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Right of Reputation vs Right to Dignity

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Why in News

Recently, a Delhi court has rejected a criminal **defamation** case filed by former Union Minister against a journalist over her tweets accusing him of **sexual harassment**.

Key Points

- **Consideration by the Court:**

The Court took consideration of the systematic abuse at the workplace due to the **lack of mechanism to redress the grievance of sexual harassment** at the time of the incident of sexual harassment against the accused journalist took place.

It was prior to the issuance of the **Vishaka Guidelines** by the **Supreme Court** and enactment of **The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013**.

- **Court's Ruling:**
 - The **right of reputation** cannot be protected at the cost of the **right of life and dignity of women.**
 - **Right to Reputation:**
 - As per the SC, the right to reputation is an integral part of **Article 21** of the Constitution.
 - Further, existence of **Section 499 (Criminal Defamation) of the Indian Penal Code, 1860** is not a restriction on the freedom of speech and expression because it ensures that the social interest is served by holding a reputation as a shared value of the public at large.
 - **Right to Life (Article 21):**
 - No person shall be deprived of his life or personal liberty except according to procedure established by law.
 - It confers on every person the fundamental right to life and personal liberty.
 - **Right to Live with Dignity:**

In ***Maneka Gandhi v. Union of India 1978***, the SC gave a new dimension to Article 21 and held that the **right to live is not merely a physical right but includes within its ambit the right to live with human dignity.**
 - Woman has a **right to put her grievance at any platform** of her choice and **even after decades.**

Defamation

- **About:**

In India, **defamation** can both be a **civil wrong** and a **criminal offence.**

 - The **difference** between the two lies in the **objects they seek to achieve.**
 - A **civil wrong** tends to provide for a **redress of wrongs** by awarding compensation and a **criminal law seeks to punish** a wrongdoer and send a message to others not to commit such acts.

- **Laws for Defamation:**

- In Indian laws, **criminal defamation** has been specifically defined as an offence under the **section 499 of the Indian Penal Code (IPC)** whereas the **civil defamation is based on tort law** (an area of law which does not rely on statutes to define wrongs but takes from ever-increasing body of case laws to define what would constitute a wrong).
- **Section 499** states **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.**

- **Exceptions:**

Section 499 also cites **exceptions**. These include “**imputation of truth**” which is required for the “**public good**” and thus has to be published, on the public conduct of government officials, the conduct of any person touching any public question and merits of the public performance.

- **Punishment:**

- **Section 500 of IPC**, which is on punishment for defamation, reads, “Whoever defames another shall be **punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.**”
- Moreover, in a **criminal case, defamation has to be established beyond reasonable doubt** but in a **civil defamation suit, damages can be awarded based on probabilities.**

- **Validity:**

The SC of India, in the ***Subramanian Swamy vs Union of India, 2014***, upheld the constitutional validity of the criminal defamation law.

Source:TH