CYBERCRIME
AND
INDIAN CYBERLAW
A PRESENTATION
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FEBRUARY 7, 2008-
'Sex doctor' gets life in cyber-porn case
CNN-IBN
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
- 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
No dedicated Cybercrime legislation in India

Some cybercrimes covered under the Information Technology Act, 2000
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.
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.
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
  - Identity 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.
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.
Barring cyber terrorism and breach of protected system, the law has made cyber crimes today as bailable offences 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.
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
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.
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
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.
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 stakeholders with the relevant awareness, tools and wherewithal for ensuring the successful convictions of such cyber criminals.
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