

Is Posting the Truth Defamation under Thai Law?

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Key points

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- The text of Section 326 does not contain the word “false”
- Supreme Court Judgment No. 7256/2567, using the courts instead of a shaming post
- The scope of Section 330: proof of truth is a ground for exemption from punishment
- Section 329 and the good-faith requirement
- Comparative law, where “truth” is an absolute defense to defamation
- Before posting the truth, a 5-point checklist
- Frequently asked questions (FAQ)
- The text of **Section 326** of the Criminal Code does not contain the word “false,” so the elements of the offense do not turn on whether the statement is true or false.



- **Section 330** provides only that the person “shall not be punished” (unofficial translation), not that no offense was committed, and **proof is not allowed** where the imputation concerns a personal matter and the proof would not benefit the public.
- **Supreme Court Judgment No. 7256/2567** held that a person who believes the other party is refusing to pay a debt should exercise the right to take legal action to enforce payment under the law, not post a message and pictures of the other party on Facebook.
- In the same case, the defendant claimed that the statement was true and of benefit to the public, yet the Supreme Court still held that the post was not an expression of opinion in good faith under **Section 329 (1) (3)**, and punished the defendant under Section 328.
- The safer route is to act through legal channels first. If a public warning is necessary, state only the facts that are necessary, that are supported by evidence, and that concern a matter in which the public genuinely has an interest.
- England and the United States treat truth as a complete defense in civil defamation cases. Thai law is stricter, because proof is not allowed even for true personal matters whose proof would not benefit the public.

Under Thai law, posting the truth can still amount to defamation, because the elements under Section 326 of the Criminal Code are imputing a matter about another person to a third person in a manner likely to impair that person’s reputation, and the statute does not require the statement to be false. Proof of truth under Section 330 is merely a ground for exemption from punishment, not a ground for exemption from liability.

The text of Section 326 does not contain the word “false”

The elements set out in Section 326 of the Criminal Code are simply that a person imputes a matter about another person to a third person in a manner likely to impair that person’s reputation or expose them to hatred or scorn. The word “false” does not appear anywhere in the statutory text. Whether the statement is true or false is therefore not an element of the offense; it comes into play instead at the stage of exemption from punishment under Section 330.



The first thing to understand is the wording of the law. The offense of defamation under Section 326 of the Criminal Code uses the words “imputes anything to another person before a third person in a manner likely to impair the reputation of such other person or to expose such other person to be hated or scorned” (unofficial translation).¹ Note that the statute **contains neither the word “false” nor the word “untrue”**. As the courts interpret it, to “impute” means to assert a fact about another person, and the element is satisfied whether the matter is true or invented, as long as the statement is likely to impair that person’s reputation.

This differs from the offense under Section 14 (1) of the Computer-related Crime Act, whose elements require dishonestly or deceitfully bringing **distorted, forged, or false data** into a computer system, and whose text itself excludes conduct that is an offense of defamation under the Criminal Code, if the data is true, there is no offense under that section. Confusing these two offenses is the source of the mistaken belief that “posting the truth can never be an offense.”²

Supreme Court Judgment No. 7256/2567, using the courts instead of a shaming post

Supreme Court Judgment No. 7256/2567 held that a person who believes the other party is refusing to pay a debt should exercise the right to take legal action to enforce payment under the law. Posting a message and pictures of the other party on Facebook, where the general public can see them, is not an expression of opinion in good faith under Section 329 (1) (3) of the Criminal Code, even though the defendant claimed that the statement was true.

In this case, the defendant posted a message together with photos of the plaintiff on Facebook, leading people who knew the plaintiff to understand that the plaintiff was a cheat who owed a debt and did not repay it, and was a deceiver. The defendant argued that the post was fair comment and that the statement was true and of benefit to the public rather than a personal matter. The Supreme Court agreed with the Court of Appeal Region 3, as set out in the abstract of the judgment:



Supreme Court Judgment No. 7256/2567 (abstract, unofficial translation)

The defendant posted a message and displayed photos of the plaintiff on the Facebook application, which would cause people who know the plaintiff to understand that the plaintiff is a cheat, owes a debt and does not repay it, and is a deceiver. It is therefore an imputation against the plaintiff before a third person in a manner likely to impair the plaintiff's reputation or to expose the plaintiff to be hated or scorned. **If the defendant considered that the plaintiff intended not to pay the debt owed to the defendant, the defendant should have exercised the right to take legal action against the plaintiff to have the plaintiff compelled by law to pay the debt to the defendant, rather than resorting to posting defamatory statements and pictures of the plaintiff.** The defendant's act cannot be regarded as an expression of any opinion or statement in good faith such as would be a ground for exemption from liability under Section 329 (1) (3) of the Criminal Code.³

The court's reasoning in this case matters to anyone thinking of publishing a "warning post" or a "debt-collection post." The court did not decide whether the debt actually existed. It held instead that **where the law already offers a route to exercise one's rights in court, choosing a method that damages the other party's reputation is not an act in good faith.** The claim that the statement was true therefore did not bring the case within the exemption under Section 329. In sentencing, the Supreme Court took into account that the post was not in a closed Facebook group and was accessible to the general public, so the damage spread widely and quickly. It modified the judgment to imprisonment of 3 months and a fine of 1,000 baht, with the prison sentence suspended for 2 years and the defendant placed on probation, instead of the fine alone imposed by the Court of Appeal Region 3.

The scope of Section 330: proof of truth is a ground for exemption from punishment

Section 330 of the Thai Criminal Code is a ground for exemption from punishment, not a ground for exemption from liability. An accused person who proves that the statement is true is therefore merely spared punishment and has still committed the offense under Section 326. Moreover, the provision prohibits such proof if the imputation concerns a personal matter and the proof would not benefit the public.



Many people have heard that Thai law allows you to “prove the truth”, and that is correct, but you have to read both paragraphs of Section 330 in full.

Section 330 of the Criminal Code

“In a case of defamation, if the person accused of the offense can prove that the matter alleged to be defamatory is true, that person shall not be punished. Such proof shall not, however, be allowed if the matter alleged to be defamatory is an imputation concerning a personal matter and the proof would not benefit the public.” (unofficial translation)

Two important limitations are hidden in this section.

- **First limitation: the result is “no punishment”, not “no offense”.** Unlike Section 329, under which the act is not an offense at all, Section 330 only exempts the person from punishment, and the offense remains. In practice, this means the defendant must go through the trial, contest the case and bear the burden of proof themselves.
- **Second limitation: personal matters that would not benefit the public cannot be proved at all.** Examples include love affairs, family history, or personal scandals of ordinary people in which society has no stake. Even if the defendant has evidence that the statement is one hundred percent true, the court will not allow it to be proved, so the defendant cannot rely on Section 330 to avoid punishment.⁴

To put it as briefly as possible, Thai law places a higher value on **a person’s reputation** than on **the freedom to tell the truth** about matters from which society gains no benefit. This philosophy differs markedly from that of the common law system, as the comparative section below shows.



Section 329 and the good-faith requirement

The way out that removes the offense from the outset is Section 329 of the Thai Criminal Code, which exempts from liability an opinion or statement expressed in good faith in the cases it lists. The decisive condition is good faith. In the case decided by Supreme Court Judgment No. 7256/2567, the court held that, because the poster was already entitled to take legal action under the law, choosing to publish a shaming post instead did not fall within Section 329 (1) (3).

The exception that results in “no offense at all” is Section 329, which protects a person who expresses an opinion or statement **in good faith** in four cases: (1) by way of self-justification or defense, or for the protection of a legitimate interest; (2) as an official in the exercise of their functions; (3) by way of fair comment on any person or thing subjected to public criticism; and (4) by way of fair report of the open proceedings of any court or meeting.⁵

The question is when posting the truth counts as acting “in good faith”. Supreme Court Judgment No. 7256/2567 sets a negative test: if a **more appropriate legal channel** is still available but the person does not use it, and instead chooses a method that damages the other party’s reputation, the court will find that they did not act in good faith. The positive criteria that can reasonably be drawn from the case law on this issue as a whole are as follows:

The specific case of reviews of shops and products, which relies mainly on fair comment under Section 329 (3), is explained in the article [Are negative online reviews of shops and products defamation?](#)

- The matter must directly concern the speaker’s own interests, or be one in which the public has a genuine interest, rather than a purely private matter of someone else.
- The wording must be proportionate to the circumstances and must not go as far as abuse, contempt or embellishment beyond the facts.
- The method and the channel must be appropriate. A complaint made to the authority directly responsible for the matter is protected far more readily than a public post.
- The motive must not be personal spite that merely uses the facts as a pretext.



Where a police complaint has already been filed, the choice of whether to rely on Section 329 or Section 330 also has a bearing on the issue of proving who made the post. The sequence of defenses is explained in the article *Accused of online defamation: the rights of the accused and legal defenses (Thai)*.

The hierarchy of protection to remember

Section 329 (good faith) → no offense at all, Section 330 (truth proved, and proof not prohibited) → an offense, but no punishment, Anything else → an offense, and punishment, even if the statement is true. Anyone thinking of posting should therefore always ask themselves first which rung of this ladder their case is on.

Comparative law, where “truth” is an absolute defense to defamation

In England and the United States, truth is an absolute defense in civil defamation cases. In Germany, which, like Thailand, makes defamation a criminal offense, a person who proves that the statement is true is not guilty of *üble Nachrede*. Thai law under Section 330 is stricter, because proof of truth is barred for true personal matters that would not benefit the public.

England, truth is a complete defense

English defamation law today is governed by the Defamation Act 2013, section 2 of which makes “truth” a complete defense: if the defendant proves that the statement complained of is substantially true, the claim fails, however personal the matter may be, and there is no requirement that the defendant first use a “more appropriate channel”.⁶ Moreover, section 73 of the Coroners and Justice Act 2009 abolished the common law criminal offense of defamatory libel in England and Wales with effect from 12 January 2010. Telling the truth in England therefore no longer leads to criminal punishment for defamation.⁷



United States, truth is constitutionally protected

In the United States, truth is likewise an absolute defense, and the Supreme Court has gone further still. *New York Times v Sullivan* (1964) established that a public official (a rule later extended to public figures) who sues for defamation must prove that the statement was false and that the defendant acted with “actual malice”, that is, with knowledge that it was false or with reckless disregard of whether it was true or false.⁸ The burden of proof is therefore the complete reverse of the Thai position. In Thailand, the defendant bears the burden of proving the truth in order to avoid punishment; in the United States, a public-figure plaintiff must prove falsity to win the case.

Germany, closest to Thailand, but still broader

Germany is of particular interest because, like Thailand, it has retained defamation as a criminal offense. Section 186 of the German Criminal Code (StGB) punishes asserting a fact about another person that damages their reputation **unless the fact is proved to be true**. In other words, provable truth means that this offense is not committed at all, not merely that the offender is not punished, as under Section 330 of the Thai Criminal Code. However, Section 192 still allows punishment for “formal insult” (Formalbeleidigung) where the manner of communication or the words used are demeaning beyond the factual content, which is comparable to the approach of Thai courts in examining whether the way a post was made was appropriate.⁹



Issue	Thailand	England	United States	Germany
Can a true statement be an offense?	Yes, even if true, it is an offense under Section 326/328; the offender may merely escape punishment under Section 330	No, truth is a complete defense	No, truth is absolutely protected	As a rule, no offense under §186 if truth is proved, but a demeaning form is still an offense under §192
True personal matter of no public benefit	Proof of truth is barred, so Section 330 cannot be invoked to avoid punishment (Section 330, last paragraph)	Still a defense (but privacy is covered by separate law)	Still a defense (privacy torts are separate)	Truth may be proved, but courts weigh it against the constitutional right of personality
Burden of proving truth/falsity	Defendant proves truth	Defendant proves truth (civil)	Public-figure plaintiff proves falsity + actual malice	Defendant proves truth (criminal)
Criminal penalty	Yes, imprisonment not exceeding 1 year (Section 326) / 2 years (Section 328)	Abolished (effective 12 January 2010)	Almost never enforced	Yes, §§185-187 StGB

The lesson from this comparison is that Thailand is among the countries that protect reputation most strongly. People used to Western internet culture, especially that of the United States, where reviewing, exposing or publicly shaming someone with true facts is commonplace, need to adjust their understanding when they are subject to Thai law, because the principle that truth is an absolute defense does not apply under Thai law.



Before posting the truth, a 5-point checklist

The questions to ask before posting start with Section 326: does the statement identify a particular person? Next comes Section 330: is it a personal matter on which proof of truth is barred? Then Section 329: is a lawful complaint channel still available? If one is, a post that publicly shames the other person runs the risk that the court will not accept it was made in good faith.

1. **First ask whether a legal channel is available**, filing a police complaint, complaining to a regulator, or suing. If one exists and you have not yet used it, a shaming post carries a high risk under the approach in Supreme Court Judgment No. 7256/2567.
2. **Does the public genuinely have a stake in the matter?**, A danger to consumers at large is different from a personal dispute you want to vent about. If it is the other person's personal matter, proof is barred under the last paragraph of Section 330, even if it is true.
3. **Do you have complete evidence to back it up?**, The burden of proving the truth falls on the person who posts, not on the injured person.
4. **Do the words go beyond the facts?**, Pure facts and facts accompanied by insults ("cheat", "greedy", "bad person") have very different legal consequences.
5. **Are you ready to bear the burden of a lawsuit?**, Even though you may ultimately win under Section 329 or escape punishment under Section 330, defending a criminal case takes a long time and costs money.

Frequently asked questions (FAQ)

This section brings together common questions about posting true statements: why truth does not remove the offense under Section 326, the scope of proof of truth under Section 330, the good-faith requirement under Section 329, and how Thai law differs from the law of England, the United States and Germany.



Why can telling the truth be defamation under Thai law?

Because Section 326 punishes “imputing” (unofficial translation) a matter in a manner likely to impair another person’s reputation, without requiring the statement to be false. Thai law is aimed primarily at protecting reputation; truth is only a ground for avoiding punishment under Section 330, subject to limited conditions.

If I really was cheated, can I post a warning to the public?

Think it through carefully. If you have not yet filed a police complaint or used any legal channel and choose to post first, the court may find that you did not act in good faith. As Supreme Court Judgment No. 7256/2567 held, a person who considers that the other party refuses to pay a debt should exercise the right to take legal action, rather than post text and photos of the other party on Facebook. The safer course is to take legal action first; then, if a warning is genuinely necessary, state only facts backed by evidence, without insults, and only on a matter that genuinely affects the wider public.

How do Section 330 and Section 329 differ?

Section 329 protects an expression of opinion in good faith, so that the person “shall not be guilty” (unofficial translation) at all. Section 330 applies when the act is already an offense, but allows proof of truth so that the person “shall not be punished” (unofficial translation), and it bars such proof if the matter is personal and the proof would not benefit the public.

Is posting the truth about celebrities or politicians different from posting about ordinary people?

It differs in terms of “benefit to the public” (unofficial translation). The conduct of public figures that relates to their public role, such as a politician’s exercise of official powers, is more likely than a purely personal matter to be open to fair comment under Section 329 (3) or to proof of truth under Section 330. That does not mean, however, that anything may be posted; the wording must still be fair and not excessive.



If the post is false, what additional liability arises?

The offense of defamation under Section 326 or Section 328 of the Criminal Code remains the main basis of liability, and when the statement is false, the person who posted it cannot invoke Section 330 to avoid punishment. Section 14 (1) of the Computer-related Crime Act applies to dishonestly or deceitfully bringing distorted, forged or false data into a computer system in a manner likely to cause damage to the public, and the provision itself excludes acts that are an offense of defamation under the Criminal Code. In addition, the injured person may sue for civil compensation under Section 423 of the Civil and Commercial Code, which applies to asserting or circulating as a fact that which is contrary to the truth.

Footnotes

1. Criminal Code, Section 326 (the offense of defamation)
2. Computer-related Crime Act B.E. 2550 (2007), as amended by the Computer-related Crime Act (No. 2) B.E. 2560 (2017), Section 14 (1), whose elements use the words “distorted or forged computer data, whether wholly or partly, or false computer data” (unofficial translation), and whose wording excludes an offense of defamation under the Criminal Code
3. Supreme Court Judgment No. 7256/2567, Miss O. (plaintiff) v. Miss P. (defendant) (Criminal Code, Section 329). The Supreme Court agreed with the Court of Appeal Region 3 that “the defendant’s act cannot be regarded as an expression of any opinion or statement in good faith such as would be a ground for exemption from liability under Section 329 (1) (3) of the Criminal Code” (unofficial translation), and modified the judgment to imprisonment of 3 months and a fine of 1,000 baht, with the imprisonment suspended for 2 years. Source: Supreme Court judgment database, deka.supremecourt.or.th (checked 26 September 2026)
4. Criminal Code, Section 330 (proof of truth, a ground for exemption from punishment, not a ground for exemption from liability)
5. Criminal Code, Section 329 (1)-(4) (a ground for exemption from liability, expression of opinion in good faith)
6. Defamation Act 2013, s.2 (Truth) (England & Wales)
7. Coroners and Justice Act 2009, s.73 (England & Wales), abolished the offense of criminal defamatory libel
8. New York Times Co. v Sullivan, 376 U.S. 254 (1964); see also Philadelphia Newspapers, Inc. v Hepps, 475 U.S. 767 (1986) on the burden of proving falsity
9. Strafgesetzbuch (StGB, German Criminal Code) §§ 185-187, 190, 192

