DEFAMATION LAWS IN INDIA

Under Section 499 of the Indian Penal Code, defamation is committed:

“Whoever, by words either spoken or intended to be read, or by signs or by visible representations, makes or publishes any imputation concerning any person intending to harm, or knowing or having reason to believe that such imputation will harm, the reputation of such person, is said, except in the cases hereinafter expected, to defame that person.”

Under Section 500 of the Indian Penal Code, defamation shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or both.

The following are some defenses which may be invoked against the crime of defamation:

* Truth published for public interest;
* Any expression in good faith on the conduct or character of a public servant on a public question.
* Publication of a substantially true report.
* It is not defamation to express in good faith any opinion regarding the merits of any case, which has been decided by a Court of Justice, or the conduct of any person as a party, or the witness or the agent, in such case.
* It is not defamation to express in good faith any opinion regarding the merits of any performance which an author has submitted to the judgment of the public.
* It is not defamation if a person having any authority over another person, either conferred by law or arising out of a lawful contract, to pass in good faith any censure on the conduct of that other in matters to which such lawful authority relates.
* It is not defamation to prefer in good faith an accusation against any person to any of those who have lawful authority over that person with respect to the subject matter of accusation.
* It is not defamation to make an imputation on the character of another person, provided it is made in good faith by person for protection of his or other’s interests.
* It is not defamation to convey a caution, intended for the good of a person to whom conveyed or for public good.

In India, defamation through the internet is punishable under Article 66A of the Information Technology Act of 2000 and may be punishable for imprisonment upto three (3) years, and a fine.

However, by virtue of Section 79 of the Information Technology Amendment Act 2008 which became a law on February 5, 2009, social networking websites or known as intermediaries “*shall not be liable for any third party information, data, or communication link made available by him”  and provided the following requisites are present —*

*(a) the function of the intermediary is limited to providing access to a communication system over which information made available by third parties is transmitted or temporarily stored; or*

*(b) the intermediary does not—*

*(i) initiate the transmission,*

*(ii) select the receiver of the transmission, and*

*(iii) select or modify the information contained in the transmission.*

Under Section 468 (2) (c ) of the Criminal Procedure Code, it stipulates that the limitation for prosecution of offenses punishable with imprisonment for a term more than one (1) year but not exceeding three (3) years shall be *three (3) years.*Under Section 199(5) of the Criminal Procedure Code, if the offense for defamation is committed against the President/Vice President of India, Governor of the State, Minister of a Union or of a State, or any other public servant employed in connection with the affairs of the Union or of a State in respect of his conduct in the discharge of his public functions,  the action shall prescribe if the Complaint to be initiated in writing by the Public Prosecutor shall not be made within a period of six (6) months from the time of the commission of the offense.

As far as defamation under tort law is concerned, as a general rule, the focus is on libel (i.e. written defamation) and not on slander (i.e. spoken defamation). In order to establish that a statement is libelous, it must be proved that it is (i) false, (ii) written; (iii) defamatory, and (iv) published.

In a report by Article IX (),  companies in India are resorting to legal action and claiming defamation damages from their employees.  This is due to the fact that businesses in India are more aware of staff venting their frustrations over the internet.

Nevertheless, the International Press Institute reports that India is considering a review of its defamation laws to ensure that journalists do not face criminal proceedings as a result of their work