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TECHNOLOGY INSIGHT

Use of Profane Language in Web-Series Does Not Constitute Obscenity Under
IT Act

Liability for Retweeting Defamatory Content on Social Media



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In the case of Apoorva Arora & Anr. v. State (Govt. of NCT of Delhi) & Anr., the Hon'ble Supreme Court addressed the issue of whether the use of expletives and profane language in web-series constitute an offence under Sections 67 and 67A of the Information Technology Act, 2000.

The appellants, involved in the creation and production of the web-series, were initially directed by lower courts to face prosecution for the transmission of obscene and sexually explicit material. The Supreme Court, however, quashed the FIR against the appellants, emphasizing that the language, though vulgar, did not meet the legal threshold for obscenity or sexually explicit content as defined under the IT Act. The Court clarified that vulgarity alone does not amount to obscenity, and the context and intention behind the language used in the web-series did not intend to arouse sexual thoughts or feelings.

The Supreme Court found that the language used in the web-series, although profane, was not intended to appeal to prurient interests or deprave the minds of its audience. The Court also noted that the usage of such language reflected the characters' environment and was not meant to be taken literally. By placing itself in the position of both the creators and the viewers, the Court concluded that the material did not qualify as obscene or sexually explicit under the relevant sections of the IT Act. Thus, the FIR and the High Court's judgment were set aside, and the appeals were allowed.

Liability for Retweeting Defamatory Content on Social Media

The Delhi High Court addressed the liability associated with retweeting defamatory content in the case of Arvind Kejriwal v. State & Anr.. The case revolved around Kejriwal retweeting a post by Dhruv Rathee that contained defamatory statements against Vikas Sankritayan. The Court held that retweeting constitutes a separate act of publication under Section 499 of the IPC, making the retweeter liable for defamation. This ruling emphasizes that social media platforms amplify the reach of defamatory content, necessitating accountability from those who retweet such material.

The Court noted that while freedom of expression is a fundamental right, it does not extend to spreading defamatory content. By retweeting, the individual contributes to the wider dissemination of the defamatory material, thereby engaging in a new act of publication. This decision highlights the need for caution when sharing content on social media, as it establishes legal responsibility for the potential harm caused by retweets.



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