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TOPIC-The legal aspects of publishing/transmitting material containing sexually explicit conducts.



What is Sexually explicit content?

- **Sexually explicit** material (video, photography, creative writing) presents **sexual** content without deliberately obscuring or censoring it. The term "**sexually explicit**" is often used as euphemism for pornography.



Indian Law about this.

- ▶ **Section 67A** in The Information Technology Act, 2000. [**67A** Punishment for publishing or transmitting of material containing sexually explicit act, etc., in electronic form.
- ▶ **Section 67** of Information Technology **Act**: Punishment for publishing or transmitting obscene material in electronic form.



Punishments.

- ▶ **Section 67, IT Act, 2000:** It punishes sharing obscene material in electronic form. The punishment can be jail for five years and a fine of Rs 10 lakhs.
- ▶ **Section 67A, IT Act, 2000:** It punishes sharing material containing sexually explicit act in electronic form with jail for seven years and a fine of Rs 10 lakhs. The provisions of the Information Technology Act are not gender specific and apply to everyone.



Case regarding this.

- ▶ In the case of **Akshay Sripad Rao v. The State of Maharashtra** (CrBA 2304/17), the accused is facing trial (RCC 1171/2017) before the Judicial Magistrate First Class, Nashik for offences under Section 67, 67A of the Information Technology Act, 2000 along with Section 354A, 354D of the Indian Penal Code, 1860. He had filed a bail application before the Bombay HC under Section 439 of the Code of Criminal Procedure, 1973.
- ▶ **Facts of the Case**
- ▶ The contents of FIR revealed that the accused had disrobed the victim, made physical contact and advances involving unwelcome and explicit sexual overtures.
- ▶ He had also taken her nude photographs and uploaded them on 145 different porn websites.
- ▶ It was also brought to the knowledge of the court that the accused had done the same with another victim.
- ▶ Forensic analysis of accused's seized laptop and mobile phone revealed that he had uploaded victim's photos from these devices.
- ▶ **Judge's Opinion**
- ▶ Justice Anuja Prabhudessai, who was presiding over this case, made following observations –
- ▶ The photos uploaded on various porn sites contain sexually explicit act/conduct.
- ▶ The material on record prima facie shows that accused has committed an offence falling under the above-mentioned provisions.
- ▶ Since the victims are two young girls, there are definite chances that the accused will pressurise the victims and eventually, thwart the course of justice.
- ▶ **Order**
- ▶ Based upon the above opinion, the honourable Judge did not find this case as a fit case to be granted bail at this stage of the trial. Further, the lower court was accordingly ordered to frame the charges and record the evidence of the victims within a period of four months from the date of this order.



Thank You.

