

## Case Comment on *Shreya Singhal v. Union of India*

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### Abstract

In this case comment on *ShreyaSinghal v. Union of India*,<sup>2</sup> the constitutional validity of Section 66A of Information Technology Act, 2000 is challenged by the Petitioner. This is a very important judgment from the Supreme Court of India, in which the two judge bench sought to narrowly define the circumstances in which freedom of speech and expression could legitimately be curtailed under India's Constitution. Moreover, the Supreme Court recognised that the same level of constitutional scrutiny would be given to laws which seek to regulate speech online as would be applied to laws regulating more traditional media.

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<sup>2</sup>AIR 2015 SC 1523.

## **Introduction**

This is a point of interest judgment, concerning section 66A of the Information Technology Act, 2000. This Section was not in the Act as initially instituted, but rather came into compelling by prudence of an Amendment Act of 2009 with impact from 27.10.2009.

Section 66A of Information Technology Act, 2000:

*66A. Punishment for sending offensive messages through communication service, etc.*

*Any person who sends, by means of a computer resource or a communication device,—*

- (a) any information that is grossly offensive or has menacing character; or*
- (b) any information which he knows to be false, but for the purpose of causing annoyance, inconvenience, danger, obstruction, insult, injury, criminal intimidation, enmity, hatred or ill will, persistently by making use of such computer resource or a communication device,*
- (c) any electronic mail or electronic mail message for the purpose of causing annoyance or inconvenience or to deceive or to mislead the addressee or recipient about the origin of such messages,*

*shall be punishable with imprisonment for a term which may extend to three years and with fine.*

*Explanation.—For the purpose of this section, terms “electronic mail” and “electronic mail message” means a message or information created or transmitted or received on a computer, computer system, computer resource or communication device including attachments in text, images, audio, video and any other electronic record, which may be transmitted with the message.*

The explanation for the addition of section 66A as indicated by the Amendment Bill was:

*"A quick increment in the utilization of PC and web has offered ascend to new types of wrongdoings like distributing sexually express materials in electronic frame, video voyeurism, break of privacy and spillage of information by middle person, web based business cheats like personation normally known as Phishing, fraud and hostile messages through correspondence administrations. In this way, corrective provisions are required to be incorporated into the Information Technology Act, the Indian Penal code, the Indian Evidence Act and the Code of Criminal Procedure to avoid such violations".*

## **Facts of the Case**

The Petitioners have raised a substantial number of focuses with regards to the legality of area 66A. As indicated by them, above all else Section 66A encroaches the basic ideal to the

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right to speak freely and articulation and isn't spared by any of the eight subjects shrouded in Article 19(2).

Further, in making an offence, area 66A experiences the bad habit of dubiousness on the grounds that dissimilar to the offence made by section 66 of a similar Act, none of the previously mentioned terms are even endeavored to be characterized and can't be characterized, the outcome being that honest people are additionally reserved in. Such people are not told unmistakably on which side of the line they fall; and it is available to the experts to be as self-assertive and eccentric as they prefer in booking such people under the said segment. Actually, a substantial number of honest people have been reserved.

### **Conflicts Set Forward by the Parties**

The implementation of the said area would truly be a deceptive type of restriction which debilitates a center esteem contained in Article 19(1)(a). What's more, the said segment chillingly affects the right to speak freely and articulation. Likewise, the privilege of watchers is encroached thusly chilling impact would not give them the advantage of numerous shades of dark as far as different perspectives that could be seen over the web.

The Petitioners likewise battled that their rights under Articles 14 and 21 are ruptured in as much there is no coherent differentia between the individuals who utilize the web and the individuals who by words talked or composed, utilize different mediums of correspondence. To rebuff some individual since he utilizes a specific medium of correspondence is itself a biased protest and would fall foul of Article 14 regardless.

In answer, Mr. Tushar Mehta took in Additional Solicitor General shielded the defendability of Section 66A. He contended that the lawmaking body is in the best position to comprehend and value the requirements of the general people. The Court will, along these lines, meddle with the administrative procedure just when a statute is plainly violative of the rights gave on the subjects under Part-III of the Constitution. There is an assumption for the defendability of an establishment. Further, the Court would so interpret a statute to make it workable and in doing as such, can read into it or read down the arrangements that are upbraided. The Constitution does not force outlandish gauges of deciding legitimacy. Remote chance of mishandle of an arrangement can't be a ground to pronounce an arrangement invalid. Free dialect may have been utilized as a part of Section 66A to manage novel strategies for irritating other individuals' rights by utilizing the web as an apparatus to do as such. Further, dubiousness isn't a ground to announce a statute illegal if the statute is generally authoritatively skilled and

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non-discretionary. He referred to countless both from this Court and from abroad to brace his entries.

### **Judgment**

The Court held that the provision of section 66A of the IT Act is derogative to the Article 19(1)(a) and all things considered it is a arbitrary provision which breaks the privilege of national to have the right to speech and expression of their perspectives on web. All things considered the arrangement concerned is unavoidably invalid and accordingly struck down completely.

### **Judgment Analysis**

The judgment of this case is enormously essential in the Supreme Court's history for some reasons. In an uncommon case, Supreme Court has received the extraordinary advance of proclaiming a control law goes by Parliament as through and through ill-conceived. The Judgment has expanded the extent of the privilege accessible to us to convey what needs be unreservedly, and the restricted space given to the state in limiting this opportunity in just the most uncommon of conditions. Justice Nariman has featured that the freedom of thought and articulation isn't just a motivational perfect. It is likewise "a cardinal esteem that is of foremost centrality under our established plan."