



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.

Legal Aspects of Online Defamation in India

Darshan.S

SRI JAGADUGURU RENUKACHARYA COLLEGE OF LAW

Introduction

The exponential growth of the internet and social media platforms has transformed the way individuals communicate, express opinions, and access information. While this digital revolution has strengthened freedom of speech and democratic participation, it has also created new avenues for abuse, particularly in the form of online defamation. Statements once confined to private conversations can now be published instantly, reach millions, and permanently damage an individual's reputation. In India, where personal reputation is closely linked to dignity and social standing, online defamation presents serious legal, ethical, and constitutional challenges.

Online defamation raises complex questions regarding jurisdiction, anonymity, intermediary liability, and the balance between free speech and the right to reputation. Indian law, though not exclusively designed for digital defamation, has evolved through statutory interpretation and judicial pronouncements to address this emerging menace. This article examines the legal framework governing online defamation in India, key judicial decisions, procedural challenges, and the need for legal reform in the digital age.

Understanding Defamation in the Digital Context

Defamation refers to the publication of a false statement concerning a person that harms their reputation. Under Indian law, defamation is traditionally classified into libel and slander. Online defamation largely falls within the scope of libel, as defamatory statements are published in written or permanent digital form such as social media posts, blogs, online articles, images, and videos.

Section 499 of the Indian Penal Code, 1860 defines defamation broadly enough to include electronic publication. The expression “makes or publishes” has been judicially interpreted to cover online dissemination, irrespective of the medium used. The permanent and viral nature of online content aggravates the harm caused, making remedies more urgent and complex.

Constitutional Perspective: Freedom of Speech vs Right to Reputation

Article 19(1)(a) of the Constitution of India guarantees the right to freedom of speech and expression. However, this right is subject to reasonable restrictions under Article 19(2), including restrictions imposed in the interest of defamation.

The Supreme Court has repeatedly held that the right to reputation is an intrinsic part of the right to life and personal liberty under Article 21. In *Subramanian Swamy v. Union of India*, the Court upheld the constitutionality of criminal defamation, observing that the right to freedom of speech cannot be allowed to trample upon an individual’s right to dignity and reputation.¹

Thus, online defamation cases require courts to strike a balance between free expression and protection of reputation, ensuring that constitutional freedoms are exercised responsibly.

Statutory Framework Governing Online Defamation in India

BNS, 2025 Sections 499 and 500 of the BNS form the cornerstone of criminal defamation law in India.

Section 499 BNS defines defamation and enumerates ten exceptions.

Section 500 BNS prescribes punishment which may extend to two years’ imprisonment, fine, or both.

Courts have clarified that defamatory content published on digital platforms squarely falls within the scope of these provisions. In *SMC Pneumatics (India) Pvt. Ltd. V. Jogesh Kwatra*, the Delhi High Court recognized email-based defamatory communication as actionable defamation, setting an early precedent for digital defamation cases.²

Information Technology Act, 2000

Although the IT Act does not expressly criminalize defamation, it plays a crucial role in regulating online conduct.

Section 79 of the IT Act provides conditional immunity to intermediaries for third-party content, subject to compliance with due diligence requirements. The Supreme Court in *Shreya Singhal v. Union of India* clarified that intermediaries are required to act upon actual knowledge of unlawful content through court orders or government notifications.³

The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 further strengthen this framework by imposing obligations on intermediaries to remove defamatory content upon receiving lawful orders.

Civil Defamation and Tortious Liability

Apart from criminal remedies, victims of online defamation can pursue civil remedies under the law of torts. Civil defamation focuses on compensation and injunctive relief rather than punishment.

Indian courts have increasingly granted interim injunctions directing removal of defamatory online content, recognizing that continued availability causes irreparable harm. In *Tata Sons Ltd. V. Greenpeace International*, the Delhi High Court acknowledged that online publication can seriously affect corporate and individual reputation, warranting judicial intervention.⁴

Intermediary Liability in Online Defamation

The liability of intermediaries has been one of the most debated aspects of online defamation. While intermediaries enjoy safe harbour under Section 79 of the IT Act, this protection is not absolute.

In *MySpace Inc. v. Super Cassettes Industries Ltd.*, the Delhi High Court held that intermediaries must act expeditiously upon receiving specific knowledge of unlawful content.⁵ Failure to do so can result in loss of statutory immunity.

Thus, social media platforms cannot remain passive facilitators when defamatory content is brought to their notice through lawful channels.

Anonymity and Identification of Defamers

Online defamation frequently involves anonymous users, complicating enforcement. However, Indian courts have recognized that anonymity cannot override accountability.

Courts have permitted disclosure of user information by intermediaries in defamation cases, subject to due process. The right to privacy and anonymity does not extend to protecting unlawful acts, including defamatory speech.

Jurisdictional Challenges in Online Defamation

Online defamation transcends territorial boundaries, raising jurisdictional complexities. Indian courts have adopted a victim-centric approach, holding that jurisdiction exists where defamatory content is accessed and causes reputational harm.

In *Banyan Tree Holding (P) Ltd. V. A. Murali Krishna Reddy*, the Delhi High Court applied the “effects doctrine,” recognizing jurisdiction based on the place where harm occurs.⁶ This approach has been followed in subsequent online defamation cases.

Judicial Trends and Approach

Indian courts have shown increasing sensitivity towards the devastating impact of online defamation. Swift interim relief, takedown orders, and recognition of digital reputational harm reflect a progressive judicial approach.

At the same time, courts have consistently protected fair criticism, satire, and honest opinion, emphasizing that defamation law must not become a tool to silence dissent or criticism.

Defences Available in Online Defamation

The statutory exceptions under Section 499 IPC apply equally to online defamation. These include:

Truth made for public good

Fair comment on matters of public interest

Good faith publication

Privileged communications

Courts assess intent, context, and impact carefully, particularly in the digital environment where misinformation spreads rapidly.

Remedies Available to Victims

Victims of online defamation may seek:

Criminal prosecution under IPC

Civil damages and injunctions

Interim takedown orders

Directions to intermediaries for content removal

The availability of both civil and criminal remedies provides a comprehensive legal response, though procedural delays remain a concern.

Need for Legal Reform

Despite judicial evolution, India lacks a dedicated statutory framework addressing online defamation. Reliance on colonial-era criminal provisions raises concerns of over-criminalization and misuse.

Scholars have advocated for a balanced reform that protects reputation without chilling free speech, particularly in the context of digital platforms and citizen journalism.⁷

Conclusion

Online defamation poses serious challenges to individual dignity, democratic discourse, and legal enforcement in India. While existing laws under the IPC and IT Act have been adapted through judicial interpretation, evolving technology demands clearer statutory guidance. Indian courts have played a crucial role in balancing freedom of speech with the right to reputation, reinforcing that digital platforms cannot operate in a legal vacuum.

A nuanced and modern legal framework is essential to address online defamation effectively, ensuring accountability while preserving constitutional freedoms in the digital age.

References (Bluebook Style – Indicative)

Subramanian Swamy v. Union of India, (2016) 7 SCC 221.

SMC Pneumatics (India) Pvt. Ltd. V. Jogesh Kwatra, 2001 SCC OnLine Del 897.

Shreya Singhal v. Union of India, (2015) 5 SCC 1.