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Cyber Defamation - A Big Rising Issue?

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ABSTRACT

Defamation has been defined under Section 499 of the Indian Penal Code (IPC), 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. If any such action takes place online then it can be termed as Cyber Defamation.

Due to the increase in dependency on the internet, the use on online social media like Facebook, Instagram etc. has increased at a rapid rate over the past couple of years and is still growing. The biggest issue related to defamation online can be figuring out the person who has intended to harm the reputation of the victim, or to find the third person who has read or heard the defamatory sentence on the internet.

I. INTRODUCTION

The advancements in technology in the past few years have changed the way we live over lives in many ways we would have never imagined but with the advancement in technology comes various risks and complication that require our attention. The accessibility of internet to common man has changed everyone's lives. The internet is the place where we spend most of our time nowadays, things that we never imagined could be done online like meetings and classes are now a basic necessity. The platform provided by the internet has made interaction with other people so much easier. However, the convenience of interaction comes with various inconveniences that occur due to the misuse of this platform. It's so much easier for people who post unnecessary and false statements about a person or an entity to harm their reputation and goodwill In front of millions of people. Such an act amounts to "Cyber Defamation".

II. WHAT IS CYBER DEFAMATION?

Defamation has been defined under Section 499 of the Indian Penal Code (IPC), whoever, by words either spoken or intended to be read, or by signs or by visible representations, makes or

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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. If any such action takes place online then it can be termed as **cyber defamation**. Cyber defamation occurs when a computer/mobile connected to internet is used as a medium to harm a person reputation. However, a mere defamatory statement does not amount to defamation. The publication of such statement is a pre-requisite to establish defamation.

Defamation is of two types:

1) **Libel** – A defamatory statement published in a written form (Blog, chat rooms, social media posts etc.).

2) **Slander** - A defamatory statement that is made in a verbal form (Public comment on online media)

III. LAWS REGARDING CYBER DEFAMATION IN INDIA

Section 499 of the Indian Penal code says that “Whoever by words either spoken or intended to be read or by signs and visual 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 excepted to defame that person.”

Section 500 of the Indian Penal code provides the punishment for the acts committed under section 499 of the Indian Penal Code

Section 469 talks about forgery. If an individual creates a false document or a fake account for harming someone’s reputation. He/she is liable under this section of the Indian Penal code.

Section 503 of IPC deals with the offence of criminal intimidation by use of electronic means to damage one’s reputation in society.

Section 66A of Information & Technology Act 2000 has been struck down by the Supreme Court of India in *Shreya Singhal v. Union of India*, due to vagueness in the definition of the word ‘offensive’ in the Section.

IV. PROBLEMS AND CHALLENGES IN CYBER DEFAMATION

Due to the increase in dependency on the internet, the use on online social media like Facebook, Instagram etc. has increased at a rapid rate over the past couple of years and is still

growing. The biggest issue related to defamation online can be figuring out the person who has intended to harm the reputation of the victim, or to find the third person who has read or heard the defamatory sentence on the internet.

Most of the online blogs or social media sites don't require a user to provide their personal information to create an account. It get even more challenging to find out the people (Third party) who actually read the defamatory statement on various blogs or social media platform. Even if personal information of an individual is required to create an account then too the information provided by them could have been fake/wrong.

People often misunderstand defamation and freedom of speech because if the statement said by an individual is true then it can't come under defamation. The right to reputation of a living person under Article 21 cannot be sacrificed or crucified at the altar of another's right to freedom of speech. Both have to be harmonized, as no amount of damages can redeem the adverse impact on a person's reputation. Merely because previous similar publications exist does not permit repetition.
