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How 66(A) of IT Act can be dangerous for an internet/technology user: Explained

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Bengaluru, Dec 3: Sections 66(A) and 74 of the Information Technology Act (IT Act) have been termed as two draconian laws by the Supreme Court of India.

The court even questioned the Centre and asked it to make its stand clear on these two sections which were passed by the UPA government which were invoked several times to harass internet users.



a joke on Mamta Banerjee, the Chief Minister of West Bengal.

In 2013, there was an amend to these sections. However, when reading through the amendments it became clear that it did not change the nature of the sections and remained draconian in nature.

Basically as cyber law expert Pavan Duggal puts it, "it only aims at fixing a leaking roof with a band aid."

What does 66 (A) of the IT Act state:

- 66A. Punishment for sending offensive messages through communication service, etc.: Any person who sends, by means of a computer resource or a communication device,-
- Any information that is grossly offensive or has menacing character
- Any information which he knows to be false, but for the purpose of causing

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annoyance, inconvenience, danger, obstruction, insult, injury, criminal enmity, hatred or ill will, persistently by making use of such computer communication device,

- 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.

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Section 74:

Under Section 74, intermediaries such as the networking site hosting such material can be slapped with a jail term of up to two years.

The amendment:

- Under the amendment of the act, it was stated that there needs to be prior approval from the deputy commissioner or Inspector General of Police before cases under these sections are registered.
- Basically the nature of the sections continue to remain the same. People on the internet can still be harassed.
- The only safe guard that has been taken as part of these amendments is that there would be just one level of check before a case is registered.
- It hardly even matters since when a joke is posted on a person called Raj Thackrey or a Mamta Banerjee it is the state machinery which has absolute control over the case and it hardly even matters whether an IGP or a sub inspector is probing it. The end result would be the same.

According to Duggal the amendment only ensured that we were going back to square one. The IT Act of 2000 had stated that an officer in the level of a DSP could probe such cases. There was an amendment in 2008 which stated that an officer in the rank of an inspector general should probe the case.

Against Constitution:

Section 66(A) is clearly ultra vires of the Indian Constitution. There is a guarantee enshrined under Article 19 which deals with free speech. Reading through the provisions of Section 66(A) it runs completely contrary to Article 19 due to curbs.

How does it stand?

At the moment the IT act mandates that very strict precautions needs to be taken on the internet before posting content. There is a great deal of monitoring that takes place on the net and with such a draconian law in place, posting jokes against leaders could also lead you into trouble.

It dates back to 40 years back and is not in sync with the changing times. There is absolutely no safeguard and the complaints are registered are investigated without even bothering to check if what has been said online is objectionable.

The debate could go on in such cases as what may be objectionable to one person may not be objectionable to the other. Who decides this? Well the law in place has nothing to say about this and hence has been termed as draconian in nature.

Read in Tamil: [ஐ.டி. சட்டப்பிரிவு 66ஏ, 74 ஆகியவை ஏன் அவ்வளவு கொடூரமானவை?](#)

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