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.

DEFAMATION LAWS IN INDIA: BALANCING FREE SPEECH AND REPUTATION

-Pracheeta Beck

In today's world, the boundary between the freedom of speech and the harm to reputation can drastically or severely change because of one statement provided through any platform like social media post, video, article or even a comment can influence how others perceive it. Although the Constitution of India protects the freedom of speech and expression of its own citizen but their freedom is not absolute. While every individual has an interest of protecting its own reputation and dignity. Indian defamation law attempts to maintain a balance between these competing interests. Though the real challenge is not to decide whether free speech or reputation is important but to determine the legitimacy where the expression ends and the unlawful harm to reputation begins.

Under Section 356 of *Bharatiya Nyaya Sanhita, 2023* (BNS)[1], a person may commit defamation when they make or publish imputation concerning another person with the intention of knowledge to believe that it will harm that person's reputation. The provision also covers imputations made through signs, words, or visual representation. A statement does not automatically become defamatory because it is unpleasant or offensive[2]. It must contain an imputation concerning an identifiable person and be communicated to someone other than that person with the potential to harm their reputation. And the context in which the statement is made also matters. Indian law recognises several exceptions like a statement which is capable of affecting someone's reputation is not automatically unlawful[3]. Civil defamation primarily provides for monetary compensation to the person where reputations has been harmed while criminal defamation seeks for punishment including a fine or imprisonment as subject to the applicable law[4].

---

[1] Bharatiya Nyaya Sanhita, No. 45 of 2023, § 356(1) (India).
[2] d. § 356(1), Explanation 4.
[3] Id. § 356(1) exceptions 1–10.
[4] § 356, R. Rajagopal v. State of T.N., (1994) 6 SCC 632.

The Constitution of India protects both the freedom of speech and the dignity of an individual making defamation as an important constitutional matter. *Article 19(1)(a)*[5] guarantees the citizens the rights to freedom of speech and expression allowing them to express their opinions, ideas and criticisms, although this freedom is not absolute. *Article 19(2)*[6] allows the State to impose reasonable restrictions on the exercise of this right on specified grounds including restrictions on the ground of defamation. The Supreme Court has recognised reputation as an important aspect of the right to life and personal liberty under *Article 21*[7] which creates balance between two important interests that are the freedom to express oneself and the right of an individual to protect their reputation.

The emergence of social media in the recent times has added a new dimension to the problem of defamation where a statement made on a social media platform can reach a large number of audience within a very short period of time and can be shared or reposted repeatedly[8]. In social media, posts, videos, comments and online allegations have a significant impact on a person's reputation. At the same time, social media has become an important platform for individuals to express opinions and criticise public figures, institutions and events which makes it difficult to distinguish between legitimate criticism and defamatory statements. The challenge becomes even greater when content is shared without verifying its accuracy or when anonymous accounts are involved. The digital nature of such content also makes reputational harm difficult to contain once information has spread widely.

The main challenge in defamation law is to determine where legitimate expression ends and unlawful harm to reputation begins. Although protecting reputation is important because false allegations affect a person's dignity, personal relationships and professional life. However, an overly broad application of defamation law could discourage people from expressing genuine opinions or criticising individuals in positions of public responsibility. This distinction becomes particularly important in a democracy, where disagreement and criticism are a normal part of public discussion. A statement should therefore not be treated as defamatory simply because it is unpleasant, unpopular or critical[9] At the same time, freedom of speech cannot be treated as a justification for making statements that unlawfully damage another person's reputation. The exceptions and safeguards under defamation law are therefore

---

[5] INDIA CONST. art. 19, cl. 1(a).
[6] INDIA CONST. art. 19, cl. 2.
[7] Subramanian Swamy v. Union of India, (2016) 7 SCC 221.
[8] Khushwant Singh v. Maneka Gandhi, (2002) 5 SCC 190.
[9] Bharatiya Nyaya Sanhita, No. 45 of 2023, § 356(1) exceptions 2–3 (India).

important in maintaining this balance. The growing use of social media makes the task more difficult, as the consequences of a statement can extend far beyond its original audience.

The defamation law in India expresses the need to protect an individual's reputation and to preserve the freedom to express opinions and participate in public discussion. The constitutional protection of free speech along with the recognition of reputation is an important aspect of individual dignity. The overall growth of social media has made this balance even more significant. The objective should not be to prevent criticism or disagreement but to ensure that freedom of expression does not become a means of causing unlawful harm to another person's reputation. Thus, maintaining a fair balance between the two remains essential to a healthy democratic society.