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Experts Say India's Cyber Law is Outdated

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Cyber law expert Pavan Duggal feels India's Information Technology Act of 2000 is completely outdated and not fit to deal with cyber crimes. He said that the law was promulgated four years ago primarily to bolster the e-commerce business and not intended to deal with cyber crime issues.

An Indian court may have granted bail to the India head of eBay (Nasdaq: EBAY) Latest News about eBay auction house in connection with a sex video being sold on the Web site Relevant Products/Services from Verisign -- Free E-Commerce Start-up Kit, but the captains of information technology industry are seething with anger over the ambiguity of nation's cyber law.

On Tuesday, the Delhi High Court released Avnish Bajaj, a U.S. citizen, on bail and asked him to surrender his passport and not leave the country without the court's permission. He was also asked to pay two sureties of US\$2,300 each.

Bajaj, head of eBay's India portal, bazee.com, was arrested Friday after a video CD of a teenage student couple having oral sex was discovered being sold on the site.

The chief of India's leading IT company, Infosys, objected to Bajaj's arrest. He said it underlined the need for proper laws for electronic auctions.

"In my opinion this [arrest] is too drastic," Narayan Murthy told

reporters in Bangalore city. "We need to spend more time in framing proper laws for electronic auctions," Murthy said.

Rules Needs Reform

Bajaj spent four nights in police and judicial custody, and his ordeal with the police will badly influence the inflow of foreign direct investment in the country.

India, which is riding on the success of its fledging Business Process Outsourcing industry, will soon feel the pinch with many multinational companies having a second thought to set up a shop in a country where the cyber law is completely outdated.

India's National Association of Software and Service Companies condemned the arrest.

"We are extremely dismayed at what has happened," Nasscom President Kiran Karnik said on the sidelines of a conference in New Delhi.

Bajaj's arrest displayed the draconian approach of law enforcement agencies even when the Web portal was cooperating with the police to investigate how the 2.37-minute sexual act clip came up for sale at the Web site.

"It [the arrest] is not a good sign. The state needs to correct itself," Karnik said.

Unfit To Deal with Today's Crimes

The Federation of Indian Chambers of Commerce and Industry said IT law clauses relating to transmission of obscene material through electronic media should be changed.

"The IT act needs to be rethought," Ficci Secretary General Amit Mitra said. "This has many ramifications. To arrest the CEO who was cooperating in the investigations without a proper notice or charge sheet is highly irregular. This is not how things would be done in the U.S."

Cyber law expert Pavan Duggal feels India's Information Technology Act of 2000 is completely outdated and not fit to deal with cyber crimes. He said that the law was promulgated four years ago primarily to bolster the e-commerce business Relevant Products/Services from Sprint -- With Sprint, business is beautiful. and not intended to deal with cyber crime issues.

Duggal, who is a member of the high-powered Indian government panel to recommend changes in the IT Act, said that the law has failed to keep pace with the growing changes in the modern

technology.

Changes Recommended

"When the law was framed, there were no technologies like MMS or sophisticated devices like mobile phones Latest News about mobile phones with cameras. The IT Act is struggling to cope with the change in modern technology," Duggal told UPI in an interview.

He said that the panel had recommended several changes in the IT Act, but none was implemented since not many of the suggestions favored the government perspective.

Duggal said that section 79 of the IT Act holds the network service provider guilty until proven innocent. "It is not fair to hold network service provider responsible for the data processing of a third party," Duggal said.

He said that the Delhi police have implemented the law in letter but not in spirit. "Bajaj's arrest was completely unwarranted," Duggal said, adding that police action will affect the outsourcing Latest News about Outsourcing industry.

Just over a month-and-a-half ago, two 11th-grade students from Delhi Public School filmed themselves on the boy's mobile phone during an oral sex act "just for kicks."

When the couple broke up a few days later, the boy allegedly started sending the clip to classmates. The clip soon traveled across the country and also overseas and was hosted on several Web sites before police swung into action.

Video CDs and DVDs of the 2.37-minute clip sold like hot cakes across the country. Police have arrested the boy who made the video clip and an engineering student who sold the video CDs on baazee.com

Students Expelled

The schoolboy in the video appeared in court Monday, while he and his girlfriend, students at a prestigious New Delhi school, were expelled from the institution.

The wide distribution of the amateur sexual act clip has suddenly awakened the authorities in India to moral policing. On Monday, police raided cyber cafes in Agra city and allegedly found several schoolboys and girls in cabins watching porno sites.

"Several girls hurriedly put on their clothes after they were caught with their boyfriends with their pants down," a police official told Indo Asian News Service.

Bajaj may be out on bail, but his arrest had brought a tremendous diplomatic pressure on India from the United States.

"This situation is one of concern at the highest levels of the U.S. government," State Department Spokesman Richard Boucher said Monday, adding U.S. Secretary of State Colin Powell was following the issue closely.

Indian media has also blasted the arrest.

Police Caught Off Guard

The Indian Express said that Delhi Police have bitten off much more than they can chew.

"The Bajaj case could completely overshadow the initial crime -- that of a delinquent schoolboy who used his camera phone to record a sexual act with a female classmate ... The [Bajaj] arrest was based on a perverse and particularly limited reading of the Information Technology Act, 2000. The Act holds service providers guilty for transmission of unlawful text or other data through their network," the Express said.

"Many newspapers in Delhi carry ads for massage parlors. Some of those hiding behind the mask of 'therapeutic masseurs' are prostitutes. Delhi Police has even busted a few such rackets. Should it now arrest the owners and editors of the newspapers?" the daily questioned.

"Neither the potential buyer nor Baazee.com's managers can see or view my product. Nobody can try on the shirt before paying for it. They can only read my description," a columnist wrote in The Indian Express.

Bajaj may be out on bail, and the boy who made the clip and the man who sold the clip maybe in the jail, but people across the world are happily downloading the amateur clip from various Web sites.

Last week an Indian tabloid published pictures of an Indian actor kissing her boyfriend at a Bombay nightspot. The pictures were taken from a vide clip filmed by a MMS phone by a person sitting on the table next to the actor couple.

The two actors threatened the Mid-Day daily with a defamation suit, saying the pictures were morphed, but the newspaper stood by its news pictures. However, the Supreme Court of India said the pictures were in a bad taste. But, the IT Act is silent on filming anyone's personal actions in public and then distributing it electronically.

In the past, eBay, the world's No. 1 auction site and parent company

of baazee.com, may have successfully hosted an "auction" of virginity and even of a "slightly used human soul," but they will watch their each step in India -- the land of kama sutra, the 6th-century sex manual.

Etiquette Guide

Meanwhile, mobile handset manufacturers in India have begun issuing phone etiquette guidelines asking the users to respect the privacy Latest News about privacy of people around their phones with cameras. The handset manufacturers do not want to feel the heat of the sexual clip incident in a country, which has been continuously recording 200 percent increase in mobile phone users for nearly a decade. In India, mobile phone users outnumber the fixed line telephone users.

Samsung Latest News about Samsung India has unveiled its set of mobile phone etiquette and responsibility guideline for camera phone users, asking the users not to shoot and circulate objectionable content, Business Line daily reported.

"Samsung believes that there is a need to use technology responsibly. To facilitate responsible use of integrated devices like the camera phone, Samsung has come up with a set of voluntary guidelines for the user of such devices," Kunal Ahooja of Samsung said.

Other handset manufacturers like Motorola (NYSE: MOT) Latest News about Motorola and Nokia (NYSE: NOK) Latest News about Nokia said that the they have been telling their users about ethical usage each time a mobile phone is sold.

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