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

Kamakshi Singh

Abstract

The rapid expansion of digital communication has transformed the nature of defamation, enabling statements that damage reputation to reach extensive audiences within seconds and remain accessible for prolonged periods. In India, online defamation presents significant legal challenges concerning the protection of individual reputation, freedom of speech and expression, and the responsibilities of digital intermediaries. This article examines the legal framework governing online defamation, with particular reference to Section 356 of the Bharatiya Nyaya Sanhita, 2023, Articles 19(1)(a) and 19(2) of the Constitution of India, and Section 79 of the Information Technology Act, 2000. It analyses judicial interpretations in Subramanian Swamy v. Union of India, Shreya Singhal v. Union of India, and Khawar Butt v. Asif Nazir Mir to understand the constitutional limits of expression, intermediary liability, and the complexities of anonymity, jurisdiction, and limitation in online disputes. The article argues that effective regulation must protect reputation without unduly restricting legitimate criticism, satire, and public discourse. It concludes that a balanced legal approach, supported by appropriate judicial oversight and clearly defined intermediary responsibilities, is essential to ensuring accountability while preserving freedom of expression in India's evolving digital landscape.

Introduction

The internet has completely changed how defamation works. In the past, people might see statements in newspapers or hear them during speeches. Today, a single online post can spread everywhere—on social media, blogs, videos or even simple comments. A bad review, a remark or a viral meme can reach thousands or even millions of people within minutes. Once something goes online, it can stay there for years. This makes controlling

defamation very difficult. The law now has a difficult task: protecting personal reputations without stopping free speech on the internet.

What Is Online Defamation?

Defamation means making or publishing an imputation that harms someone's reputation. Sharing those words online does not make the act illegal by itself. The basic principles of defamation continue to apply whether the statement is made in print, on stage or through a digital platform. The problem with the internet is that content spreads faster and can remain accessible for much longer. What was intended for a limited audience can become public overnight.

India's new Bharatiya Nyaya Sanhita, 2023 includes defamation under Section 356. It covers imputations made or published through words, signs or visible representations, where the person intends to harm, or knows or has reason to believe that the imputation will harm, another person's reputation. The law also contains exceptions, including situations involving truth for the public good and certain communications made in good faith.[1] Thus, simply because something is posted online does not mean that the ordinary principles of defamation disappear.

Drawing the Line: Reputation vs. Free Speech

The major debate around defamation is where to draw the line. How do we protect a person's reputation while still allowing free expression?

Article 19(1)(a) of the Indian Constitution gives citizens the right to freedom of speech and expression. Article 19(2), however, permits reasonable restrictions on this freedom, including in relation to defamation. In Subramanian Swamy v. Union of India, the Supreme Court upheld the constitutional validity of criminal defamation. The Court also recognised reputation as an aspect of the right to life and personal liberty under Article 21.[2]

Here is the key point: not every harsh opinion or strong criticism amounts to defamation. Online spaces are built on debate, satire and bold ideas. The real question is whether a particular statement satisfies the legal requirements of defamation and falls outside the applicable exceptions. Getting this balance right is especially important when important public issues are being discussed.

[1] Bharatiya Nyaya Sanhita, No. 45 of 2023, § 356 (India).
[2]Sumramanian Swamy v. Union of India, (2016) 7 SCC 221.

The IT Act's Place in It All

The Information Technology Act, 2000 does not create a separate offence called "online defamation." Instead, its relevance lies particularly in regulating intermediaries—platforms that host or transmit content created by their users. Section 79 provides conditional protection to intermediaries from liability for third-party information, subject to the statutory conditions and due-diligence requirements.[3]

In the landmark case of Shreya Singhal v. Union of India, the Supreme Court clarified the operation of Section 79. It held that the "actual knowledge" requirement under Section 79(3)(b) operates on the basis of a court order or a notification from the appropriate government or its agency concerning unlawful material. The Court recognised the difficulty of requiring intermediaries to independently determine the legality of every complaint they receive.[4]

This is important because most online posts are created by users, not by the platforms themselves. Therefore, the question of whether a statement is defamatory is separate from the question of when an intermediary may be required to remove or disable access to that content. Platforms are not judges; they are intermediaries.

Anonymity and Jurisdiction: Why Things Get Messy

Two problems make online defamation particularly complicated: finding out who wrote the statement and figuring out where a case can be brought.

Many people post anonymously or use fake names. Identifying them can therefore be difficult, and courts may need legal procedures to obtain information from service providers. A damaging post might be written in one city, stored through infrastructure located elsewhere and read by people across the world.

In Khawar Butt v. Asif Nazir Mir, the Delhi High Court considered whether leaving allegedly defamatory material continuously available on Facebook creates a fresh cause of action every time it is viewed. The Court adopted the single publication rule, holding that merely keeping the same defamatory material online does not continuously restart the limitation period. However, republication aimed at reaching a different or larger audience may give rise to a fresh cause of action.[5]

[3]Information Technology Act, No. 21 of 2000, § 79 (India).

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

[5]Khawar Butt v. Asif Nazir Mir, CS (OS) No. 290 of 2010 (Delhi High Ct. Nov. 7, 2013).

So What's Next?

More content is being posted every day, and it travels faster than before. Defamation law therefore cannot ignore the way digital platforms operate. If the rules become excessively strict, honest conversations and legitimate criticism may also suffer

A practical approach would include effective mechanisms for identifying anonymous users, enabling courts to order the removal of unlawful content where appropriate, resolving jurisdictional questions and clearly defining the responsibilities of intermediaries. At the same time, people should retain the ability to speak freely and engage in fair criticism.

Conclusion

Online defamation is ultimately about balancing freedom and responsibility in the digital age. India already has a legal framework through the Bharatiya Nyaya Sanhita, the Constitution and the Information Technology Act, while courts have adapted traditional legal principles to online communication. The challenge is to protect reputation without turning defamation law into a tool for silencing legitimate voices.

Getting online defamation law right is not simply about making stricter rules. It is about determining how reputation, accountability and genuine freedom of expression can coexist in an increasingly digital society.