

## New Delhi

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### Porn websites to face the heat now

By Devesh K. Pandey

NEW DELHI, DEC. 18. The registration of a First Information Report (FIR) in the much publicised sleazy MMS case and the subsequent arrests of an IIT-Kharagpur graduate and now of the Baazee.com Chief Executive Officer and Chairman, Avnish Bajaj, has paved the way for action against several other websites which have been in the business of selling or circulating pornographic material through the internet.

The IIT student, Ravi Raj, was arrested for circulation and sale of pornographic material and booked under Sections 292 and 294 of the Indian Penal Code (IPC), which deal with offences pertaining to sale of obscene material, and Section 67 of the Information Technology Act (ITA) that deals with publishing and distribution of obscene electronic contents. So was Mr. Bajaj under Section 67 of the ITA.

A Supreme Court lawyer and expert on cyber laws, Pavan Duggal, said the provisions for registration of a case for sale or circulation of pornographic material on the internet was already in place with the notification of the ITA in 2000 and that it was one of the first few cases in which these provisions had been invoked and offenders booked. "It has happened for the good and in future too similar legal action can be taken against violations of this nature," he said.

Mr. Duggal said it would be better if such cases were read with Section 79 of the ITA which clarifies that the liability of any such offence is on the network service provider, which when interpreted means any intermediary website, its owner, network administrator and even mobile service providers could be held liable for making the service available for sale of the pornographic material. They, however, would not be liable if they prove that they had no knowledge of such an offence or it was not in their hands to prevent it.

In India, such a law can be invoked, and it will also be effective, as here the State public policy already defines the sale, circulation or distribution of obscene material a

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criminal offence. Mr. Duggal said the ITA empowers police officers of Deputy Superintendent of Police (DSP) rank to take necessary action and conduct raids and arrests if they have a reason to believe that such an offence has been committed, or being committed, or is going to be committed.

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