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UNDERSTANDING DEFAMATION LAW: AN COMPREHENSIVE OVERVIEW

INTRODUCTION

Defamation is an act of making any false statement about another person's which can damage his/ her reputation¹. Any conversation which is done intentionally either written or spoken that harm or decrease the respect, confidence, or feelings of a person is a part of defamation². But all those thing should show that statement is made with a malicious intent it was not a fair comment.

According to Scrutton LJ Defamation is 'a false statement about a man to his discredit'.

Criminal Defamation mean doing an act by committing an criminal act to defame a person. It is defined under Section 499 of Indian Penal Code. For Example: A tell B that his phone has been stolen and then b point out toward Z that he can be the one who have stolen your phone. Here B constitute defamation by accusing Z without any Evidence.

Civil Defamation means when person defame other person but no crime will be committed. Here you can sue person for compensation. It is defined under Law of tort.

¹ <https://dictionary.law.com/default.aspx?selected=458>

² <https://www.legalserviceindia.com/legal/article-207-defamation-in-law-of-torts-meaning-essentials-and-defences.html>

Types Of Defamation :

- Libel: Any statement that is made to defame people in writing, print, picture, or in any visible form. Libel can cause highly damage to a person reputation as it is in written form and visible to many person. For Example: A make a defamatory statement about person B and post it on Social Media Platform accusing him for involving in falsely activities. So here A commit Libel Defamation³.
- Slander: Any statement that is made to defame people but in oral form which can be in communication or speech. Slander cause less damage to a person reputation as conversation is between less people. For Example: A make a defamatory statement between some group of people about B that he is involved in criminal activity. So here A commit Slander⁴.

Essential of Defamation :

It include that statement must be defamatory, lower the reputation of a person, it must be refers to plaintiff and it should be published or communicated. Essentials are:

- The statement must be published: Statement which is published must lower the reputation of person and it should hurt the feeling of person by hatred or dislike. That statement must depend what society think of that.
- Statement must refer to plaintiff: Statement which is publish should refer or questioned to a plaintiff. Plaintiff must prove that statement is infer to him.
- Defamation must be published: Publication of a defamatory statement to someone other than the person defamed is crucial to making a person liable. Without publication, no action for defamation can be pursued.
- Innuendo: It means that there is hidden and secondary meaning in the statement. It depend on person whether he takes it in which way⁵.

³ <https://lawctopus.com/clatalogue/clat-ug/ipc-notes-defamation-under-the-indian-penal-code/>

⁴ id.at 3.

⁵ <https://lawbhoomi.com/essentials-of-defamation/>

Case Law:

Youssouf v. MGM Pictures Ltd:

The speech that synchronizes with a cinema film is deemed to be defamatory in addition to the photography that makes up the film. Defamation can include statements that make someone avoid or shunned: "The matter is defamatory not only if it gives rise to hatred, ridicule, or contempt toward the plaintiff due to some moral discredit on [the plaintiff's] part, but also if it tends to make the plaintiff be shunned and avoided, and that without any moral discredit on [the plaintiff's] part." She was therefore given a damages award.

D. P. Choudhary v. Kumari Manjulata:

Defendant Manjurata, aged about 17, belongs to a respected family and holds a bachelor's degree. A message appeared in her local daily, Dainik Navjyoti, that she ran away last night with a boy named Kamlesh. But she had gone to to take her evening class. The news was not true and was published completely irresponsibly and carelessly. She was shocked and made fun of by others's lawsuit was found to be defamatory and she was entitled to her 10000 rupee damages as general damages to her⁶.

SIM V STRETCH:

The housemaid for the plaintiff left her job to work for the defendant. "Today, Edith has returned to her work with us," the accused stated by telegraph. "Please give her income, the money she borrowed, and her belongings." In an attempt to get damages, the plaintiff said that the defendant's comments were defamatory because they implied that the plaintiff was in such dire need of money that he had taken out a loan from his servant. The court ruled that there was no reasonable way to construe the comments in a way that would be defamatory⁷.

⁶ <https://www.legalserviceindia.com/legal/article-207-defamation-in-law-of-torts-meaning-essentials-and-defences.html>

⁷ <https://www.lawyersclubindia.com/articles/defamation-a-tort-and-a-crime-14822.asp#:~:text=In%20India%2C%20defamation%20is%20considered,compoundable%20offence%20under%20criminal%20law.>

Cassidy v Daily Mirror Newspapers Ltd:

In this instance, Mr. Cassidy did not live with his lawful wife (Mrs. Cassidy), but they occasionally stayed together at her apartment. The defendants published a photo of Mr. Cassidy and Miss "X" in their newspaper with the caption, "Mr. M. Cassidy, the race house owner, and Miss 'X,' whose engagement has been announced." Mrs. Cassidy sued the defendant for libel, alleging that the statement implied that Mr. Cassidy was not her husband and was living with her in an immoral manner. The court determined that the innuendo was established, despite the statement appearing innocent at first look⁸.

CONCLUSION:

A tort originating from defamation is called defamation. It involves lying to a third party and damaging the reputation of another individual. Reputational harm is what defamation is. The purpose of defamation laws is to shield people's reputations from unfair criticism. Its main practical effects are to stifle free speech and shield the powerful from criticism. Defamation laws give persons the right to sue anyone who makes or posts offensive or untrue statements.

⁸ <https://lawbhoomi.com/essentials-of-defamation/>