



The Regulation of Cyber Obscenity

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Abstract

The issue of obscenity has always been a complex one as it involves other related issues like decency and morality. But this complex issue of obscenity, when it comes under the umbrella of cyberspace, becomes a threat for internet users because this has no limitation and has unrecognized users. This anxiety gave birth to a question, like how this is to be regulated and to what extent is it to be regulated? What should be the measures to regulate Cyber obscenity? In the past decade, the Supreme Court took cognizance for many times to curb said anxiety. The present is to describe the obscenity, under the Information Technology Act, 2000 and discuss all relevant provisions. Thereafter the author analyzed the concept of obscenity based on the judgments laid down by the Supreme Court of India. However, this is a modest attempt to discuss and analyze the concept of cyber obscenity on the count of Supreme Court Judgments.

Keywords: *Obscene, Salacious Material, Cyber Obscenity, Cyber Crime, Cyber Space, Cyber Law, Child Pornography, Violation of Privacy, Indian Penal Code 1860, Information Technology Act 2000.*

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INTRODUCTION

"If the obstacle begins to see these things more than an average person, then in the same way, as stated incorrectly, a French man sees a woman's feet in everything, it cannot help."

—Hidayatullah, CJ

The issue of obscenity has always been a complex one as it involves other related issues like decency and morality. It is strenuous to judge obscenity in segregation using straitjacket principles. It needs a wider perspective. For example, a depiction of a nude body from is indecent and vulgar for some, and another side, it is an artistic expression to be relished by one and all. Meaning of immoral varies for person to person. With the inception of information technology, people are becoming power-oriented day-by-day with the consciousness of their freedom and forgetting their duties to maintain the moral standard and decency in the society. Cyber Obscenity is a peril to the internet users at the globe as there is no territorial limit which distinguishes the commission of crime between the countries. Due to the global accessibility the

commission of crime between the countries. When such an incongruity subsists, it is crucial that a holistic view should be undertaken as any narrow interpretation of statutes may lead to a miscarriage of justice. It would be more if one were dealing with the vexation question of 'cyber obscenity'. Believing and interpreting that 'cyber obscenity' is an extension of 'physical obscenity' would be fallacious.

Cyber Obscenity: Definition and Meaning

The term 'Cyberspace' was initially used by William Gibson in his novel 'Neuromancer' 1982. The phrase cyber or cyberspace symbolizes a virtual environment within which networked 'computers' activity takes place and Obscenity is any statement or act which strongly offends the established morality of the time. Obscenity is a legal phrase that pertains to anything offensive to morals and is constantly equated with the term pornography. Obscenity arises from the Latin word obscene. In *R v. Hicklin [1]*, the word obscene was defined as "Any substance which tends to deprave or corrupt those whose senses are available to immoral influence."

The Hicklin's test asserts that a governing body may forbid anything that "depraves and corrupts those whose senses are available to such immoral influence and into whose hands a publication of this kind might fall."

Cyber-obscenity is the trading of sexually conclusive material within cyberspace. Cyber pornography or obscenity parley is very complicated because pornography is not inevitably illegal. The test in the United Kingdom and another jurisdiction is whether or not the materials are obscene and deprave for its viewers, but there are substantial legal and moral disparities regarding the parameter that enable law enforcers to establish obscenity and deprivation. In Britain, for example, the individual daily view requires images through the several facets of the mass media. These exact images might be legally obscene in some Islamic civilizations, yet they are deemed perfectly accepted in more permissive countries.

According to the Supreme Court of India, "the belief of obscenity would differ from country to country depending on the standard of morals of contemporary society." And that obscenity is a propensity to deprave and pollute those whose senses are available to such immoral influences.

CYBER OBSCENITY AND THE INFORMATION TECHNOLOGY ACT, 2000

The Information technology Act has wrapped all aspects of an offence associated with cyber obscenity. It provides punishment for \

- i. Violation of privacy,
- ii. publishing or transmitting obscene material in electronic form,
- iii. publishing or transmitting of material incorporating the sexually explicit act, etc., in electronic form,
- iv. Child pornography.

The Act thus furnishes a thorough cyber obscenity penal.

Violation of Privacy

Section 66E elucidate the punishment for the offence where, any person intentionally or

knowingly, capture/publish/transmit the picture of privy parts of any person, without obtaining his/her consent, and such said act also violated the privacy of that person.

For Instances: installation of spy cams/ hidden cameras/communication device inside washrooms, bedrooms, changing rooms, hotel rooms, etc. to violate bodily privacy of any user/occupant of such.

Section 66E must now be applied in consist with section 354A, 354B, 354C and 354D which are for Sexual harassment and punishment for harassment, Assault or use of criminal force to women with intent to disrobe, Voyeurism and Stakingas introduced by the Criminal Law (Amendment) Act, 2013 respectively.

For this, the Hon'ble Supreme Court in one of its interim order in *Binu Tamta v. High Court of Delhi [2]* led to the formation of "the Gender Sensitization & Sexual Harassment of Women at the Supreme Court of India Regulation 2013". Thereafter directed that the "...copies of the same be sent to the different High Court in the different states, so that they also may contrive their similar Regulation, to restrain harassment of women in court premises. The High Court may also ensure that the same are implemented at the District level as well".

Publishing or Transmitting Obscene Material in Electronic form

Section 67 of the said Act punishes to person, who publishes or transmits or caused to so any lascivious material or appeals to a prurient interest in electronic form which tends to deprave and corrupt a persons or likely audience to read, see or hear the matter contained or embodied in electronic form.

This provision endorses that the 'obscene material in electronic form' must be considered by itself and separately to find out whether it is so gross and its obscenity so decided that it is likely to deprave and corrupt those whose minds are open to the influence of this sort and into whose hands the obscene material in electronic form' is likely to fall.

Critically speaking, the aforesaid section, like section 292 (1) IPC, does not make knowledge of obscenity an ingredient of the offence. Thus, to escape criminal charges, one has to prove his lack of knowledge of publication or transmission of obscene information in electronic form. Moreover, through publication or transmission of obscene information may be illegal but mere possession, browsing or suffering through obscene content is not an illegal activity.

It should be noted that under no circumstance any offence related to 'obscenity in electronic form' should be tried under section 292 IPC as section 81 of the Information Technology Act, 2000 states that Act will have an overriding effect and prevail over others provisions for said offence.

Moreover, the punishment provided under section 67 of the Act is far more stringent, at least monetarily wise, than what is being given under section 292 IPC. Thus, any attempt to use section 292 IPC for publishing or transmitting of information, which is obscene in electronic form instead of section 67 of the Act would create unnecessary confusion and may also result in a miscarriage of justice.

Rationally, offence related to 'obscenity in electronic form' should be tried under the provision of section 67 only and any attempt to import provision of section 292 IPC would be an abuse of the legislative intent behind the act.

Publishing or Transmitting of Material Containing the Sexually Explicit Act, etc.

Section 67A provides the punishment for the publication or transmission of any material containing sexually explicit act or conduct in the electronic form by any person.

Given the ease with obscene content can be replicated, misused, and distributed over that Internet using all kind of information technology and communication tool- it was felt by the lawmaker to move beyond "likely audience" test of section 67 and to provide a more stringent mechanism to combat obscenity in electronic form.

The term "sexually explicit act or conduct" has been qualified by the word "explicit", meaning thereby that mere 'obscene act or conduct' may not fall under this section. For punishment under this section – "publication or transmission of the sexually explicit act or conduct" – is an essential ingredient. Hence the difference between section 67 and 67A is depend on the nature of offence content.

Supreme Court in *Kamlesh Vaswani v. Union of India* [3], has been approached to direct the respondents to block the pornography websites, platforms, links or downloading by whatever other Internet means or name to prevent easy access whether in private or public. The questions are twofold: (a) whether pornography can be blocked in absolute terms? And (b) whether blocking of adult pornography is violative of freedom of speech or expression as enshrined under Article 19(1) (a) of the constitution? Interestingly, during the proceedings before the court, the respondent did block 857 websites, allegedly depicting child pornography content but had to hastily withdraw the order as the majority of the listed websites on examination found to carry only adult pornography content.

Obscenity Test

Obscenity test was appeared in *Regina v. Hicklin* [4], for the first time, as this examine the tendency of the content, by a review/inspecting that does the work could have a capacity to manipulate/man-oeuvre sinfully by getting into the hands of a person of early ages or puerile and it was deemed that this test would apply only to isolated passages of a work. Those "whose minds are open to such immoral influence" primarily meant the young, as lord CJ Cockburn elucidated in his *Hicklin* opinion, the danger of prurient literature means, "it aimed and targets the ideas of immature and more adolescent aged persons by thoughts of lustful and libidinous character". This view was a precedent for U.S. anti-obscenity legislation, beginning with the Comstock Law of 1873, which broadened the 1865 Mail Act essentially to its present form by providing fine and imprisonment to any person mailing or receiving "obscene", or "lascivious" publications.

With the enactment of The Obscene Publication Act, 1959 of UK, the definition of obscenity has been articulated as the tendency to deprave and corrupt the likely audience, i.e., persons who are likely to read, see or hear the contents of the publication rather than those whose hands the publication may accidentally fall. But even after this enactment, the test for obscenity in the UK is still based on the perceived vulnerability of the likely audience, for example, the capacity of the 'violent' bubble gum cards to "deprave and corrupt" the youthful clientele [5].

Whereas in *Miller v. California*, the supreme court declared that the states might prohibit the printing or sale of works, "which appeals to a prurient interest in sex, taken as a whole, fall short of serious literary, artistic, political or scientific value". The test is therefore not the effect of the material, but whether it contravenes locally determined standard of acceptable sexual depiction.

In *Miller v. California* [6], the Supreme Court set-out a three-prong test for obscenity called the 'Miller Test':

- a. *Is it pornography?* Does an average person could find any substance of salacious or lustfulness in the material?
- b. *Does it show sex?* Does the concern work portrayed or characterized sexual conduct in an offensive manner as defined by state law?
- c. *Is it otherwise useless?* Is in the concern work absence of lacks serious literary, artistic, political or scientific value?

It must be mention here that the third prong of the miller needs a more objective assessment based on a "reasonable person" test. As it was held in *pope v. Illinois* [7], that the genuine examination was not there, whether as an ordinary member of any given community would find serious value in the allegedly obscene material or a reasonable person would find such value in it, taken as a whole. Thus, we should reiterate that the factors and standards for obscenity vary greatly, depending on the culture of the state, city or town, or, for that matter foreign country. This makes it virtually impossible for a provider

and others to determine, with any degree of predictability, whether the material they distribute, transmit, post and so on would be deemed obscene.

TEST FOR OBSCENITY IN INDIA

In a historic decision, given by Bombay High Court, *Ranjit D. Udeshi and Ors. Vs. The State of Maharashtra*, [8] a test has been established to identify what material, work or content shall amount to being obscene by interpreting the word "obscene" as that, which is "abusive to humility or decorum, and repugnant." Hicklin's test was followed in this case.

The court also upheld the constitutionality of Section 292 IPC, holding that it constituted a reasonable restriction on the right to freedom of expression under Article 19(2) of the Constitution in the interest of decency and morality. In the above case accused were partners of a bookstall named Happy Book Stall and were found in possession for sale of copies of an obscene book called *Lady's Chatterly's Love*.

Further *Chandrakant Kalyandas Kakodkar vs. State of Maharashtra*, [9] is a case relates to articles and pictures in the magazine being claimed to be obscene and calculated to corrupt and deprave the minds of the reader, the Court reaffirmed the ratio as was determined in *Ranjit Udeshi's case* and held that the concept of obscenity would differ from country to country depending on the contemporary standard of the society.

Moreover, in *Samaresh Bose and Anr vs. Amal Mitra* [10]; where a novel 'Prajapati' written by Samaresh Bose and published in 'Sarodiya Desh', an annual Bengali Journal has been deemed to be obscene by an advocate Amal Mitra. The Supreme Court has wisely noted that "The concept of obscenity would differ from country to country depending on the standards of morals of contemporary society."

Further in the same case court differentiated between "vulgarity" and "obscenity"; as vulgar writing is not necessarily obscene. Vulgarity awakens only a spirit of repugnance and abhorrence and also tedium but fails to

have the effect of depraving, debasing and corrupting the morals of any reader of the novel, whereas obscenity tends to deprave and corrupt those whose minds are open to such immoral influences. Thus, in *Amal Mitra* case, the Supreme Court followed the likely-audience test, a clear departure from the 'most-vulnerable-person' test of *Hicklin*.

Significantly, in *Directorate General of Doordarshan v. Anand Patwardhan* [11], the Hon'ble Apex Court endorsed Miller test as the basis for the test of obscenity.

In a recent ruling of *Sada Nand v. State (Delhi Administration)* [12], Supreme Court of India has declined to accept *Hicklin's* test which was further followed by Indian judiciary in a series of the subsequent case as addressed above and ruled that: "A portrait/photograph of a naked/half-naked, as such, not alone competent to called an obscene unless it holds the tendency to awaken feeling or revealing a clear lustful desire.....merely that sex-related substance which holds "exciting lustful thoughts" can be held to be obscene, but obscenity shall be judged from the parameter of an average person, by applying the method of contemporary community standard." Acknowledging ambiguity in the 'similar spectator' test mark out in *Chandra Kant Kalyan* case,

Hon'ble Supreme Court in *Ajay Goswami Vs. Union of India*, [13] opined that earlier test of a "community-based standard" has become irrelevant in the today's IT age and held that Information Technology age and has held that forbiddance on selling or publishing salacious substance is a judicious limitation imposed on the freedom of speech and expression provided under Article 19 of the Constitution of India. Subsequently, "Responsible Reader Test" evolved and was also appreciated and legal luminaries of Cyber and Criminal Law recognized as finest since the court was considering that internet has subsided all geographical boundaries and community standard are speedily becoming global rather than territory specific. In another famous judgment delivered in *Avnish Bajaj vs. State of Delhi* [14];: the Delhi High court had to

deal with an MMS clip which was listed on *Bazee.com* for sale at Rs.125 per piece through the website by Ravi Raj, a fourth year IIT Kharagpur student. The question in this case, for Section 67, was, whether the website caused the publication of obscene material. It was difficult for the court to charge accused u/s 292 of IPC as this does not cover the electronic obscenity under it. Therefore, Delhi High Court ultimately ordains that any prosecution for the offence u/s 292&294 IPC can be revoked and will continue with prosecution u/s 67 read with section 85 IT, 2000 and held that in the present case a disputed website has prima facie induced publication of salacious material.

Hon'ble Supreme Court, in *K. Abbas v. The Union of India and another* [15], mark distinction between "Sex" and "obscenity" and observed that it would be an inferior perception of considering nudity & sex as salacious, indecent or immoral. "Sex" and "obscenity" are not always sisters. For this test was marked out during case *Mishkin v. New York* [16], for instance, "The preconditions of literary work contain in itself a broad aspect of socialization also not exactly in its kind of paragon and also an edge should be drawn where an ordinary or hypersensitive individual to experience embarrassed and disgusted at a clothless artistic work of life without retrieving a brush of art or genius or social value."

In *S. Rangarajan v. P. Jagjevan Ram*, [17] the Apex Court dealt with the aspect of censorship and held that freedom of expression cannot be held to ransom, by an intolerant group of people. The inalienable privilege of speech and expression can be curtailed only for purposes contained in Article 19(2) and the curtailment should be judicious. It was observed as under:

"Standards are to be applied by the Courts for adjudicating the motion-picture must be that, of an average moral man of common sense and prudence and not beyond of the ordinary or hypersensitive man". Thus, the **test of the ordinary man** was set out in this case which is for deciding a work must be that of an

average moral man and beyond of average or supersensitive man.

In *Maqbool Fida Husain v. Rajkumar Pandey* [18], petitioner made a painting, later challenged for acknowledging the nudity for portraying India in conclusion and the painting made by the petitioner was challenged for celebrating the nudity for depicting India in an abstract and a plot of an unclothed lady with her floppy hair in the kind of the Himalayas flaunting her anguish. Afterwards in 2006, said portrait termed as "Bharat Mata" was broadcasted as part of E-auction for charity for Kashmir earthquake victims conducted by a non-governmental organization with which the petitioner claims to have no involvement.

PUBLICATION OF OBSCENE INFORMATION IN ELECTRONIC FORM

The publication is defined as "the action of making publicly known". The Supreme Court held in *Bennett Coleman & Co. v. Union of India*, [19] held that publication means that "publication means dispersal and publicly available". In the context of the Internet, the term publication includes dissemination, storage and transmission of information or data in electronic form.

In general, if a book, magazine or an article is obscene, it is an offence to publish it or to sell the publication for gain.

Applying the Miller Test

One of the important requirements under the Miller Test has been that the material is viewed in the context of the relevant local "contemporary community standards". The question that arises is, which community's standards are to be used? Will it be the community standards of the community from where the transmission originated or where it was downloaded? Thus, material deemed obscene in one community might escape the 'black money' in another. That is, applying the Miller Test to adjudge online obscenity would be full of possibilities.

In *United States v. Thomas*, [20] the defendant was operating the Amateur Action Computer

Bulletin Board System (AACBBS). He used to convert, by mean of a scanner, sexually explicit magazine pictures into computer files and later sell them to the subscribers. Against the complaint of Tennessee resident, he was tried and convicted in a Tennessee court for violating obscenity laws.

The court held that it is well established that: a venue for federal obscenity prosecution lies "in any district from, though, or into which" the allegedly obscene material moves. This may result in prosecution of a person in a community to which they have sent materials, which are obscene under that community's standard though the community from which it is sent would tolerate the same material.

Though Miller has been used successfully to convict perpetrators of obscenity in electronic form, the three prongs of the test must not be applied selectively. An over-emphasis on 'contemporary community's standards' would be highly damaging and may result in the miscarriage of justice.

SECTION 67 WITH JUDICIAL PERSPECTIVE

Avnish Bajaj v. State [21]

The mere facts are: The case involved a student of IIT Kharagpur, named Ravi Raj, who placed an advertisement offering a pornographic MMS video clip for sale with the username Alice Electronics on baazee.com. Although baazee.com had a filter for online posting of Even though baazee.com have a filter for posting of offensive content, the listing, however, post with the description, "Item 27877408 – DPS Girls having fun!!! full video + Baazee points". The content was schedule online around 8.30 pm on November 27th, 2004 and was eliminated, around 10 am on 29th November 2004. For this cognizance taken by the Crime Branch of Delhi of the matter and lodged a FIR. After investigation, under sec 173 Cr.P.C. a charge sheet was filed presenting Ravi Raj, Avnish Bajaj, the owner of the website and Sharat Digumarti, the person accountable for handling the content, as accused. Since Ravi Raj escaped; the petition was filed by Avnish Bajaj, seeking the annulling of the criminal proceedings.

Submissions by Petitioner

1. That the transaction of transferring of MMS took between seller and buyer, without any intervention/involvement of Baazee.com, BIPL and buyer are only responsible for transacting MMS. And therefore, a website is immune and allegedly booked for the offence u/s 292 & 294 IPC or 67 of the Information Technology (IT) Act.
2. That as it came into the knowledge of website, due diligence was taken at once to remove said motion picture because they knew it was objectionable.
3. That transmission of such salacious material does not embody within u/s 67 IT, 2000 since it is for the offence of publication of lustful/offensive material.

Submissions by Respondent

1. That an offence u/s 292 IPC includes overt acts as well as illegal omissions in the meaning of Sections 32, 35 and 36 IPC.
2. That failure to have adequate filters in a system, which is fully automated, and emphasizes on serious consequences and a website cannot avoid such legal consequences.
3. That seller received payment even on 27th December 2004 and it also shows that no efforts were made to prevent or hinder the commission of the wrongdoing by the website.

Judgment: Hon'ble Delhi High Court submitted that the prima facie for a wrong done u/s 292(2) (a) & 292 (2) (d) IPC has made out against website instead of the posting the video clip respectively. Moreover, observed, "*Website doesn't even have a filter to perceive words through which the post or the salacious substance was offered for sale on the said website, which was knowing that such material is an amount to obscene*", and therefore held that u/s 292 a strict liability imposed because knowledge of posting accredits to the company.

However, as far as Avnish Bajaj is involved, the court held that as IPC does not have a provision of an automatic criminal liability link to the director where the company is

charged, therefore court acquitted petitioner but not to others accused.

In respect of S.67, read with Sec 85 IT Act 2000, the court stated that a presumed case was made out to counter petitioner Avnish Bajaj since the law recognizes the alleged Cr. liability of the directors despite company did not prosecute. However, the verdict acquitted Avnish Bajaj.

Prakash (Dr.) v. State of Tamil Nadu [22]

A case where the court employs the interest of our today's society and especially the persuasion of the "salacious material in electronic form" on it. And therefore, even the State Government may have to arrest offenders of 'Cyber Obscenity' by evoking local State Legislations consequently.

The mere facts are, Dr Prakash, the petitioner, was in custody u/s 3(1) Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Goondas, Immoral Traffic Offenders and Slum Grabber Act.

The sign for his custody was that he was indulging in an offence u/s 67 IT Act, 2000, sec 4 & 6 of Indecent Representation of Women (Prohibition) Act, 1986 and under section 27 of the Arms Act, 1959. The petitioner questioned his detention under Article 32 of the Indian Constitution.

The petition was quashed, as the apex court due to lack of merit in the plea, this caused a delay for two days in completing translated copies of documents have had any prejudice to the detenu. It was held that the contents of the letter received from any part to the detenu. It was held the contents of the letter received from a member the public costless manifesto was not extraneous or irrelevant.

Fatima Riswana v. State Rep. by A.C.P. Chennai [23]

Supreme Court refused the High Court order of transfer of the sessions trial from V Fast Track Court. Previously, the high court instructed the relocation of the case at the instance of the accused, which was booked u/s

67 of IT Act 2000, and several other provision of the Indecent Representation of Women (Prohibition) Act, 1986, Immoral Traffic (Prevention) Act, 1956 etc., the transfer based on trial of women exploitation. The Supreme Court stated that:

“Truth, but inborn that any man of integrity shall be awkward/uncomfortable while determining the evidence in any case, but this disgrace cannot be charged to a lady officer only. A Judicial officer may be of either sex presumed to confront this challenge when the call of duty required it. A judicial officer is expected to receive all prejudices and forebears when a situation is required, so in our view, the High Court did not justify treating the judicial officer as an embarrassment because she was a female officer, but the concerned officer had not given any reservation in this regard. If for any situation, the Presiding Officer may have to make such an adjustment/arrangement to avoid seeing the CD in the presence of male persons. It is a matter of procedure to be followed by the Presiding Officer.”

CONCLUSION

Obscenity is a globally recognized complex issue which has attracted the attention of jurists, lawmakers and society at large. It can be stated that what is immoral for one may not be so for other or other society. Due to the latest technology people are becoming more power-oriented day-by-day with the full consciousness of their freedom rather than their duties to maintain the moral standards, decency, peace and order and to follow the law in the country. Above all, the judiciary is one among three organs of the government which performs the function of maintaining peace and order in the society and it is left to it for maintenance of the reason as well as a prudent repository of moral standard in the society for dealing with obscenity in cyberspace.

The usage of new multimedia technology is increasing every day, and this would be misused by Cybercriminals. Cyber obscenity is one of those cybercrimes which is growing every day both at national and international level. United States of America and India have

enacted several laws for dealing with cyber obscenity; despite this many complicated legal issues remain unresolved. There are several offences taking place in both countries but only a few cases are lodged as a complaint. But due to this the cybercriminals are day-by-day more encouraged to get involved in such type of criminal activities. It is suggested that punishment needs to be enhanced for dealing with such crimes and there is a need to adopt a specific and comprehensive definition of cyber obscenity in the cyberspace. On a priority basis, there is a need to take concert action to stop all forms of obscenity and child pornography specifically.

There is also a need of issuance and determination of uniform guidelines for the internet service providers and cyber cafés which expressly mentions their liability and accountability such as there must be the provision for keeping the secrecy of the user's personal information which is provided based on utmost good faith.

For combating the problem of publishing obscene information in cyberspace, there is a pressing need for spreading awareness in government as well as the public. It is also highly demanded that the cyber authorities must be technically trained from time to time. There is a need to inculcate the culture of continuous learning education among law enforcement authorities because present knowledge becomes obsolete in a very short time. Society at large must be aware of the fact that they are also encouraging such activities by searching online obscene/pornographic material to satisfy him/her mentally. Searching online obscene material results in financially supporting those persons who are uploading such obscene information for gaining profit and such profit increases with an increase in the number of subscribers and viewers. So, firstly, we should check ourselves not to provide financial support to cybercriminals indirectly. Involving ISP's would be a good strategy and it would restrict the supply and may prove to be more beneficial as compared to simply identifying and prosecuting users of child pornography.

As it is better to be preventive than curative. The punishment for cyber obscenity must include all the four theories of punishment, i.e. retributive, deterrent, preventive and reformative theories.

REFERENCES

1. L.R. 3 Q.B. 360 (1868).
2. WP (C) 162 of 2013
3. (2016) 7 SCC 592.
4. (1868) 3 QB 360.
5. Director of public prosecutions v. A. and B.C. Chewing Gum Ltd., (1969), 1 QB 159.
6. 413 US 15 (1973).
7. Ed.
8. 481 US 497 (1987).
9. AIR 1962 Bom 268.
10. AIR 1970 SC 1390.
11. (1985) 4 SCC 289.
12. (2006) 8 SCC433.
13. ILR (1986) II Delhi 81.
14. (2007) 1 SCC 43.
15. 2005 DRJ 576.
16. AIR 1971 SC 51.
17. 383 US 502.
18. 204, 1989 SCC.
19. 1973 SCR (2) 757.
20. (1972) 2 SCC 143.
21. 74 F.3d 701 (6th Cir.).
22. Writ Petition No. 7313 of 2000.
23. Appeal (crl.) 61-62 of 2005.

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