

# INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS



Open Access, Refereed Journal Multi Disciplinary  
Peer Reviewed Edition :

[www.ijlra.com](http://www.ijlra.com)

## **DISCLAIMER**

No part of this publication may be reproduced or copied in any form by any means without prior written permission of Managing Editor of IJLRA. The views expressed in this publication are purely personal opinions of the authors and do not reflect the views of the Editorial Team of IJLRA.

Though every effort has been made to ensure that the information in Volume 2 Issue 7 is accurate and appropriately cited/referenced, neither the Editorial Board nor IJLRA shall be held liable or responsible in any manner whatsoever for any consequences for any action taken by anyone on the basis of information in the Journal.

Copyright © International Journal for Legal Research & Analysis

IJLRA

## **EDITORIAL TEAM**

### **EDITORS**



### **Megha Middha**

*Megha Middha, Assistant Professor of Law in Mody University of Science and Technology, Lakshmanagarh, Sikar*

*Megha Middha, is working as an Assistant Professor of Law in Mody University of Science and Technology, Lakshmanagarh, 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*

### **Dr. Samrat Datta**

*Dr. Samrat Datta Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Samrat Datta is currently associated with Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Datta has completed his graduation i.e., B.A.LL.B. from Law College Dehradun, Hemvati Nandan Bahuguna Garhwal University, Srinagar, Uttarakhand. He is an alumnus of KIIT University, Bhubaneswar where he pursued his post-graduation (LL.M.) in Criminal Law and subsequently completed his Ph.D. in Police Law and Information Technology from the Pacific Academy of Higher Education and Research University, Udaipur in 2020. His area of interest and research is Criminal and Police Law. Dr. Datta has a teaching experience of 7 years in various law schools across North India and has held administrative positions like Academic Coordinator, Centre Superintendent for Examinations, Deputy Controller of Examinations, Member of the Proctorial Board*



## **Dr. Namita Jain**



*Head & Associate Professor*

*School of Law, JECRC University, Jaipur Ph.D. (Commercial Law) LL.M., UGC -NET Post Graduation Diploma in Taxation law and Practice, Bachelor of Commerce.*

*Teaching Experience: 12 years, AWARDS AND RECOGNITION of Dr. Namita Jain are - ICF Global Excellence Award 2020 in the category of educationalist by I Can Foundation, India. India Women Empowerment Award in the category of "Emerging Excellence in Academics by Prime Time & Utkrisht Bharat Foundation, New Delhi.(2020). Conferred in FL Book of Top 21 Record Holders in the category of education by Fashion Lifestyle Magazine, New Delhi. (2020). Certificate of Appreciation for organizing and managing the Professional Development Training Program on IPR in Collaboration with Trade Innovations Services, Jaipur on March 14th, 2019*

## **Mrs.S.Kalpna**

*Assistant professor of Law*

*Mrs.S.Kalpna, presently Assistant professor of Law, VelTech Rangarajan Dr. Sagunthala R & D Institute of Science and Technology, Avadi. Formerly Assistant professor of Law, Vels University in the year 2019 to 2020, Worked as Guest Faculty, Chennai Dr. Ambedkar Law College, Pudupakkam. Published one book. Published 8 Articles in various reputed Law Journals. Conducted 1 Moot court competition and participated in nearly 80 National and International seminars and webinars conducted on various subjects of Law. Did ML in Criminal Law and Criminal Justice Administration. 10 paper presentations in various National and International seminars. Attended more than 10 FDP programs. Ph.D. in Law pursuing.*



## **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.*

## **ABOUT US**

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS

ISSN

2582-6433 is an Online Journal is Monthly, Peer Review, Academic Journal, Published online, that seeks to provide an interactive platform for the publication of Short Articles, Long Articles, Book Review, Case Comments, Research Papers, Essay in the field of Law & Multidisciplinary issue. Our aim is to upgrade the level of interaction and discourse about contemporary issues of law. We are eager to become a highly cited academic publication, through quality contributions from students, academics, professionals from the industry, the bar and the bench. INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS ISSN 2582-6433 welcomes contributions from all legal branches, as long as the work is original, unpublished and is in consonance with the submission guidelines.

# **DEFAMATION IN ENGLISH LAW AND** **INDIAN LAW**

AUTHORED BY - SUNDRAM KUMAR

## **ABSTRACT**

In this paper, explore about the term defamation and also in detailed view on English and Indian law. In which there are two characteristics of defamation libel and slander. By this paper you may understand the distinction of defamation in English and Indian law. Furthermore, in this paper the essential elements of defamation is also cover which may helps to understand whether the statement which is given by any person is defaming another or not. Parvathi vs. Mannar case helps to understand the loopholes in the English law in regards with defamation.

## **INTRODUCTION**

In Black's Law Dictionary, defamation means the offence of injuring a person's character, fame, or reputation by false and malicious statement. As per the article 19(1)(a) of Indian Constitution guarantees to the citizens of india for freedom of speech and expression with some reasonable restrictions which means all the person has given right to freedom of speech and expression but no one defame another by saying or by written statement which may cause harm to his reputation. In law, defamation is attacking another's reputation by a false publication by communicating to third party tending to bring the person into disrepute. The defamatory statement can be orally and written. Written defamatory statement reffered as libeland orally referred as slander.

### **Essentials of defamation**

1. The statement must be defamatory.
2. The said statement must refer to the plaintiff. The statement must be understood by right-thinking or reasonable-minded persons as refer to the plaintiff.
3. The statement must be published, i.e., to say, it must be communicated to some person other than the plaintiff himself.

## DEFAMATION IN ENGLISH LAW

The law related to defamation in England is in the defamation act of 1952 and 1996.

Under English law, mainly because of historical reasons divides actions for defamation in two categories: -

1. Libel
2. Slander

In English law, libel is always actionable per se but slander considered as a no offence. Only in exceptional cases on the proof of "special damage" slander is actionable. The following four exceptional cases are as follows: -

1. Imputation of criminal offence to the plaintiff;
2. Imputation of a contagious or an infectious disease to the plaintiff which has the effect of preventing other from associating with the plaintiff;
3. Imputation that a person incompetent, dishonest or unfit in regard to the office, profession, calling, trade or business carried on by him;
4. Imputation of unchastity or adultery to any women or girl is also actionable per se. This exception was created by the slander of Women Act, 1891.

Similar doctrine like defamation existed thousand years ago in English and German Law, insults were punished by cutting out the tongue and in Roman Law abusive chants were capitally punishable.

## DEFAMATION IN INDIAN LAW

In English law, the distinction is made between libel and slander. Where slander is considered as a civil wrong and libel is considered as a crime. But in Indian law there is no distinction between libel and slander, both are criminal offence under section 499 of Indian Penal Code, 1860.

## CASES

In **Parvathi v. Mannar**<sup>1</sup>, it was held by Turner C.J. and Muthuswami Ayyar, J. that English Law which, except in certain cases, requires the proof of special damage in the case of oral defamation,

---

<sup>1</sup> I.L.R. (1885) 8 Mad. 175.

being founded on no reasonable basis, should not be adopted by the courts of British India. They also quoted certain authorities where it was observed that the law of England was itself unsatisfactory.

**Subramanian Swamy's** writ petition. on basic seven issue but the two issue are -

- (i) Declaring the section 499 and 500 of Indian Penal Code, 1860 as unconstitutional.
- (ii) Declaring section 199 (2) of Code of criminal procedure, 1973, as unconstitutional.

## **CONCLUSION**

In both English and Indian law, Defamation is a false statement that harms reputation of someone. In English law, libel and slander has the different punishment mainly the both libel and slander is different but in Indian law both libel and slander is encompasses under Defamation. In Indian law it is mainly divided in two categories to understand the Defamation in criminal and civil wrong. The term Defamation is considered as a criminal wrong under section 499 of Indian Penal Code, 1860 and their punishment is given under section 500 of Indian Penal Code, 1860.

