

DEFAMATION IS THE PUBLICATION OF A STATEMENT

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ABSTRACT

The purpose of this research is to find out if the general public is aware of the term “defamation” or in simpler words are people aware that they can sue anyone for spoiling their reputation with false statements maliciously, defamation is something that harms a person mentally, it is an attack of words which is done to spoil a person's image in public or in a group of people. There are two types of defamatory statements are slander and libel, where if someone writes and publishes something that is untrue about a person done intentionally to spoil one's reputation is called libel and oral defamatory statements are called as slander. There are four elements a person must prove to show that he or she has been defamed the following are publication, identification, harm and fault.

INTRODUCTION

Defamation is the publication of false statements which is done to damage a person's reputation intentionally, communicating a false description or portrayal to another person than the concerned person, in short, it can be called as rumours that deliberately spoken, published or fault (least negligence or in some instances a greater degree of fault) to cause harm to plaintiff's reputation but it's not always necessary that reputation is harmed after a false statement has delivered or published only if the statement was believed, for the truth to be a hindrance to recover it is not needed that the statement to be literally true in all aspects. The statement must merely be valid truth. There are two types of defamation If the statement is made in writing and published or when a statement is that conveys an unfavourable impression it's called libel and to prove this the plaintiff has to provide the source that the defendant has made false statements to a third party to claim the unliquidated damages as compensation if a person who verbally spreads untruth or false statements about a person to

the third parties which harm a person's reputation is called as slander, it is a civil wrong and it can be the basis of civil suits. Mainly there is a difference between opinions and defamation,

Opinions can not be empirically proven true or false for example a person says that I think she/he has stolen a mobile until this statement is an opinion when that person says she/he is a thief and this statement implies she/he committed a crime. if this accusation turns out to be untrue it will defame she/he. the essential of defamation is a false statement with knowledge that it was untrue or a reckless disregard for truth motive to damage a person's reputation.

Essentials of defamation

The essential ingredients of defamation which are needed for both libel and slander are

- Malice
- They must be defamatory
- The words must have reference to the plaintiff
- They must be published.

It is common in all actions for defamation for the plaintiff to state that the defendant published the defamatory statement maliciously means that without any lawful justification, it is clear that malice means that doing an act intentionally without and lawfully justification, recklessness or a bad motive to damage a person's reputation.

When the statement is basically fake and it was published negligently with utter irresponsibility and with a bad motive also comes under this

To prove the plaintiff need nothing more than the publication and the court will presume damage In his/her favour.

In some cases or types, languages are ambiguous as they may have more than one meaning like one is innocent and another is defamatory.

The plaintiff must have a clear explanation of statements that is defamatory in sense.

To take action of defamation the plaintiff must not only prove that the words are defamatory but also that they refer to the plaintiff not necessarily it should mention the name of the plaintiff if the publication makes the reasonable people would think that the passage refers to

the plaintiff then the defendant will be liable, but the plaintiff should identify himself as the person who got defamed and it is more than enough to prove even if the plaintiff be referred to by the initial letters or by the last letters of his name or even by blanks and asterisks or referred under any physical description or the place the plaintiff has visited in his/her travels.

Defence to defamation

- Truth
- Fair comment
- the privilege which may be either absolute or qualified.

Truth is an absolute justification for legal action for defamation. The defendant will only win the case if he/she proves what the defendant has spoken of the plaintiff and that's a truthful statement

Or substantial true. the law has considered this defence for the reason that if the statements damage a person's reputation only then it is taken As defamation when the statements are true of the defendant it has brought down the plaintiffs reputation to its proper level and there is no reason for the plaintiff to sue for defamation.

Fair comment

A comment is something that is an opinion based on facts. Everyone has a right to express his or her fair opinion on a matter of public interest but the expression of comment should be fair right criticism and free expression of fair opinion is considered as essential for a society to grow.

In a fair comment, it is enough to prove that there was some fact on which the comments were made.

Privilege absolute and qualified

Law gives absolute protection to some statements made by persons on certain occasions, even those statements were false and made with a bad motive or maliciously. That statements are said to be absolute privileged, in such cases, it is in the interest of the public and state, in general, the person should have full freedom of speech and expression. the interest of the

public is outweighed than the interest injured private individual, for example, a member of Parliament Is allowed to have full freedom of speech and expression on the floor of the house. he may make a speech there, condemning in the most outrageous language possible the character or conduct an officer against whom he may be having some private grudge. the allegation may be unfounded and the speech may be highly exaggerated. Nevertheless, the injured officer will have no remedy before the court for the defamatory speech made by the member. The reason for this immunity of the Parliament member is that if such actions were not allowed, members of Parliament won't have the courage and boldness to speak out what they feel about the officers and the public, which is important to bring light on injustice and corruption and to promote integrity and efficiency in public life and services

But this absolute immunity is granted strictly only to a few of the cases for the strongest reasons of the public policy

There are however many less important occasions when it's desirable that a man, to perform some public, legal or some social duty or to protect his interest, should be able to express opinions or make statements about another in which may turn out to be defamatory yet, which at the same time he makes them, he honestly believed to justified. in these cases the statement made is privileged, providing the person making is not animated by some improper or malicious motive .this is what is meant by qualified privilege and unlike absolute privilege, it can be destroyed by the proof of malice.

In absolute privilege, the chief classes of statements that enjoy absolute privilege can be classified thus The statements made in Parliament

Article 105 and 194 of the constitution of India confers this right on the members of the Parliament and state legislatures.

Reports, papers and proceeding orders to be published by either house of Parliament

The *Parliament papers act 1840* confers about absolute privilege on all reports, papers and notes of proceedings of either house of Parliament which are published by the order of such houses.

Judicial proceedings judges enjoy absolute immunity for whatever they say from the bench while engaged in the discharge of their official duties.

Article 211 of the constitution says that "no discussion shall take place in the legislature of a state with respect to the conduct of any judge of the supreme court or the high court within the discharge of his duties."

Qualified privilege

Malice will break qualified privilege. A master has the qualified privilege to write something disparaging of the character of his former servant but this privilege will be lost if the letter proves that his former master in making the defamatory statement was actually moved by malice, hence it will destroy his privilege.

Compensation for defamation

In deciding the compensation the court must consider factors such as the conduct of the plaintiff, the position and standing, the nature of the libel, the absence or refusal of an apology and the whole conduct of the defendant from the date of publication of libel to the date of the decree.

KEYWORDS

Reputation, Damages, Libel, Slander, Published, Rumors, Truth, Defame

LITERATURE REVIEW

1. Journal of law of torts and consumer protection law

Defamation, Volume 2, issue 1, 21-25p, Aditi vohar, www.stmjournals.com

This journal deals with the people and their reputation or self-respect, which a person wants to exercise freely without anyone's interference, the tort defamation is to protect an individual from getting defamed it can be brought under court for justice.

2. Journal of law of torts and consumer protection law

Defamation complex: harm to reputation and free speech, Volume 2, no 1, P.4-11, Aug 2019,
Shwetha Mishra

This journal, shows how defamation can be proved what are the essentials to prove that statements are defamatory, defamation in India is both a civil and criminal offence.

In civil law, defamation falls under. Law of torts which provides damages to the plaintiff and under criminal law defamation is a bailable, non-cognizable and compoundable offence, defamation as a criminal offence is recorded under section 400 of IPC.

3. National journal of cyber security law

Online defamation of women: case study analysis, Volume 2, issue 1, www.stmjournals.com,
Manisha Mathur, Prabhat Mathur

In this journal it shows as time goes on everything develops both good and bad including crimes etc, in this, the author states that the internet provides endless sources that are not only responsible for the cyber offenders it even creates a space for people to defame others and spread rumours with anonymity issues.

4. Journal of law of torts and consumer protection law

Origin and development of the law of torts in India, Volume 2, issue 1,
www.stmjournals.com, Surendra Singh chandrawal

In this, the author describes the origin of the law of torts and its developing nature which has supplemented by Codified laws and including damages, though India follows the UK approach yet some changes may show judicial activism in India, the law of tort is entirely founded and structured on the principle of morality that means none has a right to injure a person either intentionally or even innocently.

5. DEFAMATION LAWS AND JUDICIAL INTERVENTION: A CRITICAL STUDY

Shiv

In a democratic setup, free speech and expression are considered to be a fundamental right that is not absolute but subject to certain reasonable restrictions; defamation being one of them. This paper explores the term defamation and defamation laws. The recent developments within the legal arena have dropped at the fore - the central theme of this paper is decriminalizing defamation.

Conclusion

the law of defamation strikes an acceptable balance between the necessity to guard reputation and also the general right of freedom of concluding this section it's vitally necessary to note that defamation takes on two different forms. Libel relates to the written printed word and slander is defamation in a very transient type like the vocable. the law of defamation may be a tough and extremely complicated space of law however it's a section of the law that is of hefty interest to anyone who worries however the law of tort deals with the tough problems with freedom of expression and also the rights of people to guard their name against attack.

Bibliography

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2. Gatley on Libel and Slander – 8th Edition. Published by Sweet & Maxwell 1997.
3. Freedom of Expression, Media Law and Defamation. International Press Institute, May 2015.
4. The Penal Code with Amendments, NO. 111 in 1969, Ministry of Justice-Statutory Notice.