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Defamation and Newspapers - The Right to Privacy

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Abstract: *With the growing number of readership as well as newspapers and their district editions coupled with improved transportation facility the newspaper industry has seen a sea change in its circulation, commercial advertisement, and other aspects.*

At this outset, it has become imperative for looking at the content that is being published in the vernacular languages' particularly district tabloids. I made a brief and quick survey in erstwhile four northern Telangana Districts, as to the qualification and standards of the reporters/contributors/stringers. Generally, only one person who is working as district head is having university degrees or certification from journalism school. Occasionally this in charge is assisted by another qualified person. In most of the cases, the remaining staff is drop-outs from colleges or pursuing education privately and working for a newspaper. The payment of wages and other emoluments are dependent not only on the length of the news but also strength (?) i.e., the sensation it has created. The news from such sensational stringers etc. have had precedence over others. This aspect is also seen from the advertisement revenue being mopped up by the particular contributor.

Keywords: *Defamation, News Papers, Unverified Information, Right to Privacy, Indian Penal Code Section 499 Exemptions.*

INTRODUCTION

The area of operation given to each of this contributor is very limited. There will be generally no news and in such case, these people will not be paid. This makes them for a haunt either for news or for advertisements. It is also not out of the contest to mention either one has to give advertisement or he will be in news. This way the press is becoming as an unlawful dictator in certain parts of the society. In their anxiety or hurry of sensation half-truths, unverified facts or coming in the newspaper as sensational news. This lead to a legal battle between the parties and the newspaper. The general principle of 'nose for news' has gone or even replaced with 'nose for ad-revenue' or 'sensation'.

The role of the newspapers or magazines has to be under the lens of the latest Supreme Court of India judgment on the matter of recognizing the Right to Privacy as a fundamental right. The first and foremost beneficiaries of this judgment are leaders, politicians, film actors and other celebrities. Gossips cannot be published. After all, they too have a right to have their privacy. In the light of this judgment, there is every necessity to re-define the press ethics of various associations and organizations related to press. Editors and reports have to double check news from privacy angle also.

However, in this article, I wish to revisit the section 499 of Indian Penal Code (IPC) 1860 with the new perspective of the Supreme Court's Judgment of Right to Privacy. There are four explanations and the eight exemptions mentioned under section 499 IPC.

I have had a few cases coming to my notice in which the plea was taken by the newspaper management and my remarks added to.

1. **The newspaper is a service-oriented organization.** Owing to which they are eligible for 'qualified privilege'. But in fact, newspapers cannot claim service-oriented organization status, as they are registered as public/private limited companies. Even their domain names are ending with (dot) com. And in the current scenery, most of the newspaper management is under the control of MNC's or Media Moghuls. As such the qualified privilege will not be applicable to the magazines or newspapers in India. Because mere publishing of allegations would not be in the public good but can only be classified as 'sensational' news.
2. **Publishing of unverified news** showing reason as the likely affected party is not available. All the four explanations and the eight exemptions mentioned under section 499 of IPC are not followed. In many cases, only allegations leveled by one party on the other party are being published rising suspension over the other party in the general public. Of course, People will have a poor memory but they remember bad things forever. The test of poor memory is for good things and not for defamatory statements made in the press. Alternatively, when the person is not available on a subsequent occasion when the affected person came to know about the publication of such news he may give a clarification explaining his stand. The publication of such a clarification is a must without which the newspapers may not escape action.
3. Each political party is having its own newspaper either by directly owned or through a staunch supporter of those party. They have got a vested interest and benefited by publishing libelous news. Thereby getting political mileage. This is against to the "press council's guidelines to journalistic ethics" 1 to 9 be and 17 to 27 of the same guidelines and also against the 'Intentional Code of Ethics: Principle of Professional Values'. Because of this polarization, the second exemption mentioned under section 499 of IPC is not valid. As the publisher has got a predetermined agenda and not a good faith.
4. It is important to note that Right to information has superiority over all other laws but it has got its own limitations. Our constitution has given equal gravity to both freedom of the press and right to live under fundamental rights. The recent judgment of the Supreme Court upheld the right to privacy as one of the fundamental right.

CONCLUSION

In the new context, this judgment will have superintendence over the right of the newspaper. The plea taken by some newspapers or channels should not have any right to publish personal information even if such information is true and available by legal means. The newspaper should be careful not to become paparazzi.