

Judgements

A. [Section 2: Definitions - Computer, Computer Network, etc](#)]

1. [K. Ramajayam V. The Inspector Of Police](#)

[The DVR is an electronic record within the meaning of Section 2(t) of the Information Technology Act, 2000, as it stores data in electronic form and is also capable of output]

2. [Syed Asifuddin And Ors. vs The State Of Andhra Pradesh \[2005 CriLJ 4314](#)

Summary: Reliance model handsets were to be exclusively used by Reliance India Mobile Limited but the TATA Indicom staff members who were figured as an accused tampered with pre-programmed CDMA digital handsets belonging to Reliance Infocomm and activated with TATA Indicom network with all dubious means. Offence was held to be made out under Section 65 of IT Act.

3. [Diebold Systems Pvt. Ltd. vs The Commissioner Of Commercial Tax \[2006 144 STC 59 Kar](#)

B. [Section 43: Penalty and Compensation for damage to computer, computer system, etc](#)]

1. [Poona Auto Anillaries Pvt. Ltd., Pune Versus Punjab National Bank, HO New Delhi & Others](#)

Summary: In 2013, in one of the largest compensation awarded in legal adjudication of a cyber crime dispute, Maharashtra's IT secretary Rajesh Aggarwal had ordered PNB to pay Rs 45 lakh to the Complainant Manmohan Singh Matharu, MD of Pune-based firm Poona Auto Ancillaries. A fraudster had transferred Rs 80.10 lakh from Matharu's account in PNB, Pune after Matharu responded to a phishing email. Complainant was asked to share the liability since he responded to the phishing mail but the Bank was found negligent due to lack of proper security checks against fraud accounts opened to defraud the Complainant.

C. [Section 65: Tampering with Computer Source Document](#)]

1. [Syed Asifuddin And Ors. vs The State Of Andhra Pradesh \[2005 CriLJ 4314](#)

2. [Bhim Sen Garg vs State Of Rajasthan and Others. on 13 June, 2006 \[2006 CriLJ 3643](#)

E. [Section 66: Computer Related Offences](#)]

1. [A. Shankar vs State Rep. \[2010](#) The petitioner had secured access unauthorisedly to the protected system of the Legal Advisor.

E. [Section 66A: Punishment for sending offensive messages through communication service, etc.](#)]

1. [Supreme Court Judgment \(in PDF\) as to scrapping of Section 66A in the matter of Shreya Singhal V Union of India \(2015\)](#)

Summary: Section 66A of the Information Technology Act, 2000 is struck down in its entirety being violative of Article 19(1)(a) and not saved under Article 19(2).)Section 69A and the Information Technology (Procedure & Safeguards for Blocking for Access of Information by Public) Rules 2009 are constitutionally valid. Further, Section 79 is valid subject to Section 79(3)(b) being read

down and so on.

F. Section 67: [Punishment for publishing or transmitting obscene material in electronic form](#)]

1. [Avnish Bajaj vs State, famously known as Bazee.com case \(2005\)](#)

Summary : CEO of E-Commerce Portal was arrested and given bail later under Section 67 of IT Act on account of an obscene video uploaded on Bazee.com for sale. He proved Due Diligence but in 2005, Information Technology Act did not have any provisions related to 'Intermediary' !

2. [Sharat Babu Digumarti vs State, Govt. of NCT of Delhi \(Bazee.com Case, Appeal\)](#)

Summary: Petitioner was working as Senior Manager, Trust and Safety, BIPL on the day when DPS MMS was put up for sale on Bazee.com. That is, the office responsible for the safety of the Portal, taking action on suspect lists when reported by our users, and block the user or close items listed accordingly. It was held that there is prima-facie sufficient material showing petitioner's involvement to proceed against him for the commission of offence punishable under Section 292 IPC. Though he was already discharged of offences only under Section 67 read with Section 85 of IT Act and Section 294 IPC.

3. [Dr. L. Prakash vs State Of Tamil Nadu \(2002\)](#)

Summary: Petitioner was arrested by the Inspector of Police, R8 Vadapalani Police Station, Chennai for various offences, particularly Section 67 of the Information Technology Act, 2000, Section 4 read with Section 6 of the Indecent Representation of Women (Prohibition) Act, 1986 and Section 120-B of the Indian Penal Code.

4. [Mohammed vs State on \(2010\)](#)

Summary: Section 67 of Information Technology Act analyzed and held it is not applicable to the case of threatening email received by Chief Minister of Gujarat, hence ordered to be deleted from the matter.

5. [Sreekanth C.Nair vs Licensee/Developer \(2008\) \[Blocking of Website](#)

Summary: A student of ASCL, came across the website "www.incometaxpune.com", and on visiting the said site, the complainant was taken to a pornographic site and move the court for blocking order against the website. The court ordered that only when the authorities enumerated under Clauses (i) to (vii) when moved were either not inclined or had refused to prefer a complaint to the Director, CERT-In, then the court could be moved for a direction to the officer concerned.

F. Section 70: [Protected system](#)]

1. [A. Shankar vs State Rep. \[2010](#) The petitioner had secured access unauthorisedly to the protected system of the Legal Advisor.

2. [Firos vs State Of Kerala \(2006\)](#)

G. Section 79: [Exemption of Liability of Intermediary in certain cases](#) and [Information Technology \(Intermediary Guidelines\) Rules, 2011](#)]

1. [CHRISTIAN LOUBOUTIN SAS Versus NAKUL BAJAJ & ORS](#) (Intermediary Liability as an E-commerce Operator - November 2018)

Great analysis of [section 79 of IT Act, 2000](#) and the Intermediary Guidelines done by honorable Judge Ms Pratibha M Singh.

Importantly, it lays down the circumstances, in which the Intermediary will be assumed to be abetting the sale of online products/services and therefore, cannot go scott free. In the said matter, the Complainant, a manufacturer of Luxury Shoes filed for injunction against an e-commerce portal [www.darveys.com](#) for indulging in Trademark violation, along with the seller of spurious goods.

2. [KENT RO SYSTEMS LTD & ANR Versus AMIT KOTAK & ORS](#) (EBAY - January 2017)

Kent RO had lodged Complaint with eBay as to IPR violation of its rights by a seller on later's platform and wanted Ebay to verify the products before it is uploaded on it's platform. Court said the IT Intermediary Rules only require the intermediary to publish the [Rules and Regulations and Privacy Policy](#) and to inform the users of its computer resources not to host, display, uphold or publish any information that infringes any Intellectual Proprietary Rights. Further, the IT Rules require the eBay as an intermediary to, upon any person as the plaintiffs approaching it in writing, of products infringing that person's patent, trademark or copyright rights to within 36 hours disable the infringing information. Court held that hosting of information on such portals is automatic and it is not expected of the eBay to screen each and every information except when the same is brought to it's knowledge. Therefore, to require an intermediary to do such screening would be an unreasonable interference with the rights of the intermediary to carry on its business.

3. [Google India Pvt Ltd VS. Visaka Industries Limited \(2009\)](#)

[Google liable as Intermediary (if proved guilty) as criminal complaint instituted before the Information technology (Amendment) Act 2008 came into force]

4. [Gaussian Network Pvt. Ltd V Monica Lakhanpal & Another \(2012\)](#)

[Whether there is any restriction on playing the Games of Rummy, Chess, Golf, Poker, Bridge, and Snooker of skill with stakes on the websites making profit and whether wagering and betting on games of skill make the activity ?Gambling?, as covered under Rule 3 of Intermediary Guidelines ?]

5. [Vyakti Vikas Kendra & other vs Jitender Bagga & Google \(2012\)](#)

[Art Of Living Foundation filed for interim relief against a blogger and the intermediary Google owned Blogger.com for cyber defamation. The latter was ordered to remove all the defamatory content within 36 hours]

H. Section 65B of Indian Evidence Act, 1872: [Admissibility Of Electronic Records](#)

1. [Anvar P.V vs P.K. Basheer & Others](#)

[An electronic record by way of secondary evidence shall not be admitted in evidence unless the requirements under Section 65B are satisfied]

2. [SC: Harpal Singh V. State of Punjab \(2016\) - Electronic Evidence](#) [November 2016]

[Apparently the prosecution has relied upon the secondary evidence in the form of printed copy of the call details, even assuming that the mandate of Section 65B(2) had been complied with, in absence of a certificate under Section 65B(4), the same has to be held inadmissible in evidence]

3. [K. Ramajayam V. The Inspector Of Police](#)

[If an electronic record as such is used as primary evidence under Section 62 of the Indian Evidence Act, 1872 the same is admissible in evidence, without compliance with the conditions in Section 65B of the Evidence Act. In this case, DVR which contains the information is before the Court]

I. Effects Test - Jurisdiction

1. [Banyan Tree Holding \(P\) Limited vs A. Murali Krishna Reddy & Anr \(2009\)](#)

[While courts have more readily applied the "effects" test in defamation cases, there have been problems in its application to trademark infringement cases]

2. [United States Supreme Court in the matter of CALDER v. JONES, \(1984\)](#)

[The United States District Court for the Western District of Texas applied the "effects test" set forth by the United States Supreme Court in Calder v. Jones, 465 U.S. 783 (1984), to deny a defendant's motion to dismiss an Internet defamation case for lack of personal jurisdiction]

J. Blocking of Website

1. [Sreekanth C.Nair vs Licensee/Developer \(2008\) \[Blocking of Website](#)

K. Domain Names - Domain & Trademark issues

1. [Infosys Technologies Limited vs Akhil Gupta \(2005\)](#)

2. [Yahoo! Inc. vs Akash Arora \(1999\)](#)

3. [Satyam Infoway Ltd vs Siffynet Solutions Pvt. Ltd \(2004\)](#)

L. .COM Domain Name Disputes (represented by Cylaw Solutions, India for the Respondent)

1. [Vertex Pharmaceuticals Incorporated v. Ramzan Arif, Vertex Medical \(pvt\) Ltd. \[WIPO Case No. D2020-2334 \(Domain: VertexMedical.com\)](#)

2. [Kalyan Jewellers India Limited v. Antony Adam \[WIPO Case No. D2020-1615 \(Domain: KalyanJewellers.com\)](#)

Please visit for more: www.EUDRP.com]

M. Software Piracy

1. [Adobe Systems Inc. vs Sachin Naik \(Delhi High Court - 2013\)](#)