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**REGULATION OF CRYPTOCURRENCY UNDER INDIAN
SECURITIES MARKET**

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1. ABSTRACT

The research paper examines the changing rules governing cryptocurrency in India, focusing on how current laws and the roles of different institutions interact. These institutions include the Securities and Exchange Board of India (SEBI), the Reserve Bank of India (RBI), and the Prevention of Money Laundering Act (PMLA). As digital assets become more important, the Indian legal system is struggling with several issues, such as the lack of full laws, unclear definitions, and poor coordination between institutions.

A major topic discussed is how cryptocurrency is treated under Indian securities law. The main question is whether certain types of tokens can be classified as "securities" under Section 2(h) of the Securities Contracts (Regulation) Act, 1956. Since many crypto-assets have features similar to investment contracts, there is a possibility that they can fall under SEBI's regulatory authority. At the same time, the RBI has raised concerns about how cryptocurrencies might affect monetary stability, seeing them as a risk to the national currency system.

In 2018, the RBI issued a directive limiting financial institutions from dealing with virtual currencies, but this was overturned by the Supreme Court in 2020. The court stressed the need for fair and balanced regulation instead of a complete ban. Cryptocurrencies have traits of securities, currencies, and commodities, which means their regulation depends heavily on the situation. If they are considered securities under SEBI's rules, it could improve investor protection and market fairness. However, the main challenge for Indian regulators remains

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balancing innovation with the risks to the financial system, monetary stability, and antimoney laundering efforts.

Keywords:-*Cryptocurrency Regulation in India, SEBI and Securities Classification, RBI and Monetary Stability, PMLA and Anti-Money Laundering.*

2. Introduction

Cryptocurrency is one of the most debated and controversial topics in India today. However, the idea of using a virtual method for transactions, be it for financial or everyday activities, is no longer uncommon. Therefore, it can be said that the emergence of cryptocurrency is a result of technological advancement. In addition, the term "virtual currency" is widely used, and cryptocurrency is just a part of it. Virtual currency is like a broader category, and cryptocurrency is a subset of that. The Reserve Bank of India (RBI) defines virtual currency in Box 3.4 of its report. It states that virtual currency is a type of irregular digital money, created and controlled by its developers, and used by members of a particular virtual community.

There is no universal definition of cryptocurrency, though various attempts have been made to define it. According to Merriam-Webster, "Cryptocurrency is a form of currency that exists only in digital form and is not supported by any regulatory authority." ²

Cambridge Dictionary defines it as "Any currency in digital form which is not made by the government, but is produced by a public network that uses cryptography to facilitate payments."³

The Financial Action Task Force (FATF) report titled "Virtual Currencies- Key Definitions and Potential AML/CFT Risks" defines cryptocurrency as "a math-based, decentralized, convertible virtual currency protected by cryptography, using public and private keys to

²Merriam-Webster, **Cryptocurrency**, Merriam-Webster.com Dictionary, <https://www.merriamwebster.com/dictionary/cryptocurrency> (last visited Sept. 27, 2025). ³Cambridge Dictionary, **Cryptocurrency**, Cambridge English Dictionary, <https://dictionary.cambridge.org/dictionary/english/cryptocurrency> (last visited Sept. 27, 2025).

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transfer value from one person to another and signed cryptographically each time it is transferred”.³

The main argument from governments that oppose cryptocurrency is that it is not yet recognized as legal tender. Legal tender is defined under Section 26 of the RBI Act as “Every bank note shall be legal tender at any place in India in payment or on account for the amount expressed therein and shall be guaranteed by the Central Government.” It should be noted that no country has officially accepted virtual currency as legal tender so far.

In simple terms, cryptocurrency is a digital currency that individuals can hold in their digital wallets. It is essentially a digital representation of value that can be stored and transferred electronically. It is a cash system that operates on cryptographic proof instead of trust, allowing two willing parties to transact directly without the need for a trusted third party.⁴

The functioning of a cryptocurrency relies on a complex digital algorithm called "blockchain," which is an online database that records all details, including transactions. Therefore, whenever a transaction or exchange of cryptocurrency takes place, the process is recorded in the blockchain database.⁵

Unlike traditional currencies, cryptocurrencies are not backed by any country or government, and therefore, are not considered legal tender in many places.

No official body issues cryptocurrency, and it is not supported by any collateral such as bullion. While traditional currencies can be stored both physically and digitally (like in online accounts or wallets), cryptocurrencies cannot be stored physically. Because of these differences, regulating cryptocurrency requires a different approach compared to traditional currencies. Despite these challenges, cryptocurrencies are widely traded globally due to their potential for high returns, leading to wealth generation for traders.

³ Fin. Action Task Force (FATF), *Virtual Currencies – Key Definitions and Potential AML/CFT Risks* (June 2014), <https://www.fatf-gafi.org/media/fatf/documents/reports/Virtual-currency-key-definitions-and-potentialamlcft-risks.pdf>.

⁴ Satoshi Nakamoto, ‘Bitcoin: A Peer-to-Peer Electronic Cash System’, available at: <https://bitcoin.org/bitcoin.pdf>, last accessed 27 September 2025.

⁵ Euromoney, ‘What is blockchain?’, available at: www.euromoney.com/learning/blockchainexplained/what-is-blockchain, last accessed 27 September 2025.

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The trading of cryptocurrencies operates on the basic economic principles of supply and demand. The higher the demand, the higher the price, and vice versa. For instance, the price of Bitcoin, which was \$0.08 in 2010, is now around \$12,000 today. Because of this, traders view cryptocurrency as a viable investment opportunity that can significantly increase their money.⁶

As of 2025, cryptocurrencies remain largely unregulated. Cryptocurrencies like Bitcoin and Pi Coin are not recognized as legal tender. Individuals can legally buy, sell, and hold cryptocurrencies like Bitcoin and Ethereum. In 2018, the RBI banned banks in India from dealing with cryptocurrencies, but the Supreme Court overturned this rule in 2020. In 2022, the government introduced a 30% tax on income from crypto trading and a 1% TDS on transactions. The Crypto Bill 2021, titled “The Cryptocurrency and Regulation of Official Digital Currency Bill,” aimed to ban private cryptocurrencies while introducing a central bank digital currency (CBDC), but it was never passed, leaving regulatory clarity still pending.

The research aims to examine the legal and regulatory gaps in India’s current framework governing Virtual Digital Assets (VDAs), combining the concerns of legislative absence, definitional uncertainty, and the possibility of classifying certain categories of cryptoassets as ‘securities’ under the Securities Contracts (Regulation) Act, 1956.

It further seeks to analyse the legality, constitutionality, and enforcement impact of extending the Prevention of Money Laundering Act (PMLA) to Virtual Digital Asset Service Providers (VASPs), evaluating how this shift influences compliance, oversight, and the broader functioning of the crypto ecosystem.

Finally, the research aims to propose practical, balanced, and innovation-oriented reforms to establish a coherent regulatory model for VDAs that ensures investor protection, market integrity, and supports technological development in India.

⁶Eric Ervin, The Case For Cryptocurrency: Why Even The Most Cynical Bitcoin Bear Should Consider Investing And How To Get Started, *Forbes*, 7 May 2020, available at: www.forbes.com/sites/ericervin/2020/05/07/the-case-for-cryptocurrency-why-even-the-most-cynical-bitcoin-bear-should-consider-investing-and-how-to-get-started/#6d6bf9d03801, last accessed 27 September 2025.

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The study follows a secondary doctrinal research methodology, relying exclusively on existing legal and policy material instead of primary fieldwork. It involves the examination and interpretation of statutory frameworks, government notifications, regulatory circulars, judicial decisions, and policy papers issued by institutions such as SEBI, RBI, and the Ministry of Finance. Supplementary sources—including academic literature, law firm analyses, committee reports, and credible journalistic publications—are used to understand the evolution, challenges, and regulatory gaps in India's approach to VDAs. This method enables a systematic and critical evaluation of the current legal landscape and supports the development of informed recommendations for regulatory reform.

3. Can Cryptocurrency be Classified as a Security/Protection?

Crypto-assets are defined as purely digital assets that prove ownership using distributed ledger technology (DLT), peer-to-peer networks, and cryptography to create, verify, and secure transactions. These assets operate independently of any central bank, government, or central authority. The classification of crypto-assets is broad, encompassing various types, including cryptocurrencies (payment tokens), utility tokens that grant access to products, and security or investment tokens that resemble traditional financial instruments. They serve functions ranging from a simple medium of exchange to a way to store value or achieve other business objectives.

3.1. Definition of "Securities" under Indian Law

SEBI's potential regulatory jurisdiction is determined by whether a crypto-asset can be defined as a "security" under Section 2(h)⁷ of the Securities Contracts (Regulation) Act, 1956 (SCRA). This section provides a broad and deliberately inclusive definition designed to capture various instruments traded in the financial markets.

Crucially, Section 2(h) includes not only explicit instruments like "shares, scrips, stocks, bonds, debentures," but also derivative contracts (Clause (ia)) and units or instruments issued under any Collective Investment Scheme (CIS) (Clause (ib)). Most importantly, the inclusion of "other marketable securities of a like nature" suggests a principle of functional equivalence: an instrument can qualify as a security if it shares key characteristics such as marketability, transferability, and the ability to be traded quickly on an exchange.

⁷ Securities Contracts (Regulation) Act, No. 42 of 1956, section 2(h), India Code.

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Crypto-assets, by their very design, possess attributes that align strongly with these characteristics. They are exchanged on trading platforms, exhibiting high liquidity, and their values fluctuate based on comprehensive economic factors and market demand, similar to stocks.

3.2. Application to Crypto-Assets: The Security Token Analysis

Global regulatory approaches recognize that the functional characteristics of a digital asset, not its technical design, determine its legal classification. This leads to the differentiated classification of VDAs into Payment, Utility, and Security tokens.⁸

Security tokens (or asset tokens) are those that most closely resemble traditional financial instruments, representing investment contracts, shares, or debt, often promising returns based on the managerial efforts of a third party or the issuer.⁹ This is particularly relevant for tokens issued through processes such as Initial Coin Offerings (ICOs), which often mirror the structure of Collective Investment Schemes (CIS) regulated under SCRA Section 2(h)(ib).

Utility tokens, conversely, would only avoid classification as a security if their sole function is to confer immediate digital access rights to a product or service, and this utility is fully functional at the point of issuance. Any other token, particularly if held primarily for capital appreciation rather than immediate use or exchange, requires examination.

The economic reality is that many crypto-assets are viewed by investors as assets with significant profit potential, requiring oversight under the SCRA. International precedents, such as the application of the US Howey Test, emphasize substance over form, evaluating assets based on whether they constitute an investment of money, in a common enterprise, with an expectation of profit derived from the efforts of others.¹⁰ India could conceptually reference this substance-based analysis as a temporary bridge until bespoke legislation is enacted.¹¹

⁸ How Crypto Token Function and Transferability Could Impact Classification as a Security, accessed September 28, 2025, <https://www.lawoftheledger.com/2018/05/articles/cftc/how-crypto>

⁹ Tokenised Securities and the Future of Capital Markets: Is India Ready? - TaxTMI, accessed September 28, 2025, <https://www.taxtmi.com/article/detailed?id=14821>

¹⁰ SEC Cryptocurrency Regulations | Donnelley Financial Solutions (DFIN), accessed September 28, 2025

¹¹ Digital Assets and the Case to Redefine “Securities” under Indian Law - IndiaCorpLaw, accessed September 28, 2025, <https://indiacorplaw.in/2022/06/27/digital-assets-and-the-case-to-redefine-securities-under-indianlaw/>

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However, the current regulatory status is marked by a clear vacuum: SEBI's jurisdiction remains uncertain due to the absence of explicit VDA legislation. This deferral in defining and classifying VDAs is not neutral; it actively inhibits investor protection. By not formally classifying evident investment tokens as securities, regulators are denying investors the statutory safeguards (such as mandatory disclosure and registration) that apply to traditional markets, leaving them exposed to market manipulation, insider trading, and fraud risks.

Furthermore, there is a paradoxical situation where the government has already recognized the economic existence of these assets through taxation, implementing a substantial 30% tax on crypto income and a 1% Tax Deducted at Source (TDS) on transactions. This legislative act reinforces the argument for security classification based on economic substance, as the state treats VDAs as income-generating investments, while simultaneously withholding prudential and investor protection oversight.

The following table summarizes the conceptual alignment of functional token categories with existing Indian securities law:

Comparative Classification of Digital Assets.

Token category	Economic function	SCRA 1956 Potential Linkage	Primary Regulatory Oversight
Payment token	Medium of exchange, decentralized value transfer.	Limited (Focus on utility and transfer).	RBI (Monetary and Payments Systems)
Security token	Access right to a product or service/platform	Low (If genuine utility exists at issuance).	Consumer Protection Laws

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Utility token	Represents investment contract, profit expectation, or equity/debt share.	High (sections 2(h)(i) & (ib)). ¹	SEBI (securities market regulation)
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3.3. Legality of cryptocurrencies

There is a varied view on the legal status of cryptocurrencies in different parts of the world. While not many countries officially recognize cryptocurrencies as valid money, for example, in Argentina and Canada, they are not considered legal tender¹², some nations have allowed the trading of cryptocurrencies and accept them as a form of legal tender. In India, the situation regarding cryptocurrencies is currently unregulated. However, in the past, both the Reserve Bank of India (RBI) and the Government of India had prohibited the dealing in cryptocurrency. In a notification dated 6 April 2018, the RBI banned all banks and financial institutions from providing services related to cryptocurrency transactions¹³. The RBI also issued repeated warnings about the risks involved in investing in cryptocurrencies, stating that they are “stateless digital currencies” that use encryption and operate independently of a central bank, making them resistant to state control. This made them potentially useful for illegal activities. The move to restrict financial institutions from supporting cryptocurrency activities faced a lot of criticism and led to the closure or relocation of several Indian crypto companies such as Zebpay and Unocoin. Some crypto companies and associations challenged the RBI’s ban in the Supreme Court of India. In the case of *Internet and Mobile Association of India v Reserve Bank of India*, dated 4 March 2020, the Supreme Court overturned the Crypto Ban Notification, which revitalized crypto

¹² Kevin Helms, ‘Is Bitcoin a Good Investment: Analyst Predicts High Institutional Demand Post Covid-19’, Bitcoin.com, 25 April 2020, available at: <https://news.bitcoin.com/is-bitcoin-good-investment/>, last accessed 27 September 2025.

¹³ Reserve Bank of India, ‘Prohibition on dealing in Virtual Currencies (VCs)’, 6 April 2018, available at: <https://rbidocs.rbi.org.in/rdocs/notification/PDFs/NOTI15465B741A10B0E45E896C62A9C83AB938F.PDF>, last accessed 27 September 2025.

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companies, dealers, and exchanges¹⁴. After the court's decision, several crypto exchanges and traders resumed their activities. However, others still see the situation as uncertain and have stopped their operations in India, fearing future restrictions or bans¹⁵. In 2019, the Indian tax authorities issued notices to individuals involved in cryptocurrency trading. These notices included a list of questions about cryptocurrency dealings and income generated from trading that had not been declared in tax returns. While the case involving the Crypto Ban Notification was being considered by the Supreme Court, the Ministry of Finance introduced a draft bill titled 'Banning of Cryptocurrency & Regulation of Official Digital Currency Bill, 2019', which aimed to criminalize cryptocurrency transactions with severe penalties, up to INR250 million (about US\$3.4 million). This bill has not yet been introduced in parliament. It has also been reported that the government is currently consulting with the Ministry of Law and Justice, the Ministry of Electronics and Information Technology, and the RBI about creating a legislative framework to end cryptocurrency trading in India. However, no official announcement has been made so far.

3.4 Madras High Court Recognises Cryptocurrency As Property Under Indian Law

The Madras High Court has ruled that cryptocurrency qualifies as "property" under Indian law. This decision came in a case where the applicant sought protection for her holdings of 3,532.30 XRP coins on the WazirX platform, which had been frozen following a 2024 cyberattack. The court's ruling recognizes that cryptocurrency is an asset that can be owned, enjoyed, and held in trust.

Justice N Anand Venkatesh, presiding as a single-judge bench, stated, "There can be no doubt that cryptocurrency is a property. It is not a tangible property nor is it a currency. However, it is a property which is capable of being enjoyed and possessed (in a beneficial form). It is capable of being held in trust." The court's decision was supported by references to landmark judgments from the Supreme Court, including the cases of Ahmed GH Ariff vs CWT and JilubhaiNanbhai Khachar vs State of Gujarat. These cases helped expand the understanding of what constitutes "property" under Indian law.

¹⁴ *Internet and Mobile Association of India v Reserve Bank of India*, Supreme Court of India, 4 March 2020, available at: main.sci.gov.in/supremecourt/2018/19230/19230_2018_4_1501_21151_Judgement_04Mar2020.pdf, last accessed 27 September 2025.

¹⁵ Kevin Helms, 'Bitcoin Legal in India: Exchanges Resume INR Banking Service After Supreme Court Verdict Allows Cryptocurrency', *Bitcoin.com*, 5 March 2020, available at: <https://news.bitcoin.com/bitcoin-legalindiasupreme-court-verdict-cryptocurrency/>, last accessed 27 September 2025.

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Justice Venkatesh noted, "Property in the legal sense means an aggregate of rights which are guaranteed and protected by law. It extends to every species of valuable right and interest everything that has an exchangeable value or which goes to make up wealth or estate or status."

He also highlighted that cryptocurrency falls under the category of "virtual digital asset" as defined in Section 2(47A) of the Income Tax Act, 1961, and is not classified as a speculative transaction. In the same case, the court recognized the applicant's holdings as her property and placed a restraint on any interference pending arbitration proceedings. The court acknowledged that even though cryptocurrencies are "streams of 1s and 0s residing in a blockchain managed by the issuer of the cryptocurrency," they are assets that can be owned, transferred, and stored.

The court remarked, "Cryptocurrency is not a currency *stricto sensu*, nor can we jump to the conclusion that a digital asset is an asset *stricto sensu*." It further added, "India has the opportunity to design a regulatory regime that encourages innovation while protecting consumers and maintaining financial stability."

Justice Venkatesh cited a 2020 ruling from the New Zealand High Court in *Ruscoe vs. Cryptopia Ltd (in Liquidation)*, where the court held that cryptocurrencies are a "type of intangible property" capable of being held on trust. The court quoted, "Although it is only a series of 1s and 0s, it is more than mere information." This ruling comes at a time when similar judicial recognition of cryptocurrency as property or commodities is being observed in other jurisdictions.

The UK High Court in *AA vs. Persons Unknown* (2019), the Singapore High Court in *ByBit Fintech Ltd v. Ho Kai Xin* (2023), and the US federal courts in *SEC vs. Ripple Labs* (2023) have all treated crypto tokens as property or commodities. With this judgment, the Madras High Court has provided much-needed clarity on the legal status of cryptocurrencies in the country. This has potential wide-ranging implications for taxation, inheritance, insolvency, and contractual enforcement involving digital assets.¹⁶

¹⁶NDTV, Madras High Court Recognises Cryptocurrency As Property Under Indian Law (Jan. 4, 2025, 10:15 AM), <https://www.ndtv.com/india-news/madras-high-court-recognises-cryptocurrency-as-property-underindian-law-9519596>.

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3.5 Hitesh Bhatia v. Kumar Vivekanand – A Step in the Right Direction to Navigate

Crypto Fraud Cases

Blockchain and cryptocurrency are now important parts of the technology market. With the start of the COVID-19 pandemic, there has been a big rise in cryptocurrency trading in India. It is clear that more people are interested in the crypto-assets market. However, due to the lack of rules to manage this area, it could cause problems for the market. The reason for this is that cryptocurrency is very complex and hard to classify. Although the Indian Government supports blockchain technology, there are currently no rules that govern the crypto assets market. This lack of regulation can create many issues, such as threats to market stability and increased chances of fraud, which in turn can affect the popularity of the market and reduce user demand.

Looking at the discussions about cryptocurrency in India, it's clear that there is a major lack of clarity. In 2018, the Reserve Bank of India ("RBI")¹⁷ issued a circular that banned all entities regulated by the RBI from dealing in virtual currencies or helping with any transactions involving them. This led to many cases being filed against the RBI's decision in the Supreme Court of India. In 2019, the Inter-Ministerial Committee ("IMC") published a report stating that private cryptocurrencies do not have intrinsic value and should not be allowed. The report included the "Banning of Cryptocurrencies and Regulation of Official Digital Currency Act, 2019" (Draft Crypto Bill), which prohibited any person from mining, generating, holding, selling, dealing in, issuing, transferring, disposing of, or using cryptocurrencies in India.

In 2020, the Supreme Court ruled that the RBI's fears were not valid and struck down the 2018 RBI circular in the case of Internet and Mobile Association of India v. Reserve Bank of India¹⁸. In May 2021, the RBI issued a clarification stating that the 2018 circular¹⁹ was no longer valid because the Supreme Court had already invalidated it. As the legal discussion around cryptocurrency regulation continues, a case titled Hitesh Bhatia v. Kumar

¹⁷RBI/2017-18/154 DBR No.BP.BC.104/08.13.102/2017-18

¹⁸Internet and Mobile Association of India v. Reserve Bank of India (2020) 10 SCC 274

¹⁹RBI/2021-22/45 DOR AML REC 18/14.01.001/2021-22

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Vivekanand²⁰ came before the Tiz Hazari District Court in Delhi. This case involves fraud related to the sale and purchase of cryptocurrency. In this case, Hitesh Bhatia (the "Complainant") approached the court and requested that the police register an FIR and start an investigation into the alleged crime of cheating. In this article, I will explore the case in detail to understand the significant observations made by the Delhi Court.

The Complainant deals in buying and selling bitcoins and always asks for identity documents before any trade. It was claimed that Mr. Kumar Vivekanand (the "Accused") purchased bitcoins from the Complainant by transferring money to the Complainant's bank account in exchange for bitcoins being sent to the Accused's wallet on the online platform 'Binance'. The Complainant said that on July 5, 2020, his bank accounts were frozen, and his bitcoin transactions were flagged as illegal. The Complainant then confronted the Accused about the source and legality of the money paid for the bitcoins, and the Accused admitted that the payments were part of a 'scam' and refused to return the bitcoins received, which the Complainant claimed was an act of cheating. The Complainant had previously contacted the Station House Officer and Data Protection Officer but did not receive any action. Therefore, the Complainant filed an application under Section 156(3) of the Code of Criminal Procedure ("CrPC").²¹ The investigation officer stated that the Complainant received payments from various accounts and was the beneficiary of the transactions. It was noted that out of the total amount paid to the Complainant by the Accused, Rs. 6,00,000 came from an account in Nagpur. The person owning that account had registered an FIR under Section 66C¹⁸ and Section 67²² of the Information & Technology Act, 2000 at Police Station Sitabardi, Nagpur, Maharashtra, for cyber fraud. Additionally, Rs. 3,00,000 came from an account in Telangana, where the person involved also registered an FIR at Police Station Cyber Crime, Cyberabad Commissionerate, Telangana, for alleged cyber fraud. The remaining amount was reportedly transferred from the Accused's account. The lawyer representing the Complainant argued that the court has jurisdiction since the Complainant and his office are located in Moti Nagar, Delhi, and all transactions were conducted from there. The lawyer also stressed that dealing in bitcoins and other cryptocurrencies is legal and therefore falls under Article 19(g)²³ of the Constitution of India, as the Complainant is engaged in a legitimate trade. The lawyer

²⁰Hitesh Bhatia v. Kumar Vivekanand (2020) Case No. 3207

²¹The Code of Criminal Procedure, 1973, Section 156(3)

²²Information Technology Act, 2000, Section 67

²³Constitution of India, Article 19(g)

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emphasized that the Complainant accepted payments for bitcoins through recorded mediums like RTGS/IMPS and that there was no intention to misappropriate funds. At most, the lawyer argued, the Complainant lacked due diligence. It was also noted that since the Draft Crypto Bill had not yet been passed, there are no restrictions on dealing in cryptocurrency. The Bench observed that under Sections 179, 180, and 182²⁴ of the Criminal Procedure Code (CrPC), and given that the police did not find any evidence suggesting otherwise, the court can exercise its jurisdiction. The Court first examined whether the complainant was engaged in a lawful activity and whether he approached the court with clean hands. It referred to the case of *Internet and Mobile Association of India v. Reserve Bank of India*²⁵, where the Supreme Court set aside the 2018 RBI circular but did not assess the legality of virtual Information Technology Act, 2000, Section 66C currencies themselves. The Supreme Court acknowledged that many institutions accept virtual currencies as valid payment and therefore concluded that users and traders of virtual currencies engage in activities that fall under the purview of the RBI. The Court also recognized that cryptocurrency has the potential to create a parallel monetary system, which is viewed as a threat to the existing central authority-regulated system. Hence, the RBI has the authority to regulate such activities. The Court also acknowledged the RBI's power to develop policies and issue instructions to banks that are "system participants" under the Payments and Settlements Systems Act, 2007. Therefore, it was observed that transactions involving cryptocurrency must still comply with general laws in India, including the Prevention of Money Laundering Act (PMLA), the Indian Penal Code (IPC), the Foreign Exchange Management Act (FERA), the Narcotic Drugs and Psychotropic Substances Act (NDPS Act), tax laws, and RBI regulations related to Know Your Customer (KYC), Combating the Financing of Terrorism (CFT), and Anti-Money Laundering (AML) requirements. The Court noted that while the traceability of Bitcoin transactions on platforms like Binance can be managed through blockchain analysis, establishing a link with malicious actors is complex, especially if the transaction intermediary does not follow KYC norms. The Court emphasized that the responsibility for KYC lies with the intermediary and not with the individual, regardless of whether the transaction is between institutions or individuals. It also mentioned that intermediaries such as Binance are responsible for implementing adequate safeguards against activities like "mixing" and other arbitrary exchanges that obscure the

²⁴Code of Criminal Procedure, 1973,

²⁵*Internet and Mobile Association of India v. Reserve Bank of India* (2020) 10 SCC 274

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identity of bitcoins held in a virtual wallet, making it extremely difficult to trace illegal proceeds or bitcoins purchased through such platforms. Regarding the accused, the Court observed that the WhatsApp conversation screenshots annexed by the complainant prima facie show the accused's knowledge about the source of the money. The Court noted that the accused could have concealed the illegal origin of the money from the complainant and induced him to deliver bitcoins in exchange for money, while being aware that it might eventually come under the banking system's scrutiny. This led the accused to consider disposing of the money, purchasing bitcoins, and mixing transactions to obscure the source and eventually cashing out from countries with less regulation. Although the Court acknowledged the possibility of the complainant suffering a wrongful loss, the complainant did not disclose all the facts. Therefore, the Court could not exclude the possibility of the complainant's consent or involvement. In one of the annexed WhatsApp messages, the accused advised the complainant to clear his bank account upon receiving any payment in exchange for the sale of bitcoins. The complainant also did not explain how the accused obtained his WhatsApp contact details. Based on the complaint under Section 200 CrPC, the application under Section 156(3) CrPC, other material on record, and the police action report, the Court found that cognizable offenses under Sections 403, 411, and 420 of the Indian Penal Code were prima facie committed. The digital market in India is rapidly growing and thriving, making it essential for the government to not only acknowledge its existence but also provide necessary safeguards.

Cryptocurrencies are dynamic and volatile, so it is crucial for India to have a regulatory framework in place to govern their use. The observations from this case are vital for India's digital landscape as they recognize the growing use of virtual currencies and set a path for dealing with this complex technology to prevent fraudulent activities. This case could serve as a starting point for understanding the significance and need for a regulatory regime that protects the Indian market from issues like fraud and taxation. While the Court did not determine the legality of cryptocurrencies itself, the substantial shift in the discourse around their use over the past few years indicates a global trend. If India is to be part of the digital future, it must seriously consider the issue from a regulatory perspective.

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4. RBI's possible role and crypto's classification as a currency

An important point here by coin holders is that the name of cryptocurrency suggests that "currencies" are used to transact through digital wallets. The RBI has not yet softened the massive use of Crypto, in the last October, the then RBI Governor Shekanta Das warned that Cryptocurrencies have reduced significant risks for financial and monetary stability to Money. The DAS stated that cryptocurrency can destabilize the banking system and obstruct inflation control during crises, calling for international cooperation to remove these limits cross risks. The DAS also questioned the validity of privately issued cryptocurrency, arguing that issuing currency is a sovereign task, and warning against allowing a parallel private currency system that can destabilize the financial system²⁶. The Reserve Bank of India (RBI) released a circular in April 2018, forbidden all regulated organizations, including banks, payment service providers, and non-banking financial companies (NBFCs), which offer services to people or companies or trade virtual currencies. This action prevented the activities of cryptocurrency exchanges and traders from reaching the official banking infrastructure, even if it did not perfectly forbid the use or possession of cryptocurrency. The RBI used important concerns about market volatility, money laundering, consumer protection, and dangers for financial stability as the Justification of this decision. Cryptocurrency is not a currency because each modern currency should be released by the central bank or government.

The Supreme Court lifted the ban imposed by the Reserve Bank of India (RBI) on virtual currency trading, including cryptocurrencies. on the "ground of proportionality".

*"When the consistent stand of RBI is that they have not banned virtual currencies and when the government of India is unable to take a call despite several committees coming up with several proposals, including two draft bills, both of which advocated exactly opposite positions, it is not possible for us to hold that the impugned measure is proportionate,"*²⁷ Four considerations were noted by the Court when it invalidated the circular:

²⁶ CNBC-TV18, RBI Governor Sanjay Malhotra Says India to Release Cryptocurrency Stance Discussion Paper, CNBC-TV18, <https://www.cnbtv18.com/market/cryptocurrency/rbi-governor-sanjay-malhotra-india-cryptocurrency-stance-discussion-paper-19555335.htm> (last visited Sept. 27, 2025).

²⁷ HSA Advocates, Legalising Trade in Cryptocurrency, HSA LEGAL, <https://hsalegal.com/article/legalisingtradeincryptocurrency/#:~:text=The%20Supreme%20Court%20lifted%20the,the%20%E2%80%9Cground%20of>

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- In the last five years or more, the RBI has not discovered any instances in which the operations of virtual currency exchanges have negatively affected the operations of the organisations under its regulation.
- Up until and including in their response dated September 4, 2019, the RBI has consistently maintained that it has not outlawed virtual currencies in the nation.
- Even the November 2, 2017-formed Inter-Ministerial Committee, which at first suggested a particular legal framework that included the introduction of a new law called the Crypto-token Regulation Bill 2018, believed that a ban might be an extreme measure and that regulatory measures could accomplish the same goals.
- The court also referred to cryptocurrencies as a “by-product” of blockchain technology and said the government could separate the two.

5. Regulating Cryptocurrency Under the Prevention of Money Laundering Act (PMLA)

As cryptocurrency grew in popularity in India, there were worries about its potential use in illegal activities such as tax evasion, money laundering, and financing terrorism. In response, the Government of India expanded the Prevention of Money Laundering Act, 2002 (PMLA) to cover a wide range of cryptocurrency-related activities in a significant regulatory move. Virtual Digital Asset (VDA) service providers, such as cryptocurrency exchanges, wallet custodians, and intermediaries, were designated as "reporting institutions" under the PMLA as of March 2023. These entities are now under the supervision of the Financial Intelligence Unit-India (FIU-IND). This step raises important legal and policy questions regarding the scope, proportionality, and effectiveness of applying a traditional anti-money laundering framework to a fast-evolving digital asset ecosystem, even though it brings India into line with the international AML standards established by the Financial Action Task Force (FATF). Section 3 of the PMLA defines the offence of money laundering. "Offence of money laundering.—Whosoever directly or indirectly attempts to indulge or knowingly assists or knowingly is a party or is actually involved in any process or activity connected with the proceeds of crime, including its concealment, possession, acquisition, or use, and projecting or claiming it as untainted property, shall be guilty of an offence of money-laundering." [Explanation.—to remove doubts, it is hereby clarified that— (i) A person shall

[%20proportionality%E2%80%9D.&text=The%20RBI's%20core%20defence%20included,monetary%20system%20and%20overall%20stability](#) (last visited Sept. 27, 2025).

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be guilty of an offence of money-laundering if such a person is found to have directly or indirectly attempted to indulge or knowingly assisted or knowingly is a party or is actually involved in one or more of the following processes or activities connected with the proceeds of crime, namely:—

- a. concealment; or
- b. possession; or
- c. acquisition; or
- d. use; or
- e. projecting as untainted property; or
- f. claiming as untainted property, in any manner whatsoever;

(ii) The process or activity connected with the proceeds of crime is a continuing activity and continues till such time a person is directly or indirectly enjoying the proceeds of crime by its concealment, possession, acquisition, use, or projecting it as untainted property or claiming it as untainted property in any manner whatsoever.]²⁸

India's primary legal framework for preventing money laundering and related financial crimes is the Prevention of Money Laundering Act (PMLA), 2002. This law aims to stop the creation and concealment of illegal funds and was enacted in line with India's international obligations, such as those related to the control of illicit trafficking and psychotropic

substances under the United Nations Convention. The PMLA makes it illegal to transfer or move the income derived from criminal activities, which refers to any property or value obtained through illegal means and presented as legitimate assets. It grants the Enforcement Directorate (ED) the authority to investigate, prosecute, and seize assets linked to money laundering. On March 7, 2023, the Ministry of Finance, Government of India issued a notification titled "Notification Number SO 1072 (E), Dated 7, 2023," officially expanding the scope of anti-money laundering regulations to include specific cryptocurrency activities under the PMLA, 2002.²⁹ The Central Government hereby notified that the following

²⁸ The Prevention of Money Laundering Act, 2002, No. 15, Acts of Parliament, 2003 (India), <https://enforcementdirectorates.gov.in/sites/default/files/Act%26rules/THE%20PREVENTION%20OF%20MONEY%20LAUNDERING%20ACT%2C%202002.pdf> (last visited Sept. 27, 2025).

²⁹ Ministry of Finance, Notification No. S.O. 1072(E), The Gazette of India, Mar. 7, 2023, <https://egazette.gov.in/WriteReadData/2023/244184.pdf> (last visited Sept. 27, 2025).

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activities, when conducted for or on behalf of another natural or legal person in the course of business, are considered part of the specified sub-clauses:

- (i) exchange between virtual digital assets and fiat currencies;
- (ii) exchange between one or more forms of virtual digital assets;
- (iii) transfer of virtual digital assets;
- (iv) safekeeping or administration of virtual digital assets or instruments enabling control over virtual digital assets; and
- (v) participation in and provision of financial services related to an issuer's offer and sale of a virtual digital asset.

The PMLA is the investigative counterpart of the Lady of Justice with sword and balance which has become blind. But it has its own fault. Section 3 PMLA says, "The income of the crime, its hide, occupation, acquisition, or usage and projecting or claiming it as unpublished property," What does Section 3 PMLA call. This is fine where Crypto's mapping of the world will be challenging. To understand cryptocurrency, the element of "thought" should be examined for transactions. In the Crypto realm, it is an underlying code, while in the real world, it is fiat or money. PMLA has successfully broken the obstacles that protect the world of cryptocurrency, despite the fact that it is challenging to understand who the owner is and the transaction is unattainable.

PMIA intervenes and introduces a contaminated transaction to the conversion of fiat in cryptocurrency and, as a result, a tainted property as a crypto world may not be present in a vacuum and should use real fiat or currency as a means of exchange. Cryptocurrency surgical attacks can have preventive effects, however, may not be physical. The Reserve Bank of India has long maintained that Cryptocurrency endangered the sovereignty and stability of a country. It was displayed by lawsuits filed against important cryptocurrency trading firms in India and their claims that "Crypto" is similar to "a Ponzi Yojana". A Cryptocurrency platform will have to submit a suspected transaction report (STR) to the Financial Intelligence Unit India if it notices suspicious activity, such as abnormally large or frequent transactions, privacy-focused Cryptocurrency, or using high-risk countries. Severe

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punishment can be caused by non-reporting. There should be an internal system for 7 cryptocurrency exchanges and other VDA-related companies, which include INR 10 lakhs (~ USD 12,000) cash transfer to keep track of all transactions. In addition, they have to keep an eye on all the cash transactions that are closely related to each other and its total value is less than 1 million, even if the monthly total is higher than that amount. These documents, which should be kept for five years, should have information about the type, amount and date of transaction. In the case of non-non-non-approval with PMLA rules, newly designated reporting institutions, ie Crypto exchanges and other VDA service providers cannot be subjected to monetary punishment, which will not be less than INR 10,000.

6.Conclusion and suggestion

Conclusion:-

The regulation of cryptocurrency in India represents a delicate balance between fostering financial innovation and safeguarding systemic stability. The absence of a uniform statutory definition of “cryptocurrency” has created interpretative gaps, particularly regarding whether such digital assets may be classified as “securities” under Section 2(h) of the Securities Contracts (Regulation) Act, 1956. This ambiguity complicates the jurisdiction of SEBI, leaving investors exposed to risks of fraud, manipulation, and volatility without adequate safeguards.

The Reserve Bank of India has primarily viewed cryptocurrencies through the lens of monetary stability and systemic risk. Its concerns regarding the erosion of sovereign control over currency remain valid. However, the Supreme Court’s decision in Internet and Mobile Association of India v. RBI (2020) reaffirmed that regulation, rather than prohibition, is the proportionate means of addressing such risks. Simultaneously, the government’s extension of the Prevention of Money Laundering Act (PMLA) to include Virtual Digital Asset intermediaries has aligned India with FATF recommendations but has also introduced significant compliance burdens in an evolving market.

A recurring challenge lies in fragmented institutional oversight. While SEBI, RBI, and the Enforcement Directorate exercise authority in their respective domains, the absence of a specialized regulator has contributed to overlapping jurisdiction, regulatory uncertainty, and

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delayed enforcement. This institutional vacuum risks undermining both innovation and investor protection.

Suggestions:-

- A specialized body for digital assets should be created to harmonize policy-making, enforcement, and innovation support. This will prevent jurisdictional overlaps among SEBI, RBI, and the ED, while fostering regulatory certainty.
- India must enact a cryptocurrency-specific law that clearly defines categories of tokens (payment, utility, and security tokens) and prescribes differentiated regulatory treatment. Such a statute should address classification, taxation, consumer protection, and dispute resolution.
- Rather than a blanket ban, regulation should be proportionate to the risks posed by different categories of crypto-assets. For instance, security tokens should be governed by securities law, while payment tokens may require monetary and prudential oversight.
- Regulators should encourage innovation by providing controlled environments where new blockchain-based products can be tested without the immediate burden of full regulatory compliance. This would help India balance experimentation with consumer safeguards.

7. Bibliography

1. **Securities Contracts (Regulation) Act, 1956**, Section 2(h), Government of India.
2. **Prevention of Money Laundering Act, 2002**, Section 3, Government of India.
3. **Reserve Bank of India Circular**, “Prohibition on dealing in Virtual Currencies (VCs),” dated 6 April 2018.
4. **Internet and Mobile Association of India v. Reserve Bank of India**, Writ Petition (Civil) No. 1031 of 2018, Supreme Court of India, judgment dated 4 March 2020.
5. **Draft Banning of Cryptocurrency & Regulation of Official Digital Currency Bill, 2019**, Ministry of Finance, Government of India.

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6. **Ministry of Finance Notification SO 1072(E)**, dated 7 March 2023, extending PMLA to Virtual Digital Asset service providers.
7. **Financial Action Task Force (FATF)**, *Guidance for a Risk-Based Approach to Virtual Assets and Virtual Asset Service Providers*, June 2019.
8. **Reserve Bank of India – Speeches and Statements** on risks of cryptocurrency to financial stability.



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