

Bringing bullies to book

– With Section 66A of the Information Technology Act gone, is there now no safeguard against cyberbullying? Not so, says **Sharmistha Ghosal**



In January 2011 Chennai-based singer Chinmayee Sripada's tweets related to Tamil Nadu fishermen arrested by the Sri Lankan Navy earned her a sea of threats and abuses online. "My tweets were misinterpreted. It was a horrific phase of my life," says Sripada, who has thousands of followers on Twitter.

To tackle the violently abusive and threatening tweets, Sripada filed a case under Section 66A of the Information Technology Act, or IT Act, that put the bullies behind bars for a couple of weeks. "It was a mentally disturbing period. Some said they would throw acid on me, others threatened to rape me to teach me a lesson. I couldn't be at peace as I could be easily identified in a crowd," recalls Sripada.

Delhi-based author Sreemoyee Piu Kundu has a similar tale to tell. A Facebook status update, where she posted some strong comments on actor Salman Khan getting bail in the hit-and-run case, has led to a barrage of hate mail. "I have about 10,000 people in my Facebook account and somehow the message got shared and published in news portals as a public reaction without my knowledge and permission," says Kundu.

Kundu was flooded with abuse and even rape and murder threats. "Most of them are from fake accounts. In a country where real rapists roam free, it's impossible to track online armchair rapists and with Section 66A of the IT Act being scrapped, there is no specific law to deal with them now," adds Kundu.

Sripada and Kundu are not alone. There are many others who are routinely subject to cyberbullying that can range from seemingly harmless trolling to nasty and vicious hate mails. Till recently, the fear that they might be arrested restrained these elements to an extent. But with the Supreme Court scrapping Section 66A on March 24 this year, they are having a free run on the Internet.

According to the Cyberbullying Research Center in Jupiter, Florida, cyberbullying is "willful and repeated harm inflicted through the use of computers, cell phones, and other electronic devices". A survey conducted by Microsoft in 2012 shows that India has the third highest online bullying rate among the 25 countries surveyed.

Section 66A of the IT Act stated that any person who sent by means of a computer resource or a communication device any information that was grossly offensive or menacing or put out false information to cause annoyance, inconvenience, insult, injury, intimidation and so on would be punishable with up to three years' imprisonment and a fine.

Unfortunately, since the terms of the offences were left fairly vague, Section 66A was routinely abused. On the other hand, though its abolition has been widely celebrated, there is now no specific law to tackle cyberbullying.

So what can a victim of cyberbullying do?

He or she can invoke Sections 503-510 of the Indian Penal Code (IPC) that deals with criminal intimidation, promoting enmity, hatred or ill will between classes, criminal intimidation by an anonymous communication, and gesture or act intended to insult the modesty of a woman.

Other sections of the IPC that might also deal with bullying include 268 (public nuisance), 292-94 (obscenity) and 500 (defamation).

"But most of these sections areailable, making the cases light and long-drawn out," says Bivas Chatterjee, cyber law and forensic expert, and special public prosecutor of the Bengal government for cyber law and electronic evidence.

Chatterjee feels that the absence of a strict law against bullying has led to an unbridled rise in online threats and intimidation. "Recently, I came across a case, where a threat mail was sent to someone along with a footnote that the person wouldn't be able to do anything since there was no law to tackle it," he says.

"Truly speaking, none of these sections in the IPC really covers the entire scope of cyberbullying. For children, it is only when the messages carry sexual overtones that Section 11 of the Protection of Children Against Sexual Offences Act may be applied. But for general bullying, there is nothing the law can do right now," says Debarati Halder, director, the Centre for Cyber Victim Counselling, and a cyber law expert based in Tirunelveli, Tamil Nadu.

Halder says bullying often leads to stalking or posting of defamatory messages, forcing the victim to take the help of the police. But the police can't do much in most of the cases. Halder adds that cyberbullying can be a one-time or a prolonged affair. Her organisation comes across many cases of online bullying targeting women, children bullying children, workplace bullying and bullying of people from the LGBT community, she reveals.

Legal experts feel that the Centre should come up with a law similar to Section 66A, but with proper definition of all terms so that misuse is minimal. "It should be strong enough to make the bully understand why such activities are not permitted and what could be the punishment for posting menacing, harmful messages," says Halder.

"Till recently, people knew that there was a section of the IT Act to deal with online bullying. Now one has to complain to the police and it might take a little longer before the law catches up with the criminals, since the sections of the IPC currently dealing with such offences are bailable," says Karnika Seth, who practises in the Supreme Court and specialises in cyber law.

But at the same time, lawyers also point out that though the current laws might be non-cognisable or bailable, if convicted, the offender can even get life imprisonment. "Section 503 of the IPC deals with criminal intimidation and if it leads to death or grievous hurt, one can get a term of seven years or life imprisonment," points out Vakul Sharma, a Supreme Court lawyer.

Sharma also says that apart from resorting to various sections of the IPC, one can always use Sections 66 and 43 of the IT Act which deal with sending repeated text messages and harassment.

Clearly, as long as the government does not come up with a specific law against online bullying, victims will have to take recourse to other laws to bring the miscreants to book.
