

## 2. Defamation Case

**Prelims Syllabus:** Judiciary

**Mains Syllabus:** GS-II Separation of powers between various organs dispute redressal mechanisms and institutions. Comparison of the Indian constitutional scheme with that of other countries.



### Why in News?

- A magistrate court will pass an order on April 1 on an application by Congress leader Rahul Gandhi seeking permanent exemption from appearing in ongoing defamation proceedings against him by a Rashtriya Swayamsevak Sangh (RSS) secretary.

### What is defamation?

- Defamation is the communication of a false statement that harms the reputation of an individual person, business, product, group, government, religion, or nation.
- In India, defamation can both be a civil wrong and a criminal offence.
- The difference between the two lies in the objects they seek to achieve.
- A civil wrong tends to provide for a redressal of wrongs by awarding compensation and a criminal law seeks to punish a wrongdoer and send a message to others not to commit such acts.

### What are the Legal provisions?

- Criminal defamation has been specifically defined as an offence under section 499 of the Indian Penal Code (IPC).
- Civil defamation is based on tort law (an area of law which does not rely on statutes to define wrongs but takes from ever-increasing body of case laws to define what would constitute a wrong).

- Section 499 states defamation could be through words, spoken or intended to be read, through signs, and also through visible representations.
- Section 499 also cites exceptions. These include “imputation of truth” which is required for the “public good” and thus has to be published, on the public conduct of government officials, the conduct of any person touching any public question and merits of the public performance.
- Section 500 of IPC, which is on punishment for defamation, reads, “Whoever defames another shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.”

#### **Misuse of the law and concerns associated:**

- The criminal provisions have often been used purely as a means of harassment.
- Given the cumbersome nature of Indian legal procedures, the process itself turns into punishment, regardless of the merits of the case.
- Critics argue that defamation law impinges upon the fundamental right to freedom of speech and expression and that civil defamation is an adequate remedy against such wrongs.
- Criminal defamation has a pernicious effect on society: for instance, the state uses it as a means to coerce the media and political opponents into adopting self-censorship and unwarranted self-restraint.

#### **What has the Supreme Court said?**

- In Subramanian Swamy vs Union of India case 2014, the Court approved the Constitutional validity of sections 499 and 500 (criminal defamation) in the Indian Penal Code, underlining that an individual’s fundamental right to live with dignity and reputation “cannot be ruined solely because another individual can have his freedom”.
- In August 2016, the court also passed strictures on Tamil Nadu Chief Minister J Jayalalithaa for misusing the criminal defamation law to “suffocate democracy” and, the court said, “public figures must face criticism”.