

‘States too must ensure cases are not filed under Sec. 66A’

It was declared unconstitutional in 2015

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States and their agencies share an “equal responsibility” to ensure that people are not booked under Section 66A of the Information Technology Act for expressing themselves freely on social media, the Centre has submitted in an affidavit to the Supreme Court..

Section 66A was declared unconstitutional by the Supreme Court in a judgment in 2015. On July 5 this year, an apex court Bench led by Justice Rohinton F. Nariman said it was “distressing,” “shocking” and “terrible” that people are still booked and tried under Section 66A even six years after the apex court struck down the provision as unconstitutional and a violation of free speech.

The People’s Union of Civil Liberties (PUC), an NGO represented by senior advocate Sanjay Parikh and advocate Aparna Bhat, had drawn the court’s attention to the violations.

Justice Nariman had authored the judgment trashing Section 66A in a petition filed by law student Shreya Singhal, who highlighted cases of young people being arrested and charged under the ambiguous provision for their social media posts.

In its response, the Centre said the police and public order were “State subjects” under the Constitution.

“Prevention, detection, investigation and prosecution of crimes and capacity-building of the police are primarily the responsibility of the States,” the Centre submitted in the affidavit.

It said law enforcement agencies share equal responsibility to comply with



the apex court judgment. They take action against cyber crime offenders as per the law.

The Centre said the Ministries of Information and Technology and Home Affairs had done their best to disseminate knowledge about the Supreme Court judgment in Shreya Singhal case. Section 66A had prescribed three years’ imprisonment if a social media message caused “annoyance” or was found “grossly offensive”.

The Supreme Court had concluded the provision to be vague and worded arbitrarily. Justice Nariman had agreed with Mr. Parikh on July 7 that the “state of affairs is shocking”.

Mr. Parikh had urged the court to intervene and work out a mechanism to disseminate the Shreya Singhal judgment to every police station and trial court in the country.

“Section 66A of the IT Act has continued to be in use not only within police stations but also in cases before trial courts across India,” the PUC has submitted.

The NGO has urged the apex court to direct the government to collect all the data/information regarding investigations under Section 66A and pending cases in district and High Courts.