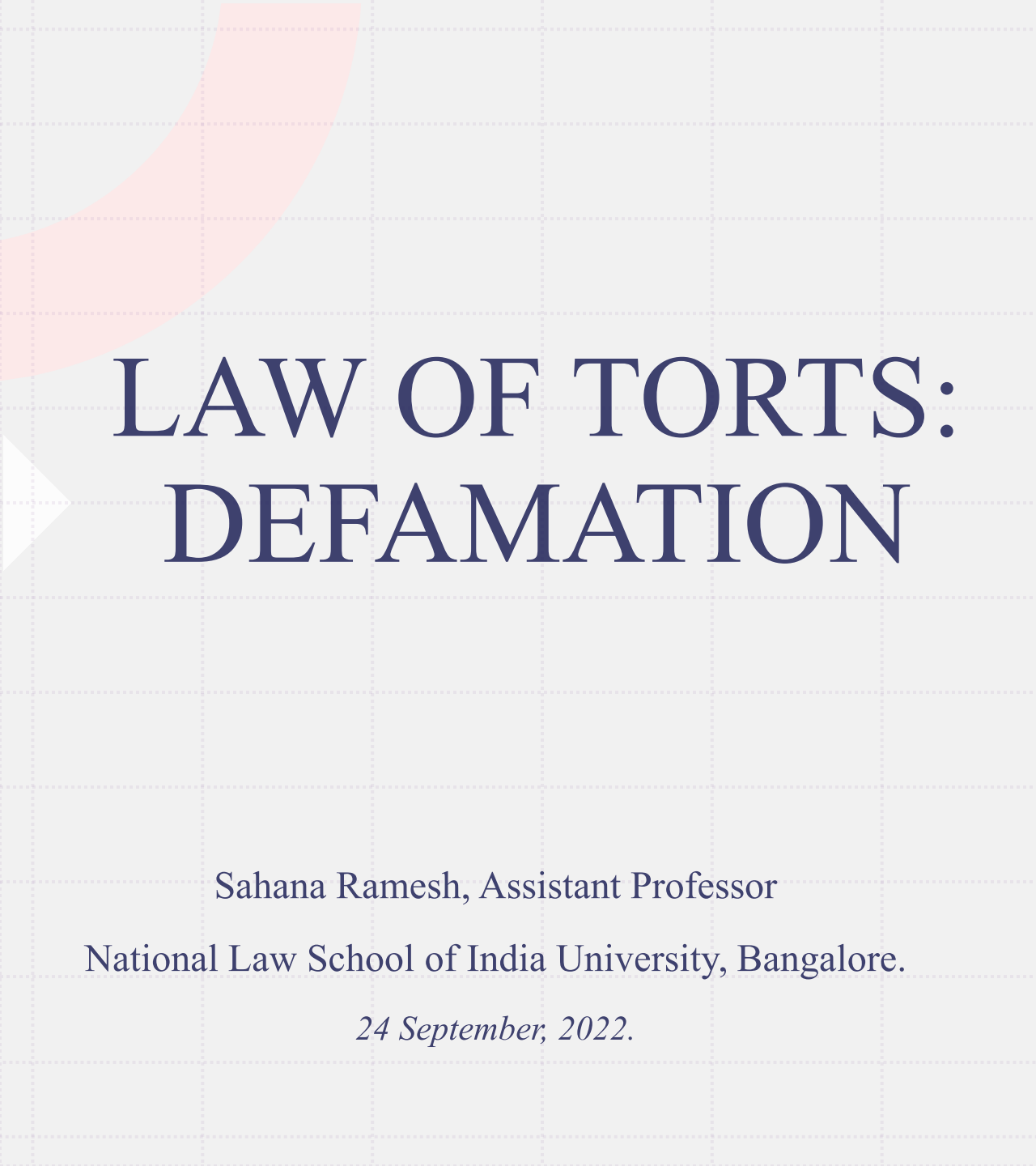




LAW OF TORTS: DEFAMATION

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Defamation: An introduction

What does the law on defamation seek to protect?

What are the competing interests that the law on defamation must take into consideration?

What might be considered defamatory in common parlance?

Kinds of Defamation (Common Law)

Libel

Traditional notion of libel.

Actionable under what law?

Pre-requirement of damage?

Slander

Traditional notion of slander.

Actionable under what law?

Pre-requirement of damage?

Proving Defamation

Proving Libel – elements:

Falsity of statement

Must be in writing / permanent form

Publication of the statement

Defamatory nature of the statement

Proving Slander – elements:

Falsity of statement

Publication of the statement

Defamatory nature of the statement

Consequent special damage

Proving Defamation

What is a defamatory statement?

Reading the statement as an “ordinary man”.

Assessing a statement that forms a part of a whole.

Importance of context in the determination of the nature of the statement.

[*Babuji Shah vs. Hussain Zaidi and others*, SLP(c) 15711/2021]

Reference to the plaintiff → A necessity?

Proving Defamation

Innuendos - Examining statements beyond the *prima facie* level.

[*Cassidy v Daily Mirror Newspapers Ltd.* [1929] 2 KB 331]

Unintentional defamation through innocent publication – A way to protect the freedom of speech and expression, this is a statutorily recognized exception to enable the defendant to make amends.

Proving Defamation: Slander

Consequent special damage (Common Law)

The relevance of consequent special damage to defamation by slander.

Damage a “natural consequence” of the statement.

The common law rule on the actionability of statements that do not cause special damage.

Selected Defences to Claims of Defamation

Truth → Complete defence

Fair comment → Legitimate criticism versus verifiable statement of fact.

Privilege → Difference between absolute privilege and qualified privilege.

Defamation Law in the 21st Century

Challenges and Preparedness

Classification in the age of social media

The internet and defamation – issues of anonymity

Defamation suits and the #MeToo Movement

- * *Mobashar Jawed Akbar v Priya Ramani*, Complaint Case No. 5/2019.
- * Claims by accusers upon being called ‘liars’ by the accused.