

Lecture- 37



cyber crimes

The internet age began in Europe in the early 60s and it took another 3 decades for the revolution to hit India and with that began the new age of information technology. The advent of technology, more specifically the internet, contrary to popular beliefs, was not spotless in its conception and brought with it the many implications pervading all aspects of law, society and human behavior.

It brought with the ability to communicate with ease via a plethora of social media platforms and other micro blogging sites, laying the cornerstone of what has emerged as the most accessed, consumed and sought-after mean of social interaction.

Social networking websites today act as platforms for interaction among people across the globe, enabling the users to build up their own network of people. The intriguing prospects of social media also make it a safe haven for those planning to shift their businesses to the virtual world. This however calls for more stringent measures to curb unlawful activities that find place behind the garb of the virtual curtain.

Cyber Crimes and Social networking sites.

Under the Information Technology Act, 2000 (herein after IT Act) 'cyber' may include a computer, computer system or a computer network. Thus, any crime involving a computer, a computer system or a computer network falls under the category of Cybercrime.

The IT Act does not explicitly define the word cyber-crime, however, differentiates between cyber contravention and cyber offences, the distinction being the absolute levying of penalty for committing cyber offence.

With as many as 448 million social media users in India as of January 2021, the susceptibility of more people falling prey to cybercrimes inevitably increases manifolds. Cyber-crimes, most frequently taking place on social networking sites, ranges from cyber defamation, cyber obscenity, cyber stalking to hacking, privacy infringement,

internet fraud among countless others. The countless provisions in the Indian Penal Code running parallel with the Information Technology Act lays the ground for a firm web of laws specifically formulated to tackle and curb cybercrimes.

Legal implications of Cyber-crimes

In order to understand the provision of law that identify and penalize cyber-crimes, it is pertinent to be able to distinguish between which acts fall under the category of crimes. For the purpose of identifying an act as crime, it is important to correspond the nature of the act and its constituent with that of the crimes enlisted under the laws dealing with cyber-crimes.

Hacking and data theft

The rise in the number of celebrities on social media is indicative of the allure that social network has to offer to both, the so called ordinary and extraordinary, alike. However, there is discrimination in the vulnerability faced by both the common people and the celebrities in terms of the exposure to crimes, with celebrities and influencers more frequently becoming victims of instances of hacking and data theft with their social media presence and account mostly used for ransom.

Section 43 and Section 66 of the IT Act deals explicitly with hacking and data theft. Under the Sections, hacking is defined as destruction or alteration of any information residing in computer resources that is destruction or alteration to tangible or intangible assets of the computer resources. Often dubbed as the most popular and fast rising crimes, it is punishable with imprisonment of up to 3 years or a fine up to Rs Fifty lakh or both.

The parallel provision in the IPC is enlisted in Section 378 of the IPC relating to 'theft', including in it the theft of any data online, provides that any person engaging in data theft, upon being found guilty is liable to imprisonment up to 3 years or a fine or both.

Identity theft and cheating by personation

With unlimited access to a variety of applications enabling one to assume an allopaque

appearance in the virtual world, it becomes very easy for people to take up the identity of anyone with a motive to deceive.

Section 66C of the IT Act prescribes punishment for identity theft and provides that anyone who fraudulently or dishonestly makes use of the electronic signature, password or any other unique identification feature of any other unique feature of any other person shall be punished with imprisonment of either description for a term which may extend to 3 years and shall also be liable to fine which may extend to Rs. 1,00,000.

Section 66D of the IT Act prescribes punishment for 'cheating by personation by using computer resource' and provides that any person who by means of any communication device or computer resource cheats by personation, shall be punished with imprisonment of either description for a term which may extend to 3 (three) years and shall also be liable to fine which may extend to Rs. 1,00,000 (Rupees one lac). Running parallel to the offense of identity theft is the offense and the penalization for cheating by personation enshrined under Section 419 of the Indian Penal Code. Under IPC, if any person cheats by pretending to be some other person, or by knowingly substituting one person for another, or representing that he or any other person is a person other than he or such other person really is, will be liable to punishment with imprisonment of either description for a term which may extend to three years or with a fine or both.

Cyber obscenity and cyber pornography

The safe haven that internet provides to everyone also makes it easier for individuals to engage in cyber pornography and obscenity,. Easy accessibility, wide reach and the unchecked availability of obscene material on the Internet have made it more convenient for individuals to indulge in cyber crime.

Various tests of obscenity were laid down with the first being the Hicklin established in Regina v Hicklin, with its modification branching out in cases like Ranjit Udeshi v. State of Maharashtra. in which the Supreme Court held that obscenity without a preponderating social purpose or profit cannot have constitutional protection of free speech and expression and obscenity in treating sex in a manner appealing to the carnal side of human nature or having that tendency. It further

interpreted the word 'obscene' as that which is 'offensive to modesty or decency, lewd, filthy and repulsive.'

Sections 67, 67A and 67B of the IT Act prescribe punishment for publishing or transmitting, in electronic form any obscene material or sexually explicit material, or material depicting children in a sexually explicit manner. The punishment prescribed for the first conviction under Section 67 is imprisonment extending up to 3 years with fine up to rupees five lakh. In the events of a subsequent offense under Section 67, punishment with imprisonment extending up to five years and fine up to rupees ten lakhs is prescribed. The punishment prescribed for offences under sections 67A and 67B of the IT Act is on first conviction, imprisonment of either description for a term which may extend to 5 years and a fine which may extend to rupees five lakhs and in the event of second or subsequent conviction, imprisonment of either description for a term which may extend to 7 years and also with fine which may extend to rupees ten lakhs. Section 294 of the Indian Penal Code, running parallel with the Sections 67, 67A and 67B, are also applicable for offense pertaining to obscenity and prescribes punishment in case of possessing, selling, distributing, publicly exhibiting or putting in circulation in any manner any material such as a book, pamphlet, paper, drawing, printing, representation, or figure or object that is obscene.