

Defamation :

Defamation is an offence against any person as it affects the personal reputation of an individual

Definition :section 499 of IPC

" Whoever by words either spoken or intended to be read or by signs or by visible representation makes or publishes an imputation concerning any person intended to harm or knowing or having reason to believe that such imputation will harm the reputation of such person is said to defame that person ."

Essential elements :

- 1) Making or publishing an imputation concerning any person.Publication implies communication to at least one person other than the person defamed .
- 2) The means of such imputation are words ,writings ,signs or visible representation .e.g. statue , caricature etc.
- 3) Such imputation must have been made with the intention of harming the reputation of the person about whom the imputation is published

An imputation regarding a dead person may amount to defamation if it would have been harmful to him if he would have been alive or the imputation is harmful to the feelings of the members of his family or his near relatives.

Exceptions:

- 1)The publication of truth is a sufficient justification if it is made for the public good.
- 2) Making of a fair criticism,in good faith about the public conduct of public servants.
- 3) Making of a fair comment,in good faith on public conduct of public men e.g. MLAs,MP etc.Comment on their private life is not protected .
- 4) It is not defamation to publish a substantially true report of the proceedings of the Court of Justice.
- 5) Making of a fair comment in good faith about the merits of any case ,civil or criminal ,decided by a court or about the conduct or character of any party ,witness or agent as the character appears in that conduct and no further .
- 6.To express an opinion in good faith on the merits of a literary work. The object is that the public should have the benefit of free criticism of all public performances.

Illustration: a person who publishes a book submits that book to the judgement of the public .

7) Passing of a censure in good faith by a person having lawful authority over another person e.g. A school master censure a student in good faith in the presence of other students .

8 ) Making of a complaint of a subordinate to his superior authority in good faith.

illustration :A in good faith complaints of the conduct of Z, a servant to Z's master.

9) Imputation or statement made by a person for the protection of his interest or for the public good .Illustration given below is in bareact.

illustration :A shopkeeper says to B who manages his business: 'sell nothing to Z unless he pays the money for I have no opinion of his honesty'.A is protected .

10) It is not defamation to convey caution, in good faith, intended for the good of the person to whom it was conveyed or for the public good.

Punishment : sec. 500 IPC

Simple imprisonment which may extend to 2 years or with fine or with both.