impact sales. Suggestio falsi in this context not only affects consumer decision- making but also poses ethical concerns regarding the integrity of information provided to public.
4. Healthcare- In healthcare sector there are many cases where the patient has been told the false information or the patient tells the false statement or hide it in both the cases the harm to the health of the patient and tarnish the reputation of the healthcare provider and institutions. Upholding truthfulness and transparency in medical communication is crucial to maintaining the trust between healthcare professionals and patients, mitigating the potential negative impact of suggestio falsi in the healthcare domain.

Effects of Suggestio Falsi in Trademark-

What is trademark- These are symbols, words or phrases used to identify and distinguish between different company's goods and services. In the case of suggestio falsi in trademark can have following effects-

1. Trademark infringement- it occurs when a company deliberately uses another company's trademark to mislead or confuse consumers about the origin of goods and services. This deceptive practice, akin to suggestio falsi, can lead to legal repercussions and substantial damages for the infringing company. By capitalizing on the established reputation of another brand, the infringing party engages in misleading practices that compromise fair competition and violate intellectual property rights. Legal actions may include injunctions to stop the unauthorized use of the trademark and claims for damages resulting from the suggestio falsi, emphasizing the importance of safeguarding the distinctiveness of trademarks in the marketplace.

2. Dilution of trade mark value- Suggestio falsi can harm the originality and reputation of a well-known firm's trademark. This dilution of the trademark's value can lead to loss of market share or harm the finance of the original owner and diminished brand strength for rightful trademark owner. The suggestio falsi, by associating the trademark with potentially inferior or unrelated products or services, erodes the distinctive character and exclusivity of the mark. Protecting against such dilution requires vigilant enforcement of trademark rights and legal action against those engaging in deceptive practices that threaten the integrity of well-established brands.
3. Loss of customer trust- When another firm uses the trademark or a well-established firm to deceive consumers through suggestio falsi can damage the brand's reputation and lead to loss of trust among consumers. The intentional misrepresentation can lead to confusion and disappointment among consumers who may associate the unauthorized use with the original brand. This loss of trust can have long lasting effects, impacting customer loyalty and tarnishing the brand's image. Companies engaging in suggestio falsi risk alienating their target audience and facing reputational damage, underscoring the importance of ethical practices in maintaining strong customer relation.
4. Trademark cancellation- In some cases the affected trademark owner's trademark might get cancelled due to their engagement in deceptive practices with trademarks resulting in offending company's trademark registration. Legal frameworks often provide mechanisms for canceling trademarks involved in deceptive practices to protect fair competition and prevent the misuse of intellectual property. The cancellation serves as a corrective measure, signaling the consequences for companies employing suggestio falsi in their trademark strategies. It reinforces the significance of maintaining integrity and honesty in trademark usage, safeguarding the rights of original trademark owners and ensuring a fair marketplace for consumers and businesses alike.

CASE LAWS-

1. “Pioneer Urban Land and Infrastructure Ltd. And Anr. V. Union of India and Ors. (2019)³”

Challenges- the real estate companies argued that the classification of homebuyers as financial creditors is an unreasonable classification and is discriminatory as it treats unequal equally, and equal unequally thus the said amendment is violative of Article 14 of the Constitution. [amendment –“ Insolvency and Bankruptcy Code (Second Amendment) Act, 2018 (Second Amendment Act) which inserted two explanations in Clause (8) (f) of Section 5 of the Code.”] and the amendment was contrary to the objectives under IBC and some of exasperated homebuyers may cause the entire housing project to stand still. According to Dr. Abhishek Manu Singhvi these amendments are also violative of Article 19(1)(g) of the Constitution being manifestly arbitrary, being excessive, disproportionate, irrational and without determining principle.

How related to suggestio falsi and judgment-

The supreme court of India dealt with the issue of “suggestio falsi” in the context of real estate agreement. The court upheld the validity of the “real estate (regulation and development) act, 2016 and stated that any false statement or misrepresentation of fact done by the builder/ Developer in the sales of flat or properties can lead to legal consequences, including the refund of money to the buyer.

2. **Reckitt and Colman of India vs. Kiwi TTK Ltd.;**1996⁴

Facts:

The plaintiff introduced liquid shoe polish with natural wax, majorly Carnauba wax imported from Brazil, 10 years ago. The plaintiff argues that defendant and other manufacturers market liquid polish with less wax and more acrylic than the plaintiff's product. The plaintiff's polish is sold in angle neck bottles for easy application and he claimed that his polish is superior to competitors' products. The plaintiff has a 68% market share, while the defendant has only 20%. The defendant issued an advertisement allegedly disparaging the plaintiff's product. The defendant also manufactures blue whitener and issued an advertisement allegedly disparaging the plaintiff's Robin Liquid Blue

Issue:

³ [Pioneer Urban Land and Infrastructure Limited v. Govindan Raghavan](#), (2019) 5 SCC 725

⁴ [MANU/WB/0476/1998, Reckitt & Colman of India Ltd. v. Kiwi T.T.K. Ltd.](#)

Can the defendant be allowed to disparage the plaintiff's product through advertisements?

Ruling:

In this case, the Delhi High Court dealt with the issue of "suggestio falsi" in a trademark dispute. The court held that the plaintiff cannot be allowed to misrepresent or withhold material facts in connection with the trademark registration. The court ruled that such actions constitute "suggestio falsi" and can result in the rejection of the plaintiff's claims. The court modified the interim order to restrain the defendant from printing, circulating, or distributing the impugned advertisement with a red blob on the bottle of "Brand X" at consumer outlets or in the market place, or publishing it on electronic media or any other place. The court held that a manufacturer "is not entitled to say that their competitor's goods are bad to promote their goods. If an action lies for defamation, an injunction may be granted". The court also stated that observations made in this order will not affect the merits of the case.

CONCLUSION-

In conclusion, suggestio falsi, meaning the suppression of truth or suggestion of the untrue, holds significant importance in various legal contexts, especially in contract law. This legal principle plays a crucial role in addressing misleading or deceptive practices in contractual agreements. It aligns closely with the broader concept of good faith in contracts, emphasizing the need for parties to deal with each other honestly and fairly. Deliberate suppression of relevant facts or the introduction of false information during the contractual process can be grounds for rescinding the contract, highlighting the importance of full disclosure and transparency in insurance transactions. The research questions raised in the analysis delve into the prevalence of suggestio falsi in different online platforms and media outlets, as well as its effects on trademarks. The analysis emphasizes the deceptive tactics of communication prevalent in media outlets and online platforms, where the spread of misinformation is facilitated by the wide user bases and ease of content dissemination. The elements of suggestio falsi, including false representation, intent to deceive, reliance, and resulting damage, provide a framework for understanding and addressing deceptive practices. These elements highlight the importance of establishing the culpability of the party making the misrepresentation and the reliance of the deceived party on the false information. In the context of suggestio falsi in media and online platforms, the analysis identifies the challenges posed by social media platforms and news media in spreading false information. The lack of stringent editorial controls on social media platforms makes it easier for inaccurate

information to go viral, leading to significant consequences such as public panic, confusion, and damage to individuals' reputations. Efforts to regulate and hold platforms accountable for the spread of false information are subjects of ongoing debate, striking a balance between protecting free speech and addressing potential harms. Finally, the effects of *suggestio falsi* in trademarks are explored, highlighting issues such as trademark infringement, dilution of trademark value, loss of customer trust, and potential trademark cancellation. *Suggestio falsi* serves as a critical legal principle addressing deceptive practices in various contexts. As society grapples with the challenges posed by misinformation in the digital age, the principles of honesty, transparency, and integrity remain essential for upholding justice and maintaining trust in legal transactions, media, and business practices. Addressing *suggestio falsi* requires a multi-faceted approach, encompassing legal frameworks, ethical considerations, and technological solutions to promote a fair and truthful society.

