



The Indian Journal for Research in Law and Management

Open Access Law Journal – Copyright © 2026

Editor-in-Chief – Dr. Muktai Deb Chavan; Publisher – Alden Vas; ISSN: 2583-9896

This is an Open Access article distributed under the terms of the Creative Commons Attribution-Non-Commercial-Share Alike 4.0 International (CC-BY-NC-SA 4.0) License, which permits unrestricted non-commercial use, distribution, and reproduction in any medium provided the original work is properly cited.

ONLINE DEFAMATION IN INDIA

Innama Haider

I. INTRODUCTION

Communicating a false statement of fact to a third party that damages another person's reputation is considered defamation in the traditional meaning. The Indian Penal Code, 1860's Sections 499 and 500 have long been used to codify the offence, which has traditionally only been prosecuted in print and broadcast media. Traditional legal frameworks are becoming more and more stretched as a result of the internet's introduction and, more especially, the growth of social media sites like Facebook, Instagram, YouTube, and Twitter/X.

Online defamation is more than just defamation via a different medium. This phenomenon is qualitatively distinct. In a few of hours, a defamatory post can be shared thousands of times, reaching viewers in several jurisdictions at once.

The internet's anonymity makes it more difficult to identify the offender, and the global reach of digital platforms creates challenging issues regarding whose law applies and which nation's courts have the authority to decide the case. Any lawyer working in the modern digital world must comprehend how Indian law handles these difficulties.

II. THE LEGAL FRAMEWORK FOR DEFAMATION DEFINITION

A. THE IPC'S DEFINITION OF CRIMINAL DEFAMATION

According to Section 499 of the IPC, defamation is defined as any imputation about a person that is made or published with the intention of harming that person's reputation, whether through spoken or intended-to-be-read words, signs, or visible representations. Simple imprisonment for a maximum of two years, a fine, or both are the penalties outlined in Section 500.

Ten exceptions are outlined in the section, including the publication of largely accurate reports of court proceedings and imputations made in good faith on the behaviour of public officers in the performance of their official duties.

Given the prevalence of opinion journalism, citizen reporting, and public commentary on the internet, these exceptions are especially pertinent.

It is important to note that criminal defamation in India is a non-cognisable offence, which means that the accused cannot be detained by the police without a warrant. A complainant must go directly to a magistrate, who will record the complainant's statement before issuing a summons. This procedural element makes civil remedies even more crucial in the online setting by severely restricting the use of criminal defamation as a weapon for rapid remedy.

B. DEFAMATION IN CIVIL COURT

A person who has been harmed by defamatory content may seek civil remedies based on tort law in addition to criminal culpability.

The plaintiff in a defamation civil action is entitled to compensatory damages and, in certain situations, aggravated damages for economic loss, emotional distress, and reputational harm. In order to prevent the publication of defamatory content, courts may also issue temporary or permanent injunctions.

Quick injunctive relief is frequently the most important remedy in cases of internet defamation. A plaintiff's main goal is typically the prompt removal of the offending post or article rather than damages because of how quickly content travels. In response to this fact, courts have increasingly granted ex-parte interim injunctions in urgent circumstances, compelling platforms to remove content while the whole litigation is being heard.

C. THE 2000 INFORMATION TECHNOLOGY ACT

In the digital sphere, the IT Act complements the IPC. In *Shreya Singhal v. Union of India* (2015), the Supreme Court overturned Section 66A, which made it illegal to convey material over a computer resource that is extremely insulting or dangerous, on the grounds that it was unconstitutionally ambiguous and overly broad, violating Article 19(1)(a). This historic decision continues to be a pillar of Indian jurisprudence on internet free expression.

Nonetheless, the IT Act's other provisions are still applicable and useful. The publication or transmission of pornographic content in electronic format is prohibited by Section 67.

III. CONSTITUTIONAL ASPECTS: REPUTATION VS. FREE SPEECH

Every citizen is guaranteed the fundamental right to freedom of speech and expression under Article 19(1)(a) of the Constitution. However, this right is not unqualified. The State may apply reasonable restrictions under Article 19(2) for a number of reasons, including public order, defamation, decency or morality, and India's sovereignty and integrity.

In *Subramanian Swamy v. Union of India* (2016), a five-judge Supreme Court Constitution Bench affirmed the constitutionality of criminal defamation under Sections 499 and 500 IPC, escalating the conflict between free speech and the right to reputation.

The Court reasoned that Article 21, which protects the right to life and personal liberty, including the right to live with dignity, is inextricably linked to the right to reputation. Therefore, Article 19(2) permits the prohibition of speech that unjustly damages the reputation of another. Crucially, the Court ruled that one's reputation cannot be sacrificed on the altar of free speech. In circumstances involving viral social media postings, where reputational harm can occur quickly and severely, this concept has established a benchmark in later defamation action.

IV. SAFE HARBOUR AND INTERMEDIARY LIABILITY

The liability of internet intermediaries, such as Google, Meta, X Corp, and others, for defamatory content created and posted by its users is one of the most contentious problems in online defamation.

When intermediaries act just as conduits and do not originate, choose, or alter the transmission of information, Section 79 of the IT Act offers them a conditional "safe harbour" that protects them from liability for third-party content. The immunity is not unqualified. According to Shreya Singhal, an intermediary loses its safe harbour protection if it receives real knowledge of illegal content through a government notification or court order and does not promptly remove or prevent access to such content.

These responsibilities for Significant Social Media Intermediaries (SSMIs), which are platforms with more than fifty lakh registered users, are greatly expanded under the IT Rules, 2021. In India, SSMIs must designate a Chief Compliance Officer, a Resident Grievance Officer, and a Nodal Contact Person; acknowledge complaints within 24 hours and address them within 15 days; and—most controversially—identify the "first originator" of information in India upon receiving an order from a government agency or competent court. The anonymity of online speakers is significantly impacted by this final condition.

The Supreme Court's reasoning in *Christian Louboutin SAS v. Nakul Bajaj* (2018) established the principle that a platform cannot claim safe harbour if it plays a "active role" in illegal activity. This principle is equally applicable when a platform editorially curates or amplifies defamatory content instead of merely hosting it.

V. PRINCIPAL DIFFICULTIES

IDENTIFICATION AND ANONYMITY

Anonymous or pseudonymous accounts are sometimes used to publish defamatory claims. Courts must issue disclosure orders against intermediaries in order to compel the identification of such

defendants. In cases when the plaintiff establishes a prima facie case of defamation and shows a legitimate interest in identifying the speaker, Indian courts have demonstrated a willingness to award such orders. However, this procedure is laborious, technically challenging, and occasionally hampered by the participation of international platforms that refuse to abide by Indian court decisions.

AUTHORITY

Determining jurisdiction in matters involving internet defamation is a complicated and dynamic field. The "download theory" of publication, which holds that defamatory text is published wherever it is accessed and read, has been widely accepted by Indian courts. Regardless of where the defamatory content was first uploaded, an Indian plaintiff may file a lawsuit in Indian courts if it was available and viewed in India. Although this guarantees Indian victims' access to justice, it also puts international platforms under compliance pressure and raises the possibility of forum shopping.

ONLINE PUBLICATIONS' PERMANENT NATURE

Online content is essentially permanent, in contrast to a newspaper. Even if the original offensive post is removed, it might have been preserved, cached, or screenshotted, and it might keep spreading forever. This permanency exacerbates reputational damage and presents challenging issues regarding the statute of limitations for defamation lawsuits, particularly whether the cause of action is ongoing and if each new "download" or access qualifies as a new publication.

AI-GENERATED CONTENT AND DEEPFAKES

A new area of internet defamation is represented by the rise of artificially produced images, videos, and sounds, or "deepfakes." Videos that have been altered to appear to show someone saying things they never said or acting in ways they never did can seriously damage someone's reputation. Although courts may apply current defamation standards in addition to the IT Act's limitations on the dissemination of false content, Indian law does not currently have a particular provision addressing deepfake-based defamation.

VI. NOTABLE CASES AND JUDICIAL TRENDS

Indian courts have been dealing with online defamation more and more. The judiciary's changing stance is demonstrated by a few noteworthy cases.

The Delhi High Court ordered one of India's first injunctions in an internet defamation case in *SMC Pneumatics (India) Pvt. Ltd. v. Jogesh Kwatra* (2014), prohibiting a former employee from sending disparaging and defamatory emails to the company's clients and business colleagues. The Court acknowledged that emails and other electronic communications could be actionable defamatory publications and that courts had the authority to provide temporary remedy in order to stop further harm.

The liability of digital publishers and news portals has also been a problem for courts. The Delhi High Court recognised the challenges of applying traditional defamation rules to online information and the significance of separating opinion from reality in online publications in *Tata Sons Ltd. v. Greenpeace International* (2011), despite the court's primary focus on trademark concerns.

Courts have been willing to grant ex-parte injunctions in social media cases where the plaintiff shows a significant risk of irreversible harm while the lawsuit is being resolved. They have also frequently emphasised the increased duty of care owed by people who publish statements on platforms with large audiences.

VII.RECOMMENDATIONS

Although the current legislative framework provides a practical basis, specific reforms are necessary to address the unique challenges of the internet. First, India would gain from specific cyber-defamation laws that combine the pertinent sections of the IT Act and the IPC into a logical, useful law. Such law should establish norms of accountability for intermediaries, create a streamlined process for the accelerated processing of urgent claims, and explicitly define the elements of the offence in the digital setting. Second, internet defamation cases should be heard via expedited adjudicatory processes, such as specialised sections of the current High Courts or specialised digital tribunals. The internet's speed necessitates equally quick legal remedies.

VIII. CONCLUSION

Online defamation occurs at a particularly delicate legal intersection: the individual's fundamental right to free speech, the equally fundamental right of another to live with dignity and an untarnished reputation, and the internet's structural elements that simultaneously empower speakers and their targets. Indian law offers a basis for resolving these conflicts through the IPC, the IT Act, and an expanding body of court precedent. But it's a foundation that needs to be strengthened.

Legal professionals need to be aware of the unique procedural and substantive difficulties that internet defamation cases bring, including issues with permanency, jurisdiction, anonymity, and the new evidence issues raised by content created by artificial intelligence. Meanwhile, policymakers must avoid the dual temptations of under-regulation, which stifles free speech, and over-criminalization,

