MY ENEMIES ARE AFTER ME: ARE CYBER ROMANCE CRIMES PUNISHABLE BY LAW IN SOUTH AFRICA?

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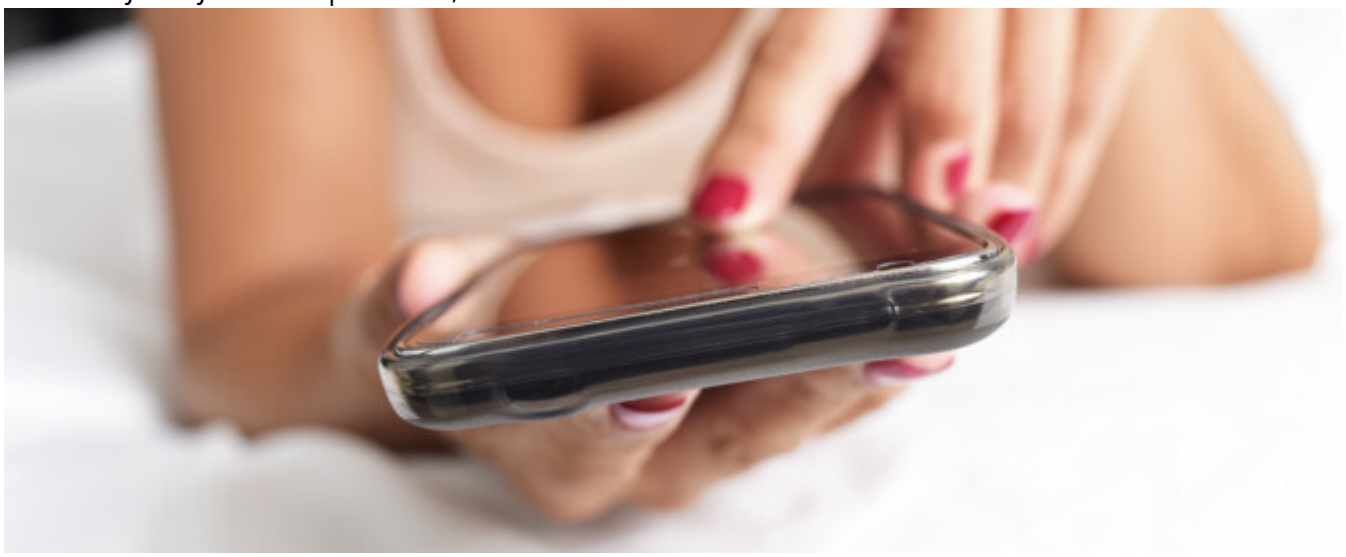

Social media is abuzz with the latest Netflix documentary "The Tinder Swindler". This documentary follows the lives of three women who were swindled by a con artist, who lured them into a romantic relationship on Tinder. He then extorted large sums of money out of them through emotional blackmail and his famous line "my enemies are after me", moving the women to swiftly send him money in the hopes of easing his burden, and on the basis that he would return their money. Cyber romance crimes are becoming common in South Africa. According to Business Insider, R134 Million was lost to romance scammers in South Africa in 2020.

This type of crime is what is traditionally known as fraud and extortion. The common law crime of fraud means the "unlawful and intentional making of a misrepresentation that causes actual or potential prejudice to another". On the other hand, extortion is "taking from another some patrimonial or non-patrimonial advantage by intentionally and unlawfully subjecting that person to pressure which induces him or her to submit to the taking".

When these crimes move from the physical world to online, they become what is known as cybercrimes. In South Africa, these are defined as cyber fraud as well as cyber extortion. Cyber fraud is when a person "unlawfully and with the intention to defraud makes a misrepresentation by means of data…".((Section 8 of the Cybercrimes Act 19 of 2020.)) This can be through data messages on social media platforms, including dating apps and other communication platforms. Similarly, extortion is when someone unlawfully and intentionally threatens to commit a cybercrime against another for the purposes of obtaining an advantage over that person or compelling them to act a certain way.((Section 10 of the Cybercrimes Act 19 of 2020.))

The misrepresentation in online romance scams includes the fraudster lying about their identity, whereabouts, and circumstances, particularly financial circumstances. The extortion manifests itself through lies and manipulation about an urgent and dangerous event that could occur or befall the fraudster and pressurises the victim to transfer a lump of money to the fraudster. This scheme often leads to innocent people losing thousands of rands. An example of this is the "Black Axe" gang which consisted of a group of people who conspired to commit internet fraud by leading people to believe they are in a romantic relationship with them. They would then come up with emergencies which

require that the victim send them money, and where the victim protests, the offender would manipulate the victim by using threats such as the threat to distribute sensitive pictures of the victim. This is similar to the star of “the Tinder Swindler” who not only claimed that his life was under attack, but instilled fear in his victims by cautioning them to watch out as his enemies may be after them as well. In terms of the Cybercrimes Act 19 of 2020, this type of behaviour may face punishment in terms of section 276 of the Criminal Procedure Act 19 of 2020, which includes imprisonment and a fine.

In conclusion, romance scammers use deceptive methods to gain the trust of their victims, and then to pressure them into sending money. Online romantic scams are cybercrimes and must be reported and offenders must be punished in terms of the law.

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