

Priya Ramani Case: Freedom of Speech & Defamation

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A Delhi court recently acquitted journalist Priya Ramani in a defamation case filed against her by former minister MJ Akbar. The judgement places defamation laws as a violation of fundamental right guaranteed under Article 19 of the constitution in case of Sexual Harassment cases.

In news: #MeToo: Delhi court acquits Priya Ramani in criminal defamation case filed by MJ Akbar

Placing it in syllabus: Law & Policy

Dimensions

- Highlights of the Judgement
- Defamation
- Article 19 and Defamation as Reasonable restrictions
- Civil and Criminal Defamation
- Importance of the Judgement

Content:

Highlights of the Judgement:

Pronouncing the judgement the court observed:

- Women cannot be punished for raising their voice against sexual abuse. They cannot be punished on the pretext of criminal complaint of defamation.
- Women have the right to put their grievances at any platform of their choice and even after decades
- Right of reputation cannot be protected at the cost of the right to life and dignity for women, as guaranteed in the Constitution under Article 21, and the right of equality before law and equal protection of law, as

guaranteed under Article 14.

- The court said that the defence of “truth in public interest” had been accepted. Priya Ramani’s disclosure was in the interest of anti-sexual harassment at workplace.
- It also rejected Mr. Akbar’s argument that he was a man of stellar reputation. Sexual abuse takes away dignity and self-confidence. This attack by the victim on the character of the accused is self-defence after mental trauma suffered regarding shame over crime against her.

Defamation:

- Defamation is an **oral or written statement** that hurts someone’s reputation.
- It 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
- A person’s reputation is treated as his property and such damage are punishable by law.
- Written defamation, printed or typed material or images is called **libel** and spoken defamation is called **slander**.
- Reputation is an integral and important part of the dignity of the individual and Right to reputation is inherent right guaranteed by Article 21 and it is also called as natural rights.

Article 19 and Defamation as Reasonable restrictions:

- Rights of freedom of speech and expression guaranteed by Article 19(1)(a) of Constitution of India is not absolute and has imposed reasonable restrictions
- Article 19(2) has imposed reasonable exemption to freedom of speech and expression granted under Article

19(1) (a).

- These restrictions can be placed on the grounds of:
 - the security of state,
 - friendly relations with foreign states,
 - public order, decency, morality,
 - contempt of court,
 - Defamation.

Civil and Criminal Defamation:

The law of defamation is premised on a person's right to a reputation. In India, Defamation can be viewed as a civil offence as well as criminal offence.

Civil Defamation:

- In civil law, defamation is **punishable under the Law of Torts** by imposing punishment in the form of damages to be awarded to the claimant.
- In civil defamation, a victim can move high court or subordinate courts for seeking damages in the form of monetary compensation from accused.
- The statements made need to be false and it must be made without the consent of the alleged defamed person.
- Monetary compensation can be claimed from the defendant for defamation.
- There are certain requirements for a successful defamation suit.

Criminal Defamation:

- **Section 499 and 500** of the **Indian Penal Code (IPC)** provides an opportunity to the victim to file a criminal case for defamation against the accused.
- **Section 500** of the Code punishes defamation if it does not fall within the above said exceptions
- Punishment for the guilty person for criminal defamation is simple imprisonment which may extend to two years or fine or both.

- Under the criminal law, it is a bailable, non-cognizable and compoundable offence.

Constitutional validity of Section 499 & 500 of Indian Penal Code

- In some countries, defamation laws are not criminal laws. Therefore, whether section 499 & 500 of IPC is constitutionally valid?
- Recently, the Supreme Court in **Subramanian Swamy v. Union of India** upheld the constitutional validity of defamation laws and pronounced that they are not in conflict with the right of speech.
- Apex court also said that one is bound to tolerate criticism, dissent and discordance but not expected to tolerate defamatory attack.

Elements of Defamation and its exception

A Defamation statement

- must be in a spoken or written or published or visible manner and
- must be false and injured directly or indirectly to the reputation of an individual or his family members or caste and lowers the moral of the victim and
- statement is unprivileged statements.

Section 499 of IPC gives the exceptions to statements and they cannot be considered as defamation. Following Statements can't be considered as defamation:

- Any truth statement made in public interest;
- Any opinion given by the public in respect of conduct of a public servant in discharge of his functions, his character appears;
- Conduct of any person touching any public question;
- Publication of any proceedings of courts of justice including any trial of court and judgment.

Importance of the Judgement:

- A criminal prosecution is often used as a quicker and less expensive method. This makes it a handy tool to silence one's critics and detractors.
- The Court verdict has come as a vindication to women who have not been taken seriously earlier when they have alleged sexual harassment.
- A conviction in this case would have had disastrous consequences for the many courageous women who have come out with disturbing revelations about the extent to which a large number of professions and fields in the country have been unsafe.
- It gives voice to the victim for redressal. A woman cannot be punished for criminal defamation when she raises her voice against sexual harassment because "the right of reputation cannot be protected at the cost of the right of life and dignity of [the] woman".
- It takes note of the unequal equations of power between the harasser and victim in most situations.

Mould your thought: What is defamation? Evaluate the provisions of defamation under Indian laws.

Approach to the answer:

- Introduction
- Define Defamation
- Discuss about Civil and Criminal Defamation provisions in the constitution, IPC, Law of torts
- Write the importance of recent Ramani case judgement
- Conclusion