CASE ANALYSIS: SHREYA SINGHAL VS. UNION OF INDIA OF INDIA, AIR 2015 SC 1523

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ABSTRACT

"Case Analysis: Shreya Singhal vs. Union of India" examines the landmark Supreme Court judgment that invalidated Section 66A of the Information Technology Act, 2000. This blog will include a detailed examination of the facts, legal arguments, and the court's ruling, which emphasized the importance of free speech and expression under Article 19(1)(a) of the Indian Constitution2. The case commentary will also discuss the broader implications of this decision on internet freedom and legal precedents in India.

Citation: WRIT PETITION (CRIMINAL) NO. 167 OF 2012

Bench: Justice R.F. Nariman, Justice J. Chelameswar

Parties:

Petitioner- Shreya Singhal

Respondent – Union of India

Background/ Facts

In the year of 2012, Mumbai Police arrested Shaheen Dhada and Rinu Srinivasan for dissenting against the 'bandh' in the aftermath of ShivSena's leader Bal Thackery's unfortunate demise. The young ladies were arrested on the weak ground of posting their thoughts on the shutdown on Facebook. The girls who were arrested on the charges under **section 66A** of the **Information Technology Act, 2000,** which made it a punishable offense for any person to send offensive information using a computer or any other electronic device[1], were later released, and a decision was made to drop all the charges against them. Still, their arrest sparked protests across the nation.

In January 2013, the central government issued a notice stating that no person could be arrested without prior approval from an inspector general of police or another senior officer. Shreya Singhal, a law student, filed a writ petition under **Article 32**[2] of the Constitution to question the effectiveness of this provision and how it violates **Article 19(1)(a)** of the Constitution. In the meantime, the number of such cases under **section 66A** was rising, resulting in the filing of multiple petitions questioning the constitutionality of this section. This case sparked new arguments about the horizons and limitations of freedom of speech and expression in the digital era, upholding the constitutional validity of this fundamental right when exercised in digital platforms.

Issues Involved

This case raised two important issues:

[1] Drishti IAS, Section 66A of the IT Act, 2000, (Oct. 10, 2023), https://www.drishtiias.com/daily-updates/daily-news-analysis/section-66a-of-the-it-act-2000.

[2] India Const. art. 32, cl. (1)

1. Constitutional Validity of **Section 66A** of the Information Technology Act, 2000 –
   a. Whether this section is violative of the Freedom of Speech and Expression guaranteed under **Article 19(1)(a)** of the Consitution of India?
   b. Whether it can be saved by the reasonable restrictions under **Article 19(2)**?
2. Whether this provision was too vague and overbroad which can lead to arbitrary enforcement?
3. This case additionally accessed the constitutionality of **Sections 69A** and **79** of the IT Act.

Contentions Of Petitioner

The petitioner, Shreya Singhal, argued that section **66A** violated the freedom of speech and expression, which is a fundamental right guaranteed by the Constitution of India under **Article 19(1)(a).** Additionally, it was not a reasonable restriction under **Article 19(2)** as well. **Section 66A** of the **Information Technology Act, of 2000** allowed punishment on the mere ground of sending "offensive "messages through any social media platform or the Internet. This provision failed to provide a clear definition of what constitutes "offensive" is and is not, as a downside to this vague idea of "offensive "messages, different law enforcement authorities were open to interpreting the term on their understanding, and this led to arbitrary arrests.

1. The petitioners presented to the apex court that the idea of terms "grossly offensive ", "annoying ", "inconvenient ", and "menacing ", were not precise and were vague. This lack of precision in defining these terms made it challenging for individuals in this country to understand the potential consequences of posting or expressing their ideas on any platform of the Internet. These terms were subject to the interpretation of the law enforcement authorities, creating a grave effect on freedom of expression.
2. Section 66A is violative of the Freedom of Speech and Expression guaranteed by the Constitution of India and is not a part of the reasonable restrictions under Article 19(2). Hence annoyance, inconvenience, and menacing are not under the scope of Article 19 (2).
3. **Article 14** of the Constitution, which guarantees equality, which is also a part of the basic structure of the constitution is violated because there is an absence of intelligible differentia as to why this section only focuses on means of communication.

4. This section also violated the right to privacy, by putting personal expressions and communications under the scope of crime.

Contentions Of Respondent

The respondent, Union of India, attempted to prove the constitutionality of this provision. Section 66A of the Information Technology Act of 2000 by arguing that:

1. The Vagueness of a provision cannot be used as a ground to prove its unconstitutional nature if it is non-arbitrary.
2. The provision is necessary for the protection of public order and to stop the misuse of the Internet and social media platforms from spreading hate speech, and inflammatory content, that could lead to public violence or other contrary effects.
3. The mere possibility of future abuse cannot be used as grounds to declare this provision unconstitutional.
4. The government can impose reasonable restrictions in matters of nation, security, or public order and decency.
5. Section 66A was designed to safeguard people from problems like cyberbullying, harassment, and other crimes that are growing in the modern era.
6. Another argument, which was put forward by the respondent was that judicial review could protect against arbitrary effects of this law. The quotes could be interpreted it in a reasonable manner to ensure there is no misuse of the law.

Judgment

The Supreme Court of India passed a landmark judgment in the case of Shreya Singhal versus Union of India, AIR 2015 SC 1523, on March 24, 2015, by declaring section 66A of the Information and Technology Act, 2000 as unconstitutional.[3]

[3] Legalserviceindia.com, *Cyber Attackers: A Commination to Our Society,* Legal Service India (2021), https://www.legalserviceindia.com/legal/article-7975-cyber-attackers-a-commination-to-our-society.html .

Thus, Section 66A of the Information and Technology Act, 2000, is entirely struck down as it is violative of Articles 19(1)(a) and 19(2). The important points of the judgment are as follows:

1. The court held that this provision was unconstitutional as it infringed the rights guaranteed under Articles 19(1)(a) and 19(2). This provision punished content that was "grossly offensive," "menacing," etc., but it did not provide a clear definition.
2. The court noted that these terms were subject to open interpretation that could lead to arbitrariness in the application of law. This could result in the misuse of this section.
3. This provision had a detrimental effect on free speech. As this provision fails to clearly interpret the definitions of the terms used in this section, it is likely that individuals would refrain from expressing their thoughts and expressions on the Internet for fear of being arrested.
4. Section 69A allows the government to restrict access to the Internet in the interest of national security and public order or to prevent any anticipated commission of a cognizable offence. Hence, this section is not declared as unconstitutional or to violate free speech as it has narrow criteria and proper procedural guidelines.
5. The court clarified that the intermediaries (such as social media platforms) cannot be held liable until they fail to abide by the procedures and directions given by the government to remove posts and other materials after being notified. Thus, Section 79 provides a balanced approach to intermediary liability.

Analysis Of The Case

Section 66A infringes on the freedom of speech and expression of individuals using online platforms to express their ideas and thought processes. The rise in the use of digital means for everyday, purposes, be it for education, entertainment, communication, or other works would make it very difficult, for individuals to determine what is violative of the law and what is not if this provision still existed. Thus, this would create an environment of restriction when it came to using the Internet freely, which would directly cause a slight downfall in the growth rates of digitalization.

The judgment underscores the importance of freedom of speech and expression in a democracy. Any restriction to expression or freedom of speech needs to be formulated in a very careful and cautious way as with the growth of the Internet. The prevalence of such a section would violate this article of the Constitution of India.

Though the Apex Court upholds freedom of speech and expression, it failed to provide proper guidelines on website blocking and forthcoming laws on reasonable restrictions. With the rise in cybercrimes, the scope of these reasonable restrictions should have been expanded to stop the spread of hatred and propaganda through the Internet. Section 79 provides clarity on the role of intermediaries. This judgment strengthened the role of the judiciary in safeguarding fundamental rights and liberties against the overreach of the state. This highlights that a citizen has the right to pursue legal action in cases of unconstitutional law and seek judiciary protection.

The blocking procedure is conducted with a degree of secrecy under **Rule 16** of the **Blocking of Access Rules**, which states that confidentiality should be maintained in case of blocking orders. Shreya Singhal's case also challenged this rule, but the Supreme Court of India did not make any changes to its criteria.

Conclusion

The Shreya Singhal versus Union of India case reaffirms the importance of freedom of speech and expression and the judicial role in safeguarding the rights of the citizens. This further highlighted the importance of speech and expression in a democracy. The judgment struck down the provision as unconstitutional, paving the way for individuals to express their ideas and thoughts online without fear of prosecution. The judgment emphasizes the need for narrowly tailored regulations that respect fundamental rights.