

LAW AREA NAME : WOMAN
SECTION NAME : CRIMINAL LAWS
SUB SECTION NAME : OBSCENITY

LAW IN BRIEF

'Obscenity' is a difficult term to explain as it is intricately linked to the moral values of the society. The Courts have laid down a principle saying that the test to determine obscenity is whether the tendency of the matter, charged with obscenity is to deprave and corrupt those whose minds are open to such immoral influences and into whose hands a publication of this sort may fall. If it does, the matter falls within the purview of obscenity.

In *Ranjit D. Udeshi v. State of Maharashtra (AIR 1965 SC 881)*, the Supreme Court observed that the test of obscenity to adopt in India is where an obscenity is published with a commercial purpose and no other social purpose, it cannot have the constitutional protection of free speech and expression. Treating sex in a manner appealing or having the tendency to appeal to the carnal desire of human nature is definitely obscenity.

LAW IN DETAIL

The Indian Penal Code deals with the sale, hire, distribution, public exhibition, circulation, import, export or advertisement etc of anything obscene.

For sale etc of obscene books, the punishment is imprisonment up to 2 years and fine up to Rs. 2000 on first conviction and imprisonment up to 5 years and fine up to Rs. 5000 on subsequent convictions.

For sale etc of obscene objects to young person under the age of 20 years, punishment is imprisonment up to 3 years and fine up to Rs. 2000 on first conviction and imprisonment up to 7 years and fine up to Rs. 5000 on subsequent convictions.

Anybody who does any obscene act in public places or sings, recites or utters any obscene songs in or near any public places is punishable with imprisonment up to 3 months or with fine or both.

Exceptions:

Any book, pamphlet, paper, writing, drawing, painting, representation or figure which is published in the interest of science, literature, art or learning or in general concern or which is kept or used bona fide for religious purposes;

Any representation sculptured, engraved, painted or otherwise represented on or in any ancient monument or temple or conveyance of idols;

PROCESS FOR SOLUTION

Complaint Under which Section ?

Section 292, IPC: Sale etc., of obscene books etc.,
Section 293 IPC: Sale etc., of obscene objects to young person
Section 294 IPC: Obscene acts and songs

Whom to complain / where to complaint?

An FIR may be lodged in the nearest police station or with the Magistrate having the necessary jurisdiction.

How to file the Case ?

The case may be file in the court of the Magistrate having jurisdiction and the proceedings will be conducted according to the Criminal Procedure Code.

The offences under these sections are cognizable, bailable offences.

What Next ?

Appeal lies to the High Court on the order of the lower court.

ALTERNATE REMEDIES

The accused may plea bargain the offence.

INDECENT REPRESENTATION OF WOMEN

Law in brief:

Indecent representation of women means depiction in any manner of the figure of a woman, her form or body which is indecent and offensive to women or may affect public morality.

Law in detail:

The law prohibits the publication or exhibition of any advertisement containing indecent representation of women and also the production, sale etc of any material containing indecent representation of women.

The offenders are punishable with imprisonment up to 2 years and fine of Rs. 2000 on first conviction and between 6 months and 5 years and fine of not less than Rs. 10,000 up to a maximum of Rs 1 lakh on subsequent convictions.

Exceptions:

Publication for public good, or used bona fide for religious purposes;

Any representation, sculpture, engraved or painted in any ancient monument, temple, idols or used for religious purposes or any film to which Cinematography Act applies.

Under which section?

Section 3: Prohibition of publication or exhibition of any advertisement containing indecent representation of women.

Section 4: Prohibition of any production, sale, distribution or circulation of any book, pamphlet, paper, slide, film, writing, drawing, painting, photographic representation containing indecent representation.

Section 6: Penalty

Where to complain?

Complaint may be made to the Gazetted Officer authorized by the State.

How to file a case?

On receiving any information in this regard, the Gazetted officer may enter and search any place and seize any advertisement or any book or other material.

He may obtain a warrant from the Magistrate for gaining entry into a dwelling house.

A case is filed with the Magistrate and the proceedings of the case will be conducted as per the Code of Criminal Procedure.

The offences under the act are cognizable and bailable.

What next?

Appeal lies to the next higher court in the hierarchy

Alternative remedies:

The accused may plea bargain.