

ARTICLE ON 509 OF IPC

By- MANAN MISHRA

Section 509 IPC, as defined under the code states as, “Whoever intending to insult the modesty of a woman, utters any word, makes any sound, or gesture, or exhibits any object, intending that such word or sound shall be heard, or that such gesture or object shall be seen, by such woman, or intrudes upon the privacy of such woman, shall be punished with simple imprisonment for a term which may extend to three years, and also with fine”. This section penalizes words, gestures or acts intended to insult the modesty of a woman. It says that whoever with the intention of insulting the modesty of any woman, either utters any word, makes any sound or gesture, or exhibits any object with the intention that such woman shall hear such word or sound, or that such woman shall see such gesture or object, or intrudes upon the privacy of such woman, shall be punished with simple imprisonment for a term extending up to one year, or with fine, or with both.

Sec 509 IPC is one of the most important sections of the Indian Penal Code. The object of this section is to protect the modesty and chastity of a woman. To establish an offence under this section, a person requires the following essential elements. These are as follows:

- Intention to insult the modesty of a woman,
- The insult must be caused
 - I. by uttering some word, or making some sound, or gesture or exhibiting any object or so as to be heard or seen by such woman, or
 - II. by intruding upon the privacy of such woman.

The section contemplates that the offender must have intention to insult the modesty of any woman. With such intention he must either utter any word, make any sound or gesture, or exhibit any object. His intention for doing so must be that the woman shall hear such word or sound, or that she shall see such gesture or object. Or, the offender must intrude upon the privacy of such woman.

The last part of the section, that is to say, the words ‘or intrudes upon the privacy of such woman’ is also, like the subject matter of the section before it, qualified by the opening words ‘whoever, intending to insult the modesty of any woman’. The argument that intrusion on the privacy of a woman calls for a private place and cannot take place in a public place has no basis in view of the fact that everyone wherever he or she may be taken his or her privacy along with, and also because the section nowhere says that intrusion to privacy needs a private place.

Similarly, the section also does not say that the woman whose modesty is intended to be insulted must hear the word or sound, or see the gesture or object. Exposing one’s person, or using obscene words or exhibiting obscene drawings etc. with the requisite guilty mind are all covered under this section. It is important to note that there is no provision for rigorous imprisonment under this section.

Say for an instance, if a person enters into a woman’s house and tries to catch hold of her and persuades her for sexual connection or any kind of sexual favour by removing her clothes, such a person is said to commit an offence under the purview of section 509 Indian Penal Code. Whereas, on the other hand, if a person sends a letter to a woman that contains indecent language, lewd and filthy suggestions, here also the person will be held guilty for committing an offence under sec 509 Indian Penal Code. The question of what constitutes an insult to female modesty requires no description. The ingredients that constitute to the essence of modesty of a woman was explained by the Supreme Court in the case of **State of Punjab v. Major Singh**. It is the fact of common sense that any word spoken, or song, picture or figure exhibited which suggests lewd thoughts is immoral and insulting to female modesty unless the woman is a consenting party to it. The fact that the indecent act was done unobserved by all except the woman is, of course, no excuse for the offence, because it is intended to punish such very acts. Nor does the fact that there were several women present, some of whom did not mind, matter. Moving further, an insult to the modesty of a woman is not only caused by any stranger, but it can be in the form of domestic violence as well. Domestic violence in all forms has increased much fold over the years. Earlier, the cases of domestic violence were ignored as they were between close relations and within the privacy of their homes. Domestic Violence in broader terms does not only mean harassment or cruelty at the hands of the husband or by the in-laws of a woman. It also includes offences like rape, mutilation of private organs and so on. In addition to the above mentioned, women are more subject to become the victims of sexual harassment at their workplaces. In order to save their job and

reputation of the family in society, they remain silent on such issues. Instead of remaining quiet, they need to raise their voice and strive for punishment for these sexual predators. To provide protection to women at large, this section, IPC 509 was enforced. The offence is a cognizable, bailable, as well as non-compoundable which is triable by any Magistrate. Also, a person can be subject to imprisonment for a term of 3 years of simple imprisonment including fine

In a 2020 case, **Abhijeet J.K. v. State of Kerala**, the De facto complainant while proceeding to her house was approached by a motorcyclist who invited her to accompany him on his bike and further made sexual gesture to her with his hand. Case was registered against the Petitioner for an offence punishable under Section 509 of IPC. The Petitioner approached the High Court to quash the FIR. It was argued by the counsel of the petitioner that the acts allegedly committed by petitioner are trivial in nature and do not attract the offence punishable under Section 509 IPC.

The Kerala High Court observed that the petitioner and the victim were not previously acquainted with each other. Therefore it cannot be found that the intention of the petitioner was to give the victim a lift or free ride on the motorcycle, on account of friendship or relationship with her. Acts allegedly committed by the petitioner amount to an affront to her feminine decency. Invitation made to the victim contained an insinuation that she was a woman of easy virtue who was ready and willing to go with any man during night. The Court remarked that an “Act of affront to the decency and dignity of a woman cannot be considered as trivial in nature.”

In the case of **Rupan Deol Bajaj v. K.P.S Gill, (1995) 6 SCC 194**, it was stated that,

“If the word uttered or the gesture made could be perceived as one which is capable of shocking the sense of decency of a woman, then it can be found that it is an act of insult to the modesty of the woman.”

These incidents and judgments show that Section 509 of IPC is still a relevant provision – however simple it may seem to appear. In the post- pandemic era, provisions of IPC are complemented with IT act to bring justice to an individual and give appropriate punishment to the perpetrator. Recent times have witnessed an overlap between the legal provisions of the Indian Penal Code and the Information Technology Act concerning cybercrimes. However, the ambit of section 509 is complementary to any or every law that intends to penalize an offence outraging the dignity of a woman whether through physical or virtual mode.