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DEFAMATION ON SOCIAL MEDIA: A CLOSE LOOK AT KHAWAR BUTT V. ASIF NAZIR MIR

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Social media defamation: A case study into Khawar Butt v. Asif Nazir Mir

Social media defamation in India is a massive legal problem. Things can be spread pretty fast on Facebook, Twitter (now X) and Instagram. One would not necessarily say the same things when he is alone as when he is in the presence of other human beings. The important sections of the Indian Penal Code of 1860 (IPC) that address defamation are sections 499 and 500. Defaming someone is lying against them to hurt them or knowing that it will hurt their reputation. In doing so, you may get a fine or up to two years in jail or both. When one is guilty of breaching the law, he/she is able to file a lawsuit of damages, injunction, and recall whatever he/she uttered. The social media can impact more so about reputations as compared to conventional kinds of media because it is permanent, it can go viral and it can be accessed by people across the globe. Due to this fact, courts have been forced to modify the laws such as the single publication rule so as to deal with cases occurring online. The order of the Delhi High Court in *Khawar Butt v. Asif Nazir Mir* (CS(OS) No. 290/2010, decided November 7, 2013). It says that anything that are placed online don't have to follow the "multiple publication rule." It also specifies that if someone writes something on Facebook that isn't factual and affects someone's reputation, they can only sue for one thing. As per Article 75 of the Limitation Act of 1963, this must be done within a year of the post going live. This decision makes Indian law more resemble the law in other countries. Article 19(1)(a) of the Constitution says that people can speak what they wish without worrying about what other people would think of them. It also talks about Section 79 of the IT Act of 2000, which directs persons who work as middlemen what to do.

Khawar Butt, the person who filed the lawsuit, said that Asif Nazir Mir put false information about him on Facebook between October 25 and 27, 2008. The claim said that he was having an affair with Mir's wife. He also handed out pamphlets with false information in

person on December 25, 2008. The lawsuit was filed on February 11, 2010. It wanted Rs. 1 crore in damages and told the publisher to stop printing more. Mir said that the lawsuit was too late because the time limit for libel had already passed. Butt said that the claim wasn't true because of the "multiple publication theory." I said that the post had just appeared, he said. Section 22 of the Limitation Act still left the wrong there each time somebody read it or looked at it. Hima Kohli, a Justice of the Court did not agree. The English cases such as *Duke of Brunswick v. M'Graw-Hill* give birth to the so-called single publication rule. *Harmer* (1849) and *Loutchansky v. Times Newspapers* (2001), and the Irish law under the Defamation Act, 2009. It further added that time constraints do not necessarily exist because you spend all your time online. That would be contrary to the law and would inhibit free speech. Due to this case, India formulated additional regulations in reference to the media. The information technology act, 2000, section 79(1) states that a social media company cannot be sued simply because it does not assist you to commit a crime. They still have to follow the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, though. In *Shreya Singhal v. Union of India* (2015) 5 SCC 1, the court said that online sites have thirty-six hours to take down false information after getting a court order or a complaint. The court also said that Section 66A IPC was too vague, but it was still okay to block people. Recent cases, such as *Subramanian Swamy v. Union of India* (2016) 7 SCC 221, show that defamation is a good way to find a middle ground between Article 19(1)(a) and Article 19(2), which sets reasonable limits. *Khawar Butt v. Asif Nazir Mir* illuminates the procedure of bringing social media defamation claims in India. It uncovers a complicated scenario in which criminal proceedings under Section 499 of Indian Penal Code, 1860 as well as civil lawsuits under the Order VII of Code of civil Procedure, 1908 (CPC) collide and the evidence is to be produced strictly in terms of publication, Malice and harm. The court applied the single publication rule when dealing with *Khawar Butt* that the filing had to be completed within a year of the date of the initial upload, and also calculated by reference to Article 75 of the Limitation Act, 1963, which also has no exceptions to court holidays, but in the strict sense used to what constitutes continuing wrong. These problems are further compounded by concerns of evidentiary challenges, where the defendants use their exceptions to Section 499 IPC--truth (First Exception), public good (Ninth Exception), or fair comment on public conduct (Tenth Exception) to pass the buck through Section 105 of the Evidence Act. Algorithms biases in the social media context are new sources of proof dilemmas: what do we do to measure the number of views or impressions when platforms do not provide analytics in response to a court order under Section 91 CPC or IT Act Section 69? The ratio provided by *Khawar Butt* helps in this situation by ruling that

initial targeting (e.g., the friend-list visibility) would be an appropriate way to have a publication that does not require per-view counts. The lowest audience threshold (Harnandan Prasad AIR 1958 Pat 445). The amount of quantum of damages is dependent on reputational status, i.e. a compensatory or exemplary amount (R.K. Lakshmanan v. A. Kandasami (2005) 5 SCC 180), but the courts are also wary of speculative awards such as in Laxman Prasad v. Prodigy Electronics Ltd. (2008) 1 SCC 618, nominal damages without proving malice. Criminal prosecutions, parallel through CrPC Section 482 quashing petitions, are not any better; magistrates have no jurisdiction under Section 204 CrPC to summon save on imputations prima facie likely to defame reputation within the society in which complainant resides. Higher courts set fishing expeditions ablaze, though State of Jharkhand (2015) 16 SCC 772 approves proportionality in free speech after Shreya Singhal.

To sum up, the case of *Khawar Butt v. The case of Asif Nazir Mir* decision solidifies the Indian defamation jurisprudence in that it liberates and strengthens the single publication rule, providing finality to the procedures and enforcing promptness to social media remedies to deal with social media maleficence based on the IPC Sections 499-500 and the IT Act provisions. This is an intermediate way of safeguarding reputations without significantly burdening the free speech under Article 19(1)(a) as the example of *Shreya Singhal* and *Subramanian Swamy*. At that, it establishes a practical precondition to the future reformation against the background of the digital virality, invoking the empirical research and policy changes to establish the equitable redress in the era of the algorithmic amplification and deepfakes.

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