



## Defamation Law and Disqualification of MPs

**For Prelims:** Parliament, Indian Penal Code, RPA Act 1951, Supreme Court, Fundamental Rights

**For Mains:** Defamation Law

### Why in News?

Recently, an [MP \(Member of Parliament\)](#) was sentenced to two years in jail in a **2019 Defamation Case over his remarks about another political leader** by the Surat Court.

- The case was filed under [Indian Penal Code \(IPC\) sections 499 and 500](#), dealing with defamation.

### What do IPC sections 499 and 500 say?

- **Section 499 of the IPC** elaborates on how defamation could be through words – spoken or intended to be read, through signs, and also through visible representations.
  - These can either be published or spoken about a person with the intention of **damaging the reputation of that person**, or with the knowledge or reason to believe that the imputation will harm his reputation.
- **Section 500 stipulates** imprisonment of up to two years, with or without a fine, for someone **held guilty of criminal defamation**.

### What Is Defamation?

- **About:**
  - Defamation is the **act of communicating false statements about a person** that injure the reputation of that person when observed through the eyes of an ordinary man.
  - Any false and unprivileged statement published or spoken deliberately, intentionally, knowingly with the intention to **damage someone's reputation is defamation**.
    - History of defamation can be traced in Roman law and German law. Abusive chants were capital punishment in Roman.
- **Defamation Law in India:**
  - [Article 19 of the Constitution](#) grants freedom of speech to its citizens. However, Article 19(2) has imposed certain **reasonable exemptions to this freedom such as - Contempt of Court, defamation and incitement to an offense**.
  - In India, defamation can both be a civil wrong and a criminal offense, depending on the objective they seek to achieve.
    - **A Civil Wrong** sees a wrong being redressed with monetary compensation, while a criminal law seeks to punish a **wrongdoer and send a message to others not to commit** such acts, with a jail term.

- In a Criminal Offense, defamation has to be **established beyond reasonable doubt** but in a civil defamation suit, damages can be awarded based on probabilities.
- **Free Speech v/s Defamation laws:**
  - It is argued that the defamation laws are a violation of [Fundamental Rights](#) guaranteed under **Article 19 of the constitution**.
    - The Supreme Court has ruled that the criminal provisions of defamation are **constitutionally valid and are not in conflict with the right to free speech**.
  - The SC has also held that it is valid to treat **defamation as a public wrong** and that criminal defamation is **not a disproportionate restriction on free speech**, because protection of **reputation is a fundamental right** as well as a human right.
  - The Court relied on the judgments of other countries and reaffirmed the right to reputation as a part of the **right to life under Article 21**.
    - Using the principle of ‘balancing of fundamental rights’, the court held that the right to freedom and speech and expression cannot be “allowed so much room that even reputation of an individual which is a constituent of Article 21 would have no entry into that area”.

## What are the Previous Defamation Judgements?

- **Mahendra Ram Vs. Harnandan Prasad (1958):** A letter written in Urdu was sent to the plaintiff. Therefore, he needed another person to read it to him. It was held that since the defendant knew the plaintiff does not know Urdu and he needs assistance, the act of the defendant **amounted to defamation**.
- **Ram Jethmalani Vs. Subramanian Swamy (2006):** The High Court of Delhi held Dr. Swamy for defaming Ram Jethmalani by saying that he **received money from a banned organization** to protect the then Chief Minister of Tamil Nadu from the case of assassination of Rajiv Gandhi.
- **Shreya Singhal Vs. Union of India (2015):** It is a landmark judgment regarding internet defamation. It held unconstitutional [Section 66A of the Information Technology Act, 2000](#) which punishes for sending offensive messages through communication services.

## What Happens if a Lawmaker/MP is Convicted?

- The conviction may disqualify an MP if the offense for which he is convicted is listed in **Section 8(1) of the Representation of the People (RPA) Act of 1951**.
  - This section includes offences such as section 153A (offence of **promoting enmity between different groups** on ground of **religion, race, place of birth, residence, language, etc.**, and doing acts prejudicial to maintenance of harmony) or section 171E (offence of **bribery**) or section 171F (offence of undue **influence or personation** at an election) and a few others.
- **Section 8(3) of the RPA** mandates that an MP can be disqualified if convicted and sentenced to at least 2 years of imprisonment.
  - However, the section also states that the disqualification takes effect only “**after three months have elapsed**” from the date of conviction.
  - Within that period, the convicted MP can file an **appeal against the sentence before the High Court**.

## Conclusion

- Intentional acts of defamation are also punished with imprisonment which prohibits defaming a person with malice intention. The defamation law is also constitutional and is a reasonable restriction on the right to free speech and expression.
- However, it is no defamation if the acts done fall within the exceptions provided. Over the seventy-one years of Independence, there have been numerous cases of defamation and the court has interpreted each and every case with utmost care and they serve as precedents.

**UPSC Civil Services Examination, Previous Year Question (PYQ):**

## **Mains**

**Q.** What do you understand by the concept of “freedom of speech and expression”? Does it cover hate speech also? Why do the films in India stand on a slightly different plane from other forms of expression? Discuss. **(2014)**

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