

**CYBERCRIME  
AND  
INDIAN CYBERLAW**

**A PRESENTATION  
BY  
PAVAN DUGGAL,  
ADVOCATE, SUPREME COURT  
OF INDIA  
PRESIDENT, CYBERLAWS.NET  
HEAD, PAVAN DUGGAL  
ASSOCIATES**

# DR. L. PRAKASH- INDIA'S FIRST LIFE TIMER CYBER CRIMINAL

- **FEBRUARY 7, 2008-**
- **'Sex doctor' gets life in cyber-porn case**
- **CNN-IBN**



# **DR. L .PRAKASH- INDIA'S FIRST LIFE TIMER CYBER CRIMINAL**

- **A fast track court in Chennai sentenced orthopedics surgeon Dr Prakash to life imprisonment**
- **Dr Prakash has the dubious distinction of being the first person to be booked under the Information Technology Act in India.**

# RECENT HACKING

- **EMAIL ACCOUNTS OF SENSITIVE INSTITUTIONS AND DEPARTMENTS OFFICIALS HACKED**
- **ACCOUNTS BELONGED TO NATIONAL DEFENCE ACADEMY & DRDO OFFICIALS**

# RECENT HACKING (contd.)

- EMAIL IDs AND PASSWORDS POSTED ON A WEBSITE [www.derangedsecurity.com](http://www.derangedsecurity.com)
- HACKER CLAIMED TO BE IN SWEDEN
- A CLASSICAL TRANS-NATIONAL CYBERCRIME

# IMPORTANT CASES

- **ARIF AZIM CASE**
- **SUHAS KATTI CASE**
- **BAAZEE.COM CASE**
- **SANJAY KUMAR KEDIA CASE**
- **AHMEDABAD MUTH CHILD BLESSING CASE**

# CYBERCRIME LEGISLATION

- **NO DEDICATED CYBERCRIME LEGISLATION IN INDIA**
- **SOME CYBERCRIMES COVERED UNDER THE INFORMATION TECHNOLOGY ACT , 2000**



# CYBER LAW IN INDIA

- **In India the Information Technology Act, 2000 is the legislation that deals with issues related to the Internet.**
- **Amended by the Information Technology Amendment Act, 2008**

# **OFFENCES & PENALTIES**

- **PENALTIES AND ADJUDICATION FOR VARIOUS OFFENCES INVOLVING COMPUTERS, COMPUTER SYSTEMS AND COMPUTER NETWORKS.**

# **OFFENCES & PENALTIES**

## **(contd)**

- **PENALTIES FOR DAMAGE TO COMPUTER, COMPUTER SYSTEM ETC. HAVE BEEN FIXED AS DAMAGES BY WAY OF COMPENSATION NOT EXCEEDING RS. 5,00,00,000/- TO AFFECTED PERSONS.**

# IT ACT & CYBERCRIME

- **Various cyber offences defined**
- **Cyber offences to be investigated only by a Police Officer not below the rank of an Inspector**

# **CYBER OFFENCES UNDER THE IT ACT**

- **Tampering with computer source documents – Section 65**
- **Computer Related Offences - Section 66**
- **Publishing of information which is obscene in electronic form - Section 67**

# CYBER OFFENCES UNDER THE IT ACT

- Sending offensive messages through communication service
- Dishonestly receiving stolen computer resource or communication device
  - Cheating by personation by using computer source
  - Intity theft
- Violation of privacy
- Cyber terrorism

# **CYBER OFFENCES UNDER THE IT ACT (contd)**

- **Breach of confidentiality and privacy**
- **Misrepresentation**
- **Publishing Digital Signature Certificate false in certain particulars and publication for fraudulent purposes.**

# CYBER TERRORISM

- **for the first time, defined the concept of cyber terrorism and has made it a heinous crime.**
- **cyber terrorism as an offence that has been made punishable with life imprisonment and fine.**
- **This move should do tremendous service to the cause of the Indian nation as also the sovereignty, integrity and security of India.**
- **Highly commendable move after Mumbai 26/11/attacks**



# NEW CYBERCRIMES ADDED

- **provide far more exhaustive coverage of cybercrimes in the law.**
- **Various new cybercrimes have been added like the activities defined in Section 43 of the IT Act, 2000.**
- **The new amendments have added identity theft and phishing as cybercrimes .**
- **have also covered breach of privacy, child pornography as specific offences.**

# A TOOTHLESS WONDER

- THE AMENDED INFORMATION TECHNOLOGY ACT- A TOOTHLESS WONDER WITH REFERENCE TO CYBERCRIME PROSECUTION , REGULATION AND PREVENTION

# CYBERCRIMES

- **Cyber Crimes are neglected area of jurisprudential growth.**
- **Three cyber crimes convictions in a country of billion plus population in the last 15 years.**
- **People's confidence in effective booking and prosecution of cyber criminals by the law enforcement agencies is being eroded.**

# CYBERCRIMES

- Barring cyber terrorism and breach of protected system the law has made cyber crimes today as bailable offence where bail is entitled as a matter of right . This is given a completely non-serious approach to cyber crimes.
- Police invariably are not interested in registering cyber crimes.

# CYBERCRIMES

- Practical experience has shown that after the amendments accused once out of bail go ahead and delete the concerned electronic evidence thereby making it impossible before it would be prosecuted and convicted.
- No cybercrime conviction after the IT Act amendments

# CYBERCRIMES

- The amended Information Technology Act has toothless wonder as far as treatment of cyber crimes is concerned.
- There is a need for strengthening the law. Large number of cyber crimes are still not covered.
- These includes social media crime networking and other financial crimes.

# CYBERCRIMES

- There is a need for further amending the Information Technology Act.
- There is further need for effectively providing mechanisms and methodologies for appropriate retention of electronic evidence.
- Inability to retain electronic evidence properly in accordance with the law is one of the biggest challenges for the successful prosecution of cyber crimes.

## **INTERMEDIARIES**

- **NETWORK SERVICE PROVIDERS ARE NOT CONTRIBUTING TO THE REGULATION OF CYBERCRIMES**
- **DO NOT GIVE DATA**
- **NEED FOR A FRESH LOOK AT THEIR LIABILITY**



# CYBERCRIMES

- The last one decade has seen tremendous growth of cyber crimes in India.
- Cyber crimes in India have become far more sophisticated focused and professional.

# CYBERCRIMES

- There is a need for cohesive, comprehensive approach in tackling cyber crimes in terms of having an stringent legislation and effective enforcement.
- Need for empowering the relevant stake holders with the relevant awareness, tools and wherewithal for ensuring the successful convictions of such cyber criminals.

**A PRESENTATION  
BY  
PAVAN DUGGAL,  
ADVOCATE, SUPREME COURT  
OF INDIA  
PRESIDENT, CYBERLAWS.NET  
HEAD, PAVAN DUGGAL  
ASSOCIATES  
pavan@pavanduggal.com**