

OBSCENITY LAWS IN INDIA

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Abstract

The term “obscenity of laws” defines about the unwelcome sexually determined physical contact and advances, sexually coloured remarks, showing pornography any other verbal or Non-verbal conduct of sexual nature. In social medias, and cine industries mostly, women are considered as “visual material” in front of the society. Indian society has been undergoing numerous changes during the last period of 10 years, especially in our family system. Newly married couple considering their privacy is the most important factor to them. So they come into a side of nuclear family system. No senior citizens in that home. These kind of circumstances not safe to the children. And there are more possibilities to go the wrong way. Now -a-days, majority of parents are working people. So, they have lack of time to take care of their children.

Keywords – Visual material, pornography laws, film certification, vulnerable figures.

Introduction :

As per the Article 19(1)(a), All citizens shall have the right to freedom of speech and expression. This right recognized under the universal declaration of human rights (UDHR). It allows and encourages the people to express the opinion, thoughts, ideas freely. At the same time, Any of the person creates trouble based on religion, culture, ethnicity, race, gender, sexual orientation etc...which is contrary to the subject of the freedom of speech and expression. The nation of obscenity varies from country to country based on the custom, social values, moral elements. The Indian penal code didn't give a absolute view on “obscenity”. Now -a-days, the flow of obscene of material increases rapidly with the younger generations growing interest in In Involving sexual activities, which results in earlier pregnancy, premarital sex, sexually transmitted infectious diseases etc...

Historical view of obscenity:

Obscenity is depend on one person's outlook and it differs from society's cultural values, ethics and moral standards. Due to the

development of Technological inventions, obscene material easily spreads during the modern period. Generally, obscenity is examined by the background of the sexual conduct of the Individual constituting the group. In our country, from ancient times, the virginity of women is very important Indian culture always depends upon the women's values. Even the characterization of women in India's temples such as vaishno Devi temple, chamunda Devi temple, khajuraho paintings concentrate on these features until the new advent of bohemian thoughts, which switches the common view.

Pornography related laws:

▪ Selling the pornography material to the younger person:

If any person sells the obscene picture, awkward painting, lustful storywriting, to the minor persons, shall be punished with imprisonment upto 3 years and fine is upto Rs. 2000. And for a continuous offense imprisonment which extends upto 7 years with penalty of Rs. 5000.

▪ **Singing vulnerable songs in public place:**

If any person sings vulnerable songs, talking double meaning contents which create annoyance to others or the person using abusive words in public place, The accused must be punished with imprisonment upto three months or fine or both.

Recent days, pornographic material is obtainable in electronic form which is also punishable with the imprisonment upto 5 years and fine or both. And for a continuous offense, imprisonment extended upto 7 years.

Statutory provision related to obscenity in cinematographic Act -1952.

- A movie which has been given a "U" certificate or a "UA" or a "S" certificate shall be considered as "uncertified film" in whole or any part of India.
- During the period in which a film remains adjourned, the film shall be considered as uncertified film.

Guidelines for certification:

Once the compulsory changes have been made, the film makers receive the certificate and can receive the film.

Certificate must contain,

- Name of the movie
- Time limit of the movie
- Names of authority members
- Type of print of movie
- The name of applicant & producer

Central board of film certification grants,

- **Movies with "UA" certificate:**
Which means anyone can watch this movie. There was no any vulgarity scenes.
- **Movies with "U" certificate :**
Which means those children under the age of 12 years must watch it under the guidance of parents.
- **Movies with "A" certificate :**

Adults only allow to watch this film. The person must be above the age of 18 years. "A" certificate films consisting of strong violence movies, nudity scenes, abusive language. This was the main reason for not allow the children to watch these kind of movies.

➤ **Movies with "S" certificate :**

These films are only made for a special group of people like doctor, scientist. Film with "S" certificate cannot be viewed by public.

Indecent representation of women Act:

The Indecent representation of women (prohibition) amendment bill, 2012 was introduced in upper house on December 13, 2013 by the ministers of state, women and child development, smt. Krishna Tirath.

The bill look for amend the Indecent representation of women Act, 1986 which forbids Indecent representation of women through the painting walls, publications , storylines, Magazines.

Punishment :

Treated and representing the women Indecently, the accused shall be punished with imprisonment of 2-3 years. And fine between Rs. 50,000 and Rs. 1lakh from Rs. 2000. For a continuous offence, the accused shall be punished with imprisonment of 2-7 years. And fine between Rs. 1 lakh and 5 lakh.

IPC deals with obscenity:

It deals with the material containing a sexually explicit act etc...in an electronic form.

Punishment : The accused shall be punished with imprisonment of five years and fine is Rs. 10 lakh. And for the subsequent conviction, the person shall be punished with imprisonment of 7 years and fine is 10 lakh rupees.

Case studies:

- **Maqbool fida Husain v. Raj Kumar Pandey**

In this case, the Delhi high court dealing with the issue of whether a nude painting of bharathmata can be said to obscene or not. The court held that “nudity or sex alone cannot be said to obscene”.

➤ **Aveek Sarkar v. State of Bengal**

In this case, the apex Court dealing with the issue of obscenity and finally not approval of Hicklin’s test and adopted the Roth test. The issue was revolving around a picture which was alleged to be obscene in nature.

Conclusion:

We know laws have to change from time to time but there is a need for a proper definition of obscenity. It is too important to mention in the present time the appropriate degree of obscenity in movies, web shows, arts, images, or pictures, literature, has not yet been defined in our country. All the works relating to art, literature, etc. do not generate hatred among the people in a manner which is subtle and gentle to reduce the tension in our society. The main indication that a porn addiction is present is when it becomes the most important thing in person's life. Day to day life gets interrupted by the compulsion to watch pornography. In recent years several celebrities have opened up about overcoming their addiction to porn despite the stigma associated. Under section 292 of IPC, 1860 states that any person sell, import or export the obscene picture, drawing, books which is lustful and shares to another person, He/she must be punishable with imprisonment upto 2 years and fine of Rs. 2000. And for the continuous offence, imprisonment upto 5 years and fine upto Rs. 5000.

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