

# Foreword

THE LAW of defamation is one of great importance for the press. The present study which has been very carefully done by P.M. Bakshi for the Press Council in collaboration with the Indian Law Institute, New Delhi deals more specifically with thorny questions which arise when freedom of expression comes into conflict with individual rights.

There has been no codification on the subject of defamation apart from the relevant provisions in the Indian Penal Code which relate to punishment for a defamatory statement as a crime. Libellous imputation may further involve the violation of individual privacy which *per se* is not actionable as a tort. Although the legal position is very similar to ours in the United Kingdom, infringement of privacy has developed as a tort in most of the American states.

So far as the press is concerned, there may be publication about a government servant which may damage his reputation. It may sometimes not be true, but a claim may be made that such publication was in public interest. In the United States, the constitutional decisions of the Supreme Court have brought about a revolutionary change in the law there by placing strict standard limits on the circumstances under which public officials can recover damages for the publication of defamatory statements. These decisions affect the libel law not only against public officials but also against others including public figures.

Although libel actions in India are not in terms of statistics as numerous as in the United States or in the United Kingdom, the present study is meant for suggesting removal of a number of anomalies and liberalising the defamation law keeping in view the constitutional rights conferred on freedom of expression and the reasonable restrictions that can be placed on it. The number of matters which were brought before the Press Council during the last few years in addition to matters relating to character-assassination and invasion of privacy has been fairly large. In the year 1984 alone out of 71 adjudications under section 14 of the Press Council Act 1978, 44 decisions fell under the category of press and defamation. Certain difficulties were experienced on account of the fact that truth alone can be a good defence in case of a civil action; whereas truth together with public interest must exist to justify a publication which is of a libellous nature in proceedings under the Indian Penal Code. When it comes to the question of furnishing evidence of truthfulness, the newspapers often find it difficult to produce any material owing to another well-known principle that there should be no disclosure of sources of information by the journalists.

In the present study, the law of defamation has been discussed and considered from the various aspects which need an in-depth knowledge of this branch of law, particularly to the extent such law impinges on the freedom of the press. The Press Council has recommended to the government to enact suitable legislation by which the existing law of defamation may be amended by statute wherever necessary. These recommendations are very much in line with the provisions of the [English] Defamation Act, 1952. They relate mostly to innocent dissemination of news, unintentional defamation, partial justification, fair comment, reports of certain proceedings to which qualified privilege attaches, *etc.*

P.M. Bakshi deserves full mead of praise for the industry and depth of knowledge that have gone into the preparation of this study. It can be legitimately expected that it will provide a fruitful and rewarding material for all those who are concerned with this branch of law.

*Amar Nath Grover*