



Injury to reputation: Defamation Suits in India

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Abstract

'Defamation', in simple language is the term which means to harm the good reputation of the other person. For example, abusing, publishing defamatory material against someone, malicious gossip, character assassination etc. The defamation may also be called as calumny, vilification and traducement. If someone defamed the other person orally then such an act is termed as slander and if it is done by the way of printed words or images then it is termed as libel. S. 499-502 of Indian penal code talked about defamation. This is the immunity provided to each and every individual to protect his/her reputation. If such an allegation is proved in the court of law, then relief in the form of compensation is granted to the victim and also there is a provision for punishment under s. 500 which is imprisonment upto 2 years or fine or both.

So, this is the right of every citizen of India to exercise this power in case of any defamatory act is done by anyone against him. He can easily sue in the court of law and demand for such a relief for his lost reputation.

Keywords: reputation, Defamation, abusing, imprisonment

Introduction

The word "defamation" is defined in s. 499 of Indian Penal Code. According to this- S. 499. Defamation – 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, or knowing or having reason to believe that such imputation will harm, the reputation of such person, is said, except in cases hereinafter excepted, 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 is 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 caste 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 a loathsome state, or in a state generally considered as disgraceful.

There are certain exceptions to this section.

- **First exception:** imputation of truth which public good requires to be made or published – it is not defamation to impute anything which is true concerning any person, if it be for the public good that imputation should be made or published. Whether or not it is for the public good is a Question of fact.

- **Second exception:** public conduct of public servants – it is not defamation to express in 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 his character appears in that conduct, and no further.
- **Third exception:** conduct of any person touching any public question- 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:** merits of case decided in court or conduct of witnesses and others concerned –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 case, or respecting the character of such person, as far as his character appears in that conduct, and no further.
- **Fifth exception:** merits of public performance-it is not defamation to express in good faith any opinion respecting the merits of any performance which its author has submitted to the judgement of the public or respecting the character of the author so far as his character appears in such performance, and no further.
- **Sixth exception:** censure passed in good faith by person having lawful authority over another-it is not defamation in a person having over another any authority, either conferred by law or arising out of a lawful contract made with that other, to pass in good faith any censure on the conduct of that other in matters to which such lawful authority relates.
- **Seventh exception:** accusation preferred in good faith to authorised person-it is not defamation to prefer in good faith an accusation against any person to any of those who have lawful authority over that person with respect to the subject-matter of accusation.

- **Eighth exception:** imputation made in good faith by person for protection of his or other's interest-it is not defamation to make an imputation on the character of another provided that the imputation be made in good faith for the protection of the interest of the person making it, or of any other person, or for the public good.
- **Ninth Exception:** caution intended for good of person to whom conveyed or for public good-it is not defamation to convey a caution, in good faith, to one person against another, provided that such caution be intended for the good of the person to whom it is conveyed, or of some person in whom that person is interested, or for the public good. In the case of *Konath madhavi Amma v. S. M. Sherief and air*. The respondent-accused is the editor, printer and publisher of the daily newspaper "Geetha", published from Ernakulam. The complainant's case was that these publications are defamatory to her daughter, and openly injured their morality. The learned Chief Judicial Magistrate acquitted the accused. The question was that, is this complaint has as much seriousness that it must be entertained in the court of law. Because the said complaint did not disclosed any such allegation.

In the present case, the learned CJM found the two reasons for such acquittal-

1. The complaint was ambiguous and didn't disclosed the defamatory content.
2. There was no examination of neighbour to confirm the reputation of complainant and her daughter.

It was the fact that, it is not mandatory to prove that it is not mandatory to confirm that the complainant has gone through the scandalous imputations. If there is the Proof of intention, knowledge or reasonable belief then it is sufficient to prove that the harm to reputation is being done. The intention to cause harm to reputation. As it was published in daily newspaper, so there morality was openly injured. They were even shown that prostitutes are uncultured section of the society. And the complainant and his daughter were pointed out as prostitutes in the context of the published material. Moreover, it was alleged that prostitutes also used to supply themselves to politicians for their gains.so there is no doubt that the imputations are per se defamatory. The purpose of press is to show the way to people and it is not expected that it would harm the reputation of others. So proper care and caution was expected on the part of the editor, printer and publisher of the newspaper. It was being defended by the accused that the said imputations were the reproductions of the content. The evidence proves that on the basis of the evidence summons were issued to the complainant to the Karayogam of which she was a member. It is also seen from the evidence of DWs. 1 and 2 that she was dismissed from her membership due to her misbehaviour. From the evidence of PWs. 1 itself, it was justified that on the basis of Ext. D1 she was issued summons by Circle Inspector of Police. So it was clear that, warning was given to her. The above facts cannot be legal but they are the proofs of aspersions. Then the complaint further requested that the accused must be punished for such an irresponsible act. But it was being said by the accused that there were the absence of sufficient allegations and court cannot give such punishments on the basis of lack of evidence. Therefore his contention is that the acquittal is perfectly justified. So in the present case the accused must correctly know the allegations. The complaint

was not complete in itself and therefore it did not included the proper substance in it. If the complaint do not disclose the cause of action then the court will not take the cognizance.

Therefore, I am of opinion that the learned Chief Judicial Magistrate was correct and exercised the fine sense of judgement. Therefore, the decision donot require any further change and Cri. Appeal is therefore dismissed.

The another case is-

Harekrishna Mahatab vs Balkrishna Kar and Anr.

JUDGMENT Mohapatra, J.

The contempt proceedings were initiated by Shri H.K. Mahatab, the Chief Minister of the State of Orissa and thereafter a Union Minister in the Central Cabinet. The petition is against opposite party No. 1. Balakrishna Kar, Editor, Matrubhumi, and Proprietor of Saraswata Press and Opposite party No. 2, Rama Chandra Kar is the Printer and Publisher of Matrubhumi. Matrubhumi is a daily newspaper in orrisa.so in their newspaper they printed such an illegal acts of Shri Mahatab like bribery, dishonesty, unpatriotic acts etc. Due to which Shri Mahatab filed a suit for defamation in cuttack. He alleged that opposing party attempted to defame him and had a great role in spoiling his image. The plea taken by the opposite party was that it does not constitute contempt and never had any mala fied intention course of justice. There were many other instances also that many suits were being instituted against the said newspaper. Read as above, the article does not indicate that the publication was right. Therefore it was concluded that the abuse of Mahatab was done. So, the editor and printer were not supposed to take the advantage of their position and the court decided to warn them as there were so many complaints against the said newspaper. And the court said that they would take the very serious action in case of repetition of an offence. The opposite parties will, however, pay the costs of the petitioner. The hearing fee is assessed at Rs. 150/- (Rupees one hundred and fifty) Mohanty, J. And in the case of *Shatrughan Sinha v. Raja Bhanu Surajmal Rathi*, the respondent was the active member of marwadi community, he filed a complaint against cine-star Shatrughan Sinha, as he stated the defamatory statement that "Marwadi community has no affection or affinity to their motherland", the complainant alleged that the statement hurted the sentiments of marwadis. The High Court held that the charge as per s. 295-A was valid but not under s. 499.this was said by pune court. As as the complainant was filed in pune as well as nasik, the nasik magistrate held that the accused can be charged under s. 499 as there was a prima facie case against him. Then on the appeal, Supreme Court held that it is within the jurisdiction of magistrate to decide whether the accused can be charged for offence complained against the accused and this court need not interfere with the case at that stage. And in the case of *Ch. Ramoji Rao, Chairman, Ramoji Group of Companies and Another v. State of Andhra Pradesh*, The news telecast was been made, it also covered the visit of the Chief Minister of Andhra Pradesh along with some of his ministers. It was alleged that the said TV show was being relayed with the intention to harm the reputation of the Chief Minister as many words used were per se defamatory. The High Court held that prima facie case existed against the t. V channel and therefore no interference of the court was called for. And in the appeal before the Supreme Court, the TV channel clarified that it was not the defamatory material or there was no intention to defame him. Then on hearing both the

sides, the court therefore concluded that in the eyes of the court, public interest would be the best served in directing that the TV channel should make the broadcast within a week's time on the condition that the said commentary should not contain any matter that would defame the Chief Minister. The petitioner agreed to make such kind of broadcast and the opposite party agreed to withdraw the criminal complaint after such a broadcast on the TV channel. So there are some instances that expanded the s. 499 and clarified the kinds as well as the consequences of the said complaint. So, it is the right of an individual that one can file the complaint against any act, if he finds the said act as 'defamatory'. So it is the kind of immunity provided to us to defend ourselves and our reputation.

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