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Google India Private Ltd vs M/S. Vishaka Industries AIR 2020 SC 350

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INTRODUCTION

The case *Google India Pvt. Ltd. v. Visakha Industries* is a landmark case in intermediary liability and online defamation under Indian law. The plaintiff, Visakha Industries, alleged that defamatory content had been published against them on Google's online discussion platform, Google Groups. Since Google India was the actual owner of the platform, it was the defendant of this case.¹

This case had gone up to the Supreme Court and the main issue before it was whether Google India, as an intermediary, could claim protection from criminal liability under Section 79 of the Information Technology Act, 2000. The case and its final decision is important because it clarified the extent of responsibility that can be imposed on any internet intermediary company such as Google, Meta (previously Facebook), etc. for third-party content posted on platforms they owned. It also provided clarity on the scope of safe harbour protection available under Indian law before the 2008 amendment to the IT Act.

FACTS OF THE CASE

The plaintiff alleged that defamatory statements were made against itself by certain individuals who published such material on a discussion forum called "Ban Asbestos India" hosted through Google Groups.

The posts were accusatory in nature and claimed that the plaintiff was involved in unethical and corrupt practices; therefore, the plaintiff also said that these statements had harmed its business.

After being alerted to this content, the plaintiff sent notices to Google Groups requesting removal of the alleged defamatory posts. However, Google did not remove them immediately. Therefore, criminal complaints for defamation were filed directly against Google India and others by the plaintiff. The defendant sought to quash the proceedings in the Supreme Court, arguing that it was merely acting as an intermediary and could not be held liable for defamatory content published by a third-party, which they technically had no authority over.

¹ *Google India Private Ltd vs M/S. Visakha Industries*, (December 10 2019), AIR 2020 SUPREME COURT 350, available at: <https://indiankanoon.org/doc/97017195/>. last accessed on May 20, 2026.

ISSUES RAISED

A few major issues arose due to the complexities of this case. These were mainly surrounding whether Google India could be protected by the IT Act, 2000, considering the role of an intermediary and also the relevance of the 2008 amendment. The following were the issues:

- Could the defendant, Google India, claim immunity as an intermediary under Section 79 of the Information Technology Act, 2000?
- Would the amendment to Section 79 of the Information Technology Act apply, considering the posts were published before 2008?
- Would Google India be held liable for criminal defamation due to hosting the alleged defamatory content even after receiving a notice for its removal?

ARGUMENTS OF THE PARTIES

Plaintiff:

- Argued that the statements posted were defamatory because they caused serious damage to the company's commercial reputation.
- Google India lost the protection available to intermediaries under the IT Act once it was made aware of the defamatory content through the notices sent by the plaintiff.
- Google India's failure to remove the material despite being informed amounted to active participation in publication, also making it liable for criminal defamation.

Defendant:

- The defendant argued that it functioned as an intermediary, essentially providing a platform for users to post content, and had no involvement in creating or publishing the defamatory statements.
- Therefore, they also contended that Section 79 of the IT Act, 2000, granted them immunity from liability for third-party content.
- They also said that holding intermediaries liable would leave a negative effect on open communication on the internet, as other platforms would also feel threatened.

Precedents Cited:

Several landmark judgments were cited in this case because of its complexity. These judgements were important towards guiding the final decision in determining the liability of Google India as an intermediary.²

- Shreya Singhal v. Union of India (2015)- Cited for its interpretation of Section 79 of the IT Act and concept of “actual knowledge for intermediaries”. This was important in the context of Google India becoming aware of the defamatory material and choosing not to act upon it.
- State of Haryana v. Bhajan Lal (1992)- Cited regarding the scope of quashing criminal proceedings under Section 482 of CrPC.
- Mohd. Abdulla Khan v. Prakash K. (2018)- Referred to for understanding ingredients of criminal defamation.

FINAL JUDGMENT

After deliberating on the issues of the case and the arguments presented by the plaintiff and the defendant, the Supreme Court chose to side with the former and refuse to quash criminal proceedings, holding that the matter should proceed to trial.

The Court concluded that because the allegedly defamatory material was posted before 2008, the unamended version of Section 79 of the IT Act would be applied to govern the dispute. The Court noted that this statute was narrow and did not provide a direct exemption from liability to intermediaries. The Court also held that failing to take reasonable steps to take down defamatory material, even after being notified, can be treated as having participated in the publication of said content.³

ANALYSIS OF THE JUDGMENT

The judgement of this case is significant for the evolution of determining liability for intermediary companies in India. The Supreme Court chose to be cautious by refusing to

² Supreme Court of India, GOOGLE INDIA PRIVATE LIMITED v. M/S. VISAKHA INDUSTRIES - Advanced Analysis, JURIS CODEX (Dec. 10, 2019), <https://juris-codex.com/supreme-court/2019/google-india-private-limited-v-ms-visakha-industries.html>. Accessed May 27, 2026.

³ Parchi Bhardwaj, Google India Fails to Gain Protection under Section 79 of the IT Act, 2000; To Face Trial in a 2008 Defamation Case, SCC ONLINE (Dec. 11, 2019), <https://www.scconline.com/blog/post/2019/12/11/google-india-fails-to-gain-protection-under-section-79-of-the-it-act-2000-to-face-trial-in-a-2008-defamation-case/>. Accessed May 20, 2026.

quash the criminal proceedings, instead focusing on clarifying that unconditional immunity is not easily available to intermediaries after they have been informed of unlawful content. This has ensured accountability from digital platforms and correctly recognized the harm that can arise through online content.

Strength

The interpretation of the unamended Section 79 of the Information Technology Act is a strength of this judgement. The Court observed that protection available before the 2008 amendment was narrow and did not provide blanket immunity. Therefore, the Court was able to balance freedom of expression with protection against defamation by showcasing that having knowledge and choosing not to act against defamatory or other criminal content may create liability.⁴

Limitation

However, there is also one limitation with this judgement. The Court was unable to clearly define the scope of what can be considered as “knowledge” needed to impose liability on intermediaries. This ambiguity can make platforms act cautiously and excessively remove online content that may seem unlawful in order to avoid litigation. This consequence can inhibit free speech and open communication. The decision had also designated significant responsibility only on intermediaries without providing a differentiation between active posters and completely independent platforms. This creates uncertainty about the extent of due diligence expected from tech companies.

Impact of the Case

This judgement has been influential towards the development of liability law for online intermediaries in India. The status of the safe harbour protection under Section 79 of the IT Act has now been understood as conditional rather than absolute. This precedent has encouraged tech companies to be more wary of unlawful third-party content and adopt appropriate monitoring and grievance addressal systems for the same. The recency of the final decision has also contributed to more debates about how Indian courts and online platforms can aim to balance freedom of speech and regulation of unlawful material.

⁴ Raghav Mendrietta & Joan Barata, Google India Private Ltd v. M/s. Visakha Industries, wilmap (Dec. 11, 2019), <https://wilmap.stanford.edu/entries/google-india-private-ltd-v-ms-visakha-industries> Accessed May 20, 2026.

Moreover, the case has also been responsible for current discussions regarding the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, which provide clear details of due diligence obligations that intermediaries have. Overall, the judgment has been pivotal in advancing Indian law focused on tech companies and cyber law.

SUGGESTIONS FOR REFORM

The judgement of this case made it apparent that reforms were needed in liability frameworks for companies. One suggested reform has been the establishment of a statutory definition of “actual knowledge” under Section 79 of the IT Act, since it was not addressed in the judgement itself. The ongoing uncertainty regarding the scope of “actual knowledge” makes it possible that intermediaries will remove content to avoid any liability. A precise legal definition will help to solve this problem and protect individuals against defamatory material.

Furthermore, the establishment of an independent regulatory mechanism for online content disputes can be an effective reform. It would avoid the need for intermediaries to be cautionary and remove content without justification. Reduction in arbitrary censorship and ensuring fairness is important in modern cyber law.

Lastly, reforms need to distinguish between active publishers and passive intermediaries. Going forward, laws should clarify that there is a difference when an intermediary is liable for facilitating the publishing of unlawful content and failing to comply with its takedown after being notified. The European Union’s Digital Services Act has a legal framework similar to this; hence, it can be adopted as a guiding statute.

CONCLUSION

Google India Pvt. Ltd. v. Visakha Industries represents a significant change in Indian law relating to intermediary liability and online defamation. The Supreme Court decided that the safe harbour protection under Section 79 of the IT Act, 2000, is not absolute. Intermediaries may still face liability if they fail to act after receiving knowledge of unlawful posts due to this precedent. This case has somewhat achieved a balance between India’s growing use of online platforms and the need to protect individuals from harmful targeted content.

Moreover, the judgement revealed key areas where further clarification is needed: the scope of intermediary responsibility and the definition of knowledge required to determine liability. The ruling has increased accountability of digital platforms and tech companies, but also raised concerns about over-censorship. In conclusion, the case is an impactful judicial precedent that has led to more discussions about internet regulation and legal complexities surrounding intermediary platforms.