

Section 66A and other legal zombies

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Findings

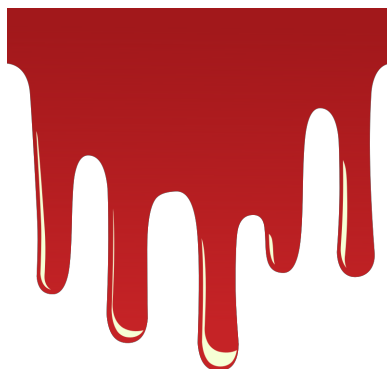
- The unconstitutional Section 66-A of the Information Technology Act 2000 continues to be used across India.
- Our findings are based on a detailed analysis across three data sets.
- 66A is being used in FIRs predating the declaration of unconstitutionality and for cases after it.
- This is indicative of signal failure between and beyond the institutions of government.

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Table of Contents

More than a four year itch	3
Shreya Singhal - A moment of hope	3
The Supreme Court and unconstitutional crimes	4
The Dead Section 66-A Rises Again, and Again	5
Media Reports : Tales from the crypt	5
Online legal databases : The deathly hallows of courthouses	6
The NCRB Turns off the Data Tap	8
Understanding Signal Failures	9
Parliamentary Prerogatives	9
Executive Lethargy	9
Justice requires enforcement	10
A modest study, ambitious suggestions	10
Conclusion	11
Notes	11



More than a four year itch

March 2019 will mark the four year anniversary of the Indian Supreme Court's landmark decision in *Shreya Singhal v. Union of India*,¹ where it struck down Section 66-A of the Information Technology Act 2000. This four year anniversary is all but a happy affair though, as in the years since the decision legal databases and media reports have been littered with reports of how this legal zombie² continues to haunt the Indian criminal process. Right from the police station, to trial courts, and all the way to High Courts, one finds that Section 66-A is still in use despite it being denied a place on the statute book.

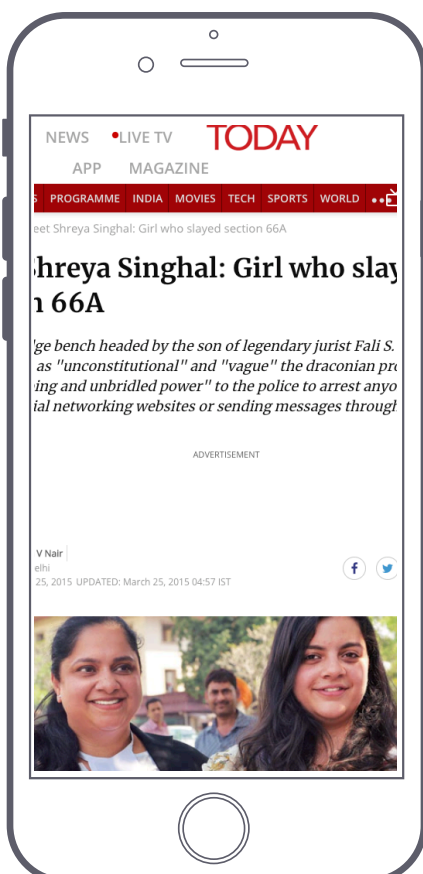
Through this short paper, we aim to bring this point front and centre, not only to generate awareness but also to explain why such legal zombies will continue to exist until some basic problems are addressed. We first reference the *Shreya Singhal* ruling and explain these instances of judicial review from an institutional perspective, premised on notions of dialogue between different branches of State. Proceeding with the argument specific to Section 66-A, we analyse three distinct data sets (online legal databases, the National Crime Records Bureau, and Press Reports) to weave the central thread of our paper of its continued application. We argue that the continued use is a product of communication failures between the branches of State and offer some solutions in conclusion.

The application of unconstitutional provisions by police and courts brings about various undesirable consequences. It results in an illegal and unconscionable deprivation of liberty, incurs wasteful costs on the public exchequer, and clogs up a criminal justice system besieged with lack of policing resources and case pendency. Preventing these outcomes lends a sense of urgency to this paper. We hope that our analysis contributes to reform not only on Section 66-A and the institutional setting of the criminal process, but the larger setting of the Indian legal system as a whole.

Shreya Singhal - A moment of hope

What was *Shreya Singhal* all about? It has not been too long since that decision for collective memory to fade, allowing this review to be brief. Section 66-A was challenged by an array of petitioners as violating Articles 14, 19 and 21 of the Constitution. That provision, inserted through an amendment act in 2008,³ criminalised sending "offensive messages" online. The ambiguity surrounding what constituted such messages became the main plank on which the Court rested its decision. It held that the definition - one that lumped together the grossly offensive, menacing, annoying, inconvenient, dangerous, insulting, intimidatory - was void for its vagueness. The Court explained the consequence of such vagueness was a subjectivity which undermined the rule of law. And it explained this with patience and eloquence, stating that,

"... [E]very expression used [in Section 66A] is nebulous in meaning. What may be offensive to one may not be offensive to another. What may cause annoyance or inconvenience to one may not cause annoyance or inconvenience to another.... If judicially trained minds can come to diametrically opposite conclusions on the same set of facts it is obvious that expressions such as 'grossly offensive' or 'menacing' are so



vague that there is no manageable standard by which a person can be said to have committed an offence or not to have committed an offence.”⁴

Hence, such vagueness rendered the provision unconstitutional, falling short of the “just, fair and reasonable”, and proportionality standard that Indian laws must meet to deprive persons of their fundamental right to life and personal liberty. In the words of the court, “*it is clear that Section 66A arbitrarily, excessively and disproportionately invades the right of free speech and upsets the balance between such right and the reasonable restrictions that may be imposed on such right.*”⁵

Section 66-A was declared unconstitutional on March 24, 2015. But what was the effect of this judgement? Such a declaration of unconstitutionality renders a provision bad from its *inception*, unless the court specifically saves it by stating that this decision will have *prospective* effect.⁶ What this means is that normally, all pending prosecutions on the basis of the unconstitutional provision become stillborn, all convictions cease to have validity, and all persons in custody only because they were suspected of, or guilty of, the unconstitutional offence become entitled to walk free. Since there was no declaration by the Supreme Court that *Shreya Singhal* would only have prospective effect, it meant that all action taken by the authorities based on Section 66-A since its insertion into the Information Technology Act would stand nullified.



The Supreme Court and unconstitutional crimes

Shreya Singhal is a landmark decision. Not only because of how robustly the Supreme Court came to the defence of free speech, but also because it is quite rare for the Court to strike down an *offence* as unconstitutional. Other instances of this rare exercise are:

1. Striking down Section 303 IPC, which imposed a mandatory sentence of death for murder if committed by a person convicted for life imprisonment, in *Mithu v. State of Punjab*⁷ as contrary to Articles 14 and 21;
2. Reading down Section 377 IPC in *Navtej Johar*⁸ to permit criminalisation of *non-consensual* sexual acts between adult homosexuals, on grounds of Articles 14 and 21;
3. Striking down Section 497 IPC and 198(2) Cr.P.C. in *Joseph Shine*⁹ which penalised husbands for adultery while prohibiting aggrieved women from initiating prosecutions for such conduct, on grounds of Articles 14 and 21.

In a sense, *Shreya Singhal* stands as first among these equals, for three reasons. *First*, unlike the other examples which were rarely prosecuted offences (though resulted in harm outside of legal prosecution), the striking down of which would not materially affect law enforcement practices, Section 66-A was a prominently used legal tool for the police. *Second*, the Court in *Shreya Singhal* dealt with a *post-constitutional* statute directly addressing the validity of laws passed by independent India's parliament, unlike cases involving the colonial Indian Penal Code. *Third*, and finally, the decisions in the above instances were mainly based on violations of the right to equality, suggesting that a better classification might have allowed the offence to stand. But in *Shreya Singhal* the Court held the *underlying criminal conduct* itself had been defined in unconstitutionally vague terms.

Why is judicial review of substantive penal legislation a rare event? This is not because the legislature always comes up with bulletproof choices on what to criminalise and how to do so, but rather because of a convention that courts cannot continually second-guess the legislative choices in that arena. To maintain a balance of powers between the branches of State - the executive, judiciary, and legislature - courts *defer* to the exercise of legislative will in this field and seldom choose to negate it.¹⁰ Equally important no doubt is the effect perennial review would have on law enforcement - it is difficult to pursue *any* policy if the validity of the law itself is forever in doubt. Perhaps because of this courts do not strike down laws on the mere possibility of misuse. But, possible *unconstitutional* use goes a step beyond, and government assurances are not enough to save a law in that case.¹¹

This idea of symbiotic relationships and respecting the position of other branches would assume that when the judiciary *does* engage in that rare act of review, its decision is scrupulously honoured. If not, what is the point? As we demonstrate, this is where the notions of a happy balance come apart in India, as it appears that the Supreme Court is not deserving the measure of respect it must get.

The Dead Section 66-A Rises Again, and Again

The Supreme Court struck down Section 303 IPC in 1982. Yet, it did not prevent poor Shyopprakash from being prosecuted and convicted under that provision in 2012 and being sentenced to death by a Sessions Court in Rajasthan.¹² Since any imposition of the death sentence necessarily must come to the High Court, he was lucky as that Court saw through the obvious error to prevent a truly fatal illegality. However, Shyopprakash still had to undergo an *entire trial* on the basis of an unconstitutional offence. And his is not an isolated case, leaving one to wonder how many other such cases are still pending across the country today.

The experience with Section 303 IPC suggested that the results of the Supreme Court striking down Section 66-A were probably going to be similar, despite the best intentions. That is exactly what has happened, but with one crucial difference: 303 IPC being an exotic provision was seldom used, but 66-A was the basis for around 2000 arrests in 2014 alone.¹³ The probability of injustice thus is several times higher.

Media Reports : Tales from the crypt

Our interest was initially piqued by media reports which gave rise to a suspicion that Section 66-A continued to menacingly lurk in police stations and trial courts across the country. Take the case of Rahat Khan, a 22 year old man arrested in March, 2017 in Dankaur by Greater Noida police on a complaint that he had posted a morphed picture of the Chief Minister of the State of Uttar Pradesh for an offence alleged under Section 66-A.¹⁴ After this case being prominently being reported, reports suggest that the police converted charges to Section 66 of the Information Technology Act, 2000 and Section 153A of the Indian Penal Code.¹⁵

Another instance was that of Zakir Ali Tyagi, an 18 year old from Muzaffarnagar who posted a comment on Facebook questioning the Uttarakhand High Court orders on the River Ganges being a living entity, asking that since “*The Ganga has been declared a living entity; will criminal charges be initiated if someone drowns in it?*” In October, 2017, the Telegraph reported that Tyagi spent 42 days in jail due to police registering a case under Sections 66-A of the IT Act and Section 420 Indian Penal Code. The allegations under Section 66-A were converted to Section 66. But once he was released on bail, the police added the offence of sedition.¹⁶

In both these cases, there was considerable mainstream media coverage by national newspapers. Hence, the likelihood of the police discovering the error of continued use of Section 66-A would have become apparent. But dropping an alphabet does not impart greater legality since Sections 66 and Section 66-A are vastly different with the former dealing with hacking and monetary losses and the latter being a speech offence that can be contracted and expanded like an accordion. Credible as press reports may be, there is still a need for other sources to substantiate an inference on the continued use of Section 66-A. We looked towards legal databases.

Online legal databases : The deathly hallows of courthouses

We conducted advanced searches over two online databases; a popular public access platform (IndianKanoon) and another requiring subscription (Supreme Court Cases Online), to survey the extent to which Section 66-A continues to haunt the legal system. The data range for the period between January, 2018 to September, 2018 (till date) from IndianKanoon lists a total of 45 cases, while that for Supreme Court Cases Online from March, 2015 till September, 2018 is a total of 21 cases.

Some caveats are necessary before we proceed. We do not claim to offer an exhaustive survey of cases on Section 66-A. Rather, data gathered from online databases is only indicative of judgements and orders indexed by these databases. It is not representative as a *total* data set of the entire number of Section 66-A cases as registered crimes or pending cases.

Further, the case reports on these databases are based on how they crawl the internet and index information. Since their algorithms and documentation are not made public we do not know to a degree of absolute certainty what they omit. We do know that the databases primarily index High Court cases of different kinds - applications for bail, quashing of criminal investigations, regular appeals etc. The databases also collect data from those District Courts that are digitized, rendering most of the country outside their purview. Thus, there are gaps in this collection of data by online databases. Moreover, the main source of granular data - registration of crimes through First Information Reports (FIR) in police stations - remains wholly outside the scope of these databases. Compiling an exhaustive survey of how Section 66-A (or any provision for that matter) is used in the criminal process is a task that requires tremendous resources, both in terms of time and capital, which we do not currently possess.

Because of these limitations, we omit a detailed analysis of underlying facts, or give a certain break-up of the percentage of cases pending at different stages and limiting ourselves to the general prescription of the continued use of Section 66-A in our criminal process. In many instances this includes FIRs filed after the *Shreya Singhal* judgement, and trials that are proceeding as on date. While we avoid a detailed statistical analysis as a burden to those better trained in number crunching, this data set is valuable as a tool for analysis. Having read each order in our data set we can confidently assert the evidence of certain trends. So what are our findings?

As expected, we found references in the databases for cases that were instituted prior to *Shreya Singhal* and remained pending, but several fresh cases also arose after Section 66-A was declared unconstitutional. Almost all cases included additional and diverse provisions of criminal law not

Data from online legal databases

The data range for the period between January, 2018 to September, 2018 (till date) from IndianKanoon lists a total of 45 cases, while that for Supreme Court Cases Online from March, 2015 till September, 2018 is a total of 21 cases. We believe the number of 66-A case is greater than this for the following reasons.

- They generally query only reported orders from High Courts which are concerned with bail and quashing petitions. Hence, they are not databases for 66A cases by themselves.
- They do not query most subordinate courts which is an important data point for inferring the actual extent of the use of Section 66A.
- These databases are meant for caselaw research and not case incidence mapping. Hence, they do not pull data from police stations on FIRs. We have separately commented on NCRB data which does gather data for crimes recorded in FIRs.



limited to the Information Technology Act 2000 which would make us posit that the continued application of Section 66-A arose from a familiar comfort of policing due to its vagueness -- something which *Shreya Singhal* was meant to curb. Regardless of whether the prosecution of Section 66-A in cases was as the anchor of an alleged crime in a chargesheet or as a peripheral accusation, the continued use in either scenario carries the burden of leading evidence and a continued trial which the government must spend resources to discharge.

In many of the cases praying for quashing of pending cases, the High Courts did quash them (often pursuant to compromises). But surprisingly, cases were also kept pending in the system without any notice of *Shreya Singhal*. Further, we came across bail cases where persons had been arrested in FIRs invoking Section 66-A among other offences, and registered *after* the provision had been struck down. The bail orders we came across did not consider this invocation of Section 66-A an anomaly at all. Such cases were not restricted to hamlets, but happened even in major cities such as Mumbai.

Thus, the data gathered from online databases supports two broad inferences. First, that some prosecuting agencies and magistrates across the country have not been proactive in giving effect to *Shreya Singhal*. One would imagine this is the ideal scenario for prosecutors and magistrates to exercise powers to withdraw cases (Section 321 CrPC). Yet this has not happened. Why? Either because they don't care, or perhaps because the decision has gone unnoticed in certain areas despite the wide publicity it attracted. We return to this in the next section.

Second, it means that the predominant method for enforcement of *Shreya Singhal* (and even *Mithu*) relies on *defendants* spurring the legal system into action.¹⁷ Placing the burden on defendants carries obvious drawbacks: it means enforcement depends on the means of a defendant, and whether her counsel was able to explain the illegality to court. What if the lawyer did not make this claim? It seems that courts simply went on with the case as if Section 66-A was valid. This explained why *Shreya Singhal* was used to quash pending 66-A cases in some petitions while failing to find a mention at all in others, all before the same presiding officer in the Kerala High Court.¹⁸ Ultimately, in this scenario defendants without means to move the system and afford quality counsel to argue this point before a court, are left hopelessly beyond the Constitution altogether. This is their justice.

The NCRB Turns off the Data Tap

In addition to this, we referred to reports of the National Crime Records Bureau. The NCRB has been responsible for collection and publication of data pertaining to crime in India (published in an eponymous report), and these reports have been carrying data on “Cyber Crimes” which catalogued the use of Section 66-A. However, since the NCRB collates data sourced from police stations, its accuracy is not guaranteed.

The NCRB data for 2015 and 2016 showed that widespread arrests continued despite *Shreya Singhal*. However, the NCRB issued a “corrigenda” in 2016 clarifying that those numbers were incorrect due to an error in the internal data processing system.¹⁹ The NCRB also said that it will not publish data on Section 66-A in subsequent Crime in India reports.²⁰ The net result is that not only do we lack an authoritative figure for the number of arrests under Section 66-A in the years prior to *Shreya Singhal*, but also that the government eliminated a data point for checking the continued forays of this legal zombie. Nevertheless, the tainted NCRB data still supports our inferences drawn from the other data sets that despite its constitutional death, Section 66-A continues a ghostly after life in police stations and courts across India.

Interestingly, absence of Section 66-A from the NCRB data correlates to the increased incidence of the use of Section 66 (computer related offences) and Section 67 (offence of online obscenity). It is possible that these provisions are serving as mere proxies for a continued reliance on Section 66-A - suggesting *Shreya Singhal* affected only form and not substance. As mentioned above while discussing the databases, there are cases where Section 66 is used interchangeably with Section 66-A despite the legal objective of Section 66 being clearly distinct. Similarly, clear distinctions exist between Section 67 and Section 66-A, and a recent research report inquires if Section 67 is the new Section 66-A.²¹ While our datasets support this inference, given their limitations we avoid making any statement on these aspects which requires a detailed analysis of various factors.²²

Section 66A wanders our criminal justice system clanking its chains. Its presence felt not only in hamlets but even in major cities such as Mumbai.



Understanding Signal Failures

As discussed above, the datasets suggest inaction on part of the authorities. Why? We consider there are three possibilities: (i) the police, prosecutors, and courts are actively committing contempt by refusing to stop cases under Section 66-A, or (ii) they see the decision as not affecting pending cases, or at any rate not forcing them to do anything, and finally, (iii) the authorities simply do not know that Section 66-A has been struck down.

All three illustrate a wide, systemic signal failure across institutions. But since we cannot *assume* that authorities are actively committing contempt, and one of us has described why prosecutors are not proactive elsewhere,²³ here we focus on the third possibility.

Why is there such a problem in getting word from the highest Court down to the lowest rungs of the criminal process? Upon examining the problem, it seems that calling it a “lapse” is a gross misnomer. Lapse assumes the existence of some method. Here, there is no method. for getting word of Supreme Court decisions to the other stakeholders.²⁴

Parliamentary Prerogatives

Crucially, the declaration of unconstitutionality does not automatically lead to a deletion of the relevant provision from the statute books *in fact*. Statutes can only be changed via amendment, and if parliament does not pass an enabling amendment to give effect to the Supreme Court decision then the unconstitutional provision will remain on the text.

So, if one accesses *India Code* - the official source for the text of central statutes - Section 303 IPC and Section 66-A I.T. Act *are still there*. Since commercial publishers (such as Universal, LexisNexis and Commercial) are required to faithfully reproduce the official text of statutes, even they carry these unconstitutional provisions, often with a footnote citing the Supreme Court decision. This situation is like the worst “Terms and Conditions” advert that can be imagined - the purported discount advertised in bold letters is rendered entirely meaningless because of that little asterisk. And we all know how many people read the asterisk.

Executive Lethargy

The legislative failure to give statutory effect to judicial decisions has a spillover effect because of how the Official Gazette functions. The Gazette is like an official newspaper - published by the central government and the several state governments, it carries important updates for India’s vast bureaucratic apparatus of new legislation, rules, notifications, appointments etc. that are passed. While the Gazette carries updates of new legislation or rules, there is no section carrying details of recent judicial decisions of constitutional import. Therefore, even though Section 66-A was struck down and fettered police powers to arrest, there was no *official* means to automatically get the message across to the police itself! The communication became a question of whether individual ministries issued a notification to that effect.

In context of Section 66-A we find a startling situation. The Government displayed great alacrity in issuing advisories and notifications *during* the litigation in *Shreya Singhal*. One such advisory issued by the Department of Electronics and IT (now called the Ministry of Electronics and IT) is reproduced in the order dated May 16, 2013 passed by the Supreme Court in the case. The notification, addressed to all Chief Secretaries and the Director General of Police for all States and Union Territories, called on them to use Section 66-A with *restraint* and *prior approval* of

administrative superiors.²⁵ However, to the best of our knowledge, no advisory or notification was addressed to the same set of persons informing them about the decision itself.²⁶ Thus, it would seem reasonable to assert that the Executive was more responsive to the deprivation of fundamental rights during pendency of litigation when it could use that stand before Court, rather than give effect to the eventual judgment that the Court ultimately passed.

Justice requires enforcement

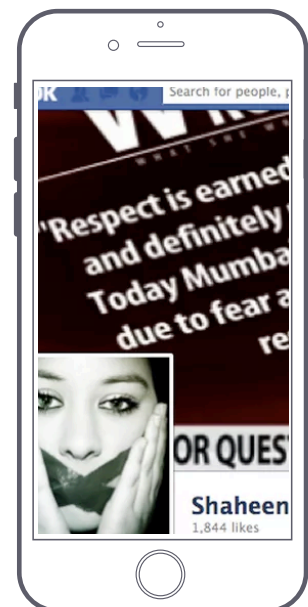
What about the judiciary itself? It is well-accepted that courts cannot ensure compliance with any verdict. However, one expects the judiciary to keep its house in order, and there are systems in place to that effect in India. The Constitution confers the various High Courts with a supervisory jurisdiction over the lower courts falling under its jurisdiction.²⁷ Similarly, within the lower court itself, the District Judge (senior-most officer) has administrative responsibilities over the District. Thus, one would expect this oversight system would help to examine and weed out Section 66-A cases after *Shreya Singhal* was decided.

We already know that this did not happen. And on further examination, this made a lot of sense. Upon checking the High Court Rules published by the Delhi High Court, we found that these had no provision for communicating decisions from the Supreme Court to the lower courts. Similarly, there is no rule mandating the District Judge to issue circulars for bringing new Supreme Court decisions to the notice of other officers within a district. Rather, there seem to be two primary means for members of the subordinate judiciary to get information about important decisions. The first is the publication of yearly digests of such cases by certain High Courts. The second, is the publication of similar digests by commercial houses that happen on a more regular basis as well. Making it apparent that there is no systematic way of *ensuring* that information reaches the magistrates, and that too with the utmost urgency as one would expect.

A modest study, ambitious suggestions

Thus, it appears that there is no system in place to give proper effect to the decisions of the Supreme Court of such significant import. While this paper focused on substantive criminal law, limiting our analyses to Section 66-A, the issue worryingly is more general and affects all decisions of the Supreme Court. So, the same problems will plague the holdings in the *Aadhaar* case as well, where widespread existing administrative and state practices have been significantly altered by a decision of the Supreme Court.

In the absence of any method, securing compliance with the legal duty of adhering to the Constitution becomes contingent upon the individual initiative of scrupulous officers. This starts from the Supreme Court itself: judgments needing compliance by authorities often have a direction to the Registrar to send copies of the final judgment for compliance. This happens more often with interim orders where the Supreme Court takes up a monitoring position, as recently seen in the petition for banning lynchings as part of cow vigilantism.²⁸ Similarly, the High Court or District Judge issue circulars to bring important judgments to the notice of trial courts and local police. Today we need to go beyond this and secure compliance from all arms of the State. As we demonstrated, this is clearly insufficient and continues to allow legal zombies to haunt the system, to the selective peril of those who need the State's help the most.



How can this be fixed? A band-aid is for the Court to issue directions more generally in a case taking *suo motu* cognizance of this widespread non-compliance with the constitutional mandate by, for instance, issuing consequential directions for enforcement of the decision in *Shreya Singhal*. The same could be done by way of a separate PIL as well - if there was ever a situation with obvious public interest, it is this. This band-aid is reasonable and will possibly work, but perhaps institutionally it is not the best solution. Ultimately the core of our problem is a lack of mutual respect between the different branches of State and the way to fix that is to change this underlying imbalance.

A more lasting solution would be to require parliament and the executive to take action first. For instance, create a procedure for the automatic tabling of an amendment to give effect to the Supreme Court decision like the rules pushed through under many statutes by the executive. If not specifically voted *against*, the same becomes law that will then be circulated through the Gazette. Or, why not initiate debates on changing the Gazette itself, to include another section on Supreme Court judgments of constitutional import.

These are only some places to begin the conversation, but this beginning is extremely urgent and necessary. Every action undertaken to enforce unconstitutional laws and the consequent remedial action taken to undo its effects implies a huge waste of time and money, something that the State cannot afford. Besides this economic cost, the enforcement of unconstitutional provisions is a direct negation of the Supreme Court's legitimacy and the rule of law which our Constitution purports to establish.

Conclusion

This paper discussed the continued abuse of the legal system through application of the unconstitutional Section 66-A of the Information Technology Act. Why did we call the provision a legal zombie? Most prominently arising in popular culture from Romero's *Night of the Living Dead* movies, zombies typify a post-apocalyptic world, in which systems of governance collapse to the pandemic spread of (usually) a virus. We argued that not is a similar institutional ineffectiveness on display in India for enforcing a judicial decision of unconstitutionality, but we also demonstrated how Section 66-A continues to cause second order harms to individuals exercising their freedom of speech. Almost mirroring one of these low budget cult classics, it appears that the industry of human intellect is being pushed into dark corners and hushed silence to avoid the inexorable march of a dumb, bloodthirsty creature. Thus, we hope that this paper not only focuses attention on necessary legal and administrative reforms to prevent the continued abuse of not only Section 66-A, but other legal zombies still wandering through the Indian legal system. After all, the dead should rest in peace.

Notes

¹ (2015) 5 SCC 1.

² We borrow this phrase for referring to Section 66-A from Mr. Raman Jit Singh Chima, Chairperson, Internet Freedom Foundation and Policy Director, Access Now.

³ Section 32, Information Technology (Amendment) Act, 2008 (No. 10 of 2009).

⁴ *Shreya Singhal*, Para 79, at p. 163.

⁵ *Shreya Singhal*, Para 86, at p. 166.

⁶ *I.C. Golaknath v. State of Punjab*, AIR 1967 SC 1643.

⁷ AIR 1983 SC 473. The Court held that the selective punishment for life convicts was arbitrary, and further that some sentencing discretion was necessary in situations involving the death penalty.

⁸ *Navtej Singh Johar v. Union of India*, W.P. (Cri) 76 of 2016, decided on 06.09.2018. The Court held that Article 21 protected consensual sexual acts between all persons. Thus, Section 377 arbitrarily discriminated against homosexuals by criminalising consensual sexual acts between them.

⁹ *Joseph Shine v. Union of India*, W.P. (Cri) 194 of 2017, decided on 28.09.2018. The Court held that the offence under Section 497 IPC created an arbitrary classification by only punishing husbands for adultery, and similarly, Section 198(2) Cr.P.C. was contrary to Article 14 for preventing women from instituting a prosecution. The controlling opinion also held that the criminalisation of adultery itself was contrary to Article 21.

¹⁰ This ties in with the scholarship on the concept of “institutional dialogue” between the judiciary and legislature. See, e.g., Luc B. Tremblay, ‘The Legitimacy of Judicial Review: The Limits of Dialogue Between Courts and Legislatures’ 3(4) *International Journal of Constitutional Law* 617 (2005).

¹¹ Thus, despite assurances from the Additional Solicitor General that Section 66-A would not be misused, the Supreme Court in *Shreya Singhal* refrained from acting on executive promises about legislative choices and struck down the entire provision as unconstitutional (*Shreya Singhal v. Union of India* at Para 92, “assurance from the present Government even if carried out faithfully would not bind any successor Government. It must, therefore, be held that Section 66A must be judged on its own merits without any reference to how well it may be administered.”).

¹² *State v. Shyoprakash @ Sukhdev Singh*, D.B. Murder Reference No. 2 of 2012, decided on 22.08.2013 (Rajasthan High Court, Jodhpur Bench). A bench of the High Court was shocked enough to place the matter before the Chief Justice of that Court: “It is quite serious that the trial court in the instant matter settled death sentence on basis of a provision that is no more a part of statute book. It is always expected from a member of Higher Judicial Services to have knowledge of prevalent law and at least regarding authority to award death sentence. The manner in which the trial court in the instant matter has awarded death sentence is not only strange and shocking but also depicts inefficiency of the officer concerned. We deem it appropriate to direct the Deputy Registrar (Judicial) of this Court to bring this fact in knowledge of Hon’ble the Chief Justice by placing a copy of this order before His Lordship.”

¹³ The NCRB data as per the Crime in India Report 2015 showed that 2402 persons were arrested in 4912 cases under Section 66-A of the Information Technology Act 2000. This number may be inflated due to an error later in which offences under Section 66 and Section 66-A were categorised together. This is clarified by a corrigendum dated September 6, 2016 and explained in the portion of the paper specifically dealing with NCRB data.

¹⁴ Vinit, ‘Offensive Facebook Post on Yogi: Rahat Khan’s Bail Plea Will be Heard on Monday’ *Hindustan Times* (25.03.2017) <<https://www.hindustantimes.com/noida/offensive-facebook-post-on-yogi-rahat-khan-s-bail-plea-will-be-heard-on-monday/story-PBQD9y05GB9iXui2veWYgJ.html>> (accessed on 29.10.2018).

¹⁵ Nimisha Jaiswal, ‘Are Police Misusing Laws to Punish Social Media Users? NDTV Investigates’, *NDTV* (12.12.2017) <<https://www.ndtv.com/india-news/are-police-misusing-laws-to-punish-social-media-posts-ndtv-investigates-1786515>> (accessed on 28.10.2018).

¹⁶ Pheroze L. Vincent, ‘The Price of “Galat” Comment in UP - Teenager says he was Picked Up, Tortured and Charged with Hacking’, *The Telegraph* (11.10.2017) <https://web.archive.org/web/20180130081640/https://www.telegraphindia.com/1171011/jsp/frontpage/story_177518.jsp> (accessed on 28.10.2018).

¹⁷ Appendix.

¹⁸ See, *Shameer v. State of Kerala*, Cri MC 4564 of 2017, decided on 24.07.2017; *Siby Sukumaran v. State of Kerala*, Cri MC 4412 of 2017, decided on 13.07.2017; *Murukanth v. State of Kerala*, Cri MC 1116 of 2016, decided on 05.06.2017. These cases are mentioned in the Appendix.

¹⁹ See, Aloke Tikku, ‘NCRB goofs up on number of arrests under cyber law sec 66A’ *Hindustan Times* (09.09.2016) <<https://www.hindustantimes.com/india-news/ncrb-goofs-up-on-number-of-arrests-under-cyber-law-sec-66a/story-z4pcVE55mQLuvchlUx3dl.html>> (accessed on 24.10.2018).

²⁰ See, Government of India, Ministry of Home Affairs, Rajya Sabha Unstarred Question No. 859 (23.11.2016) <<https://mha.gov.in/MHA1/Par2017/pdfs/par2016-pdfs/rs-231116/RS%20859%20E.pdf>> (accessed on 24.10.2018).

²¹ Researchers suggest that the effect of Section 66-A being struck down has not been to stop such cases from being pursued. Rather, authorities have begun resorting to Sections 67 and 67-A of the Information Technology Act 2000 in such cases. See, Bishakha Datta, *Guavas and Genitals: A Research Study in Section 67 of the Information Technology Act* (30.01.2018) <https://itforchange.net/e-vaw/wp-content/uploads/2018/01/Smita_Vanniyar.pdf> (accessed on 24.10.2018).

²² For instance increased internet use, “proper use” of existing offences absent Section 66-A are caveats which will need to be conditioned in any such study.

²³ Abhinav Sekhri, ‘Pendency in the Indian Criminal Process: A Creature of Crisis or Flawed Design’, *SSRN* (21.10.2018) <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3256609> (accessed on 29.10.2018).

²⁴ This ties in with scholarship on organizational communication and how institutional design affects the exchange of information in hierarchical bureaucratic structures. For a classic discussion, see, Gordon Tullock, *The Politics of Bureaucracy*, 137-170 (1965)

²⁵ *Shreya Singhal v. Union of India*, W.P. (CrI.) No. 167 of 2012 (Order dated 16.05.2013) <<https://www.sci.gov.in/jnew/bosir/orderpdfold/1734864.pdf>> (accessed on 29.10.2018).

²⁶ There had been a change in government during the pendency of litigation. Interestingly, the Union Minister for Telecom and IT Affairs published a statement supporting the decision in *Shreya Singhal* and highlighted how the Bharatiya Janata Party led Government adopted a different stand from the previous Congress-led regime to suggest it supported greater freedom of speech and expression. See, Government of India, Press Information Bureau ‘Government Welcomes Court Decision on 66A’ (24.03.2015) <<http://pib.nic.in/newsite/PrintRelease.aspx?relid=117633>> (accessed on 29.10.2018).

²⁷ Article 227, Constitution of India, 1950.

²⁸ Krishnadas Rajagopal, ‘Supreme Court Warns States on Compliance with Order on Lynchings, Cow Vigilantism’ *The Hindu* (07.09.2018) <<https://www.thehindu.com/news/national/comply-with-order-on-mob-lynchings-supreme-court-tells-states/article24891447.ece>> (accessed on 29.10.2018). Again, this suggests a striking contradiction where the Court is more keen on ensuring compliance with *interim* orders pending final adjudication rather than ensuring greater compliance with its final verdict.

Appendix

IndianKanoon January, 2018 - October, 2018

No	Case Order Date	Case Name and Docket	Court	Nature of case	FIR No. / Crime No.	Sections of offences	Cognizable Offences besides IT Act	Weblink
1	5 October, 2018	Abhijit Sarkar v. State of West Bengal C.R.M. 6303/2018	Calcutt a High Court	Application under for anticipatory bail under Section 438 of the Cr.P.C.	FIR Case No. 167 of 2017 registered at Banshihari Police Station on 02.09.2017	Sections 66A and 67 of Information Technology Act.	Yes: Section 67 IT Act	https://indiankanoon.org/doc/168580740/
2	3 October, 2018	Rameshbhai Chimanbhai Solanki vs State Of Gujarat Criminal Miscellaneous No. 17361/2018	Gujarat High Court	Application under Section 439 for regular bail	C.R.No.I31 of 2018 registered with Matar Police Station, Dist. Kheda	Sections 376, 506(2) read with section 14 of the IPC and Section 6,8, and 12 of the POCSO Act and Section 66A and 66E of the I.T.Act.	Yes: Sections 376, 506(2) read with section 14 of the IPC and Section 6,8, and 12 of the POCSO Act and 66E of the I.T.Act.	https://indiankanoon.org/doc/137485439/
3	1 October, 2018	Roop Singh vs State Of Rajasthan	Rajasthan High Court - Jodhpur	Appeal under Section 14-A(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989	FIR No. 102/2018 of Police Station Kalandri, Distt. Sirohi	Sections 506(2), 501 IPC and Sections 66, 66A and 66E of the I.T. Act	Yes: Sections 506(2), 501 IPC and Sections 66 and 66E of the I.T. Act	https://indiankanoon.org/doc/188694400/
4	10 September, 2018	Aaysha Khan v. State Of Rajasthan S.B. Criminal Miscellaneous (Petition) No. 5284/2018	Rajasthan High Court	Section 482 Cr.P.C. praying that a direction be issued to the respondent Nos. 1 to 3 to conduct fair, proper, impartial and expeditious investigation	FIR No. 0076/2018, registered at P.S. Nasirabad Sadar, District Ajmer	Sections 376, 377, 386 IPC and Sections 4, 8, 12 of POCSO Act and Sections 66A and 66D of IT (Amended) Act, 2008.	Yes: Section 376, 377, 386 + POCSO	https://indiankanoon.org/doc/16579162/

No	Case Order Date	Case Name and Docket	Court	Nature of case	FIR No. / Crime No.	Sections of offences	Cognizable Offences besides IT Act	Weblink
5	6 September, 2018	Pawan Kumar vs The State Of Jharkhand A.B.A. No. 3594 of 2018	Jharkhand High Court	Petitioner seeks anticipatory bail. Bail granted.	R.I.T. P.S. Case No. 75 of 2017, corresponding to G.R. No. 951 of 2017 before C.J.M., Seraikella - Kharswan	Sections 295A of the I.P.C. and Section 66A of the I.T. Act.	Yes: 295-A IPC	https://indiankanoon.org/doc/144875760/
6	31 August, 2018	Sri Naveen Thella Ebenezer vs State Of Karnataka Criminal Petition No. 1167/2017	Karnataka High Court	Section 482 of Cr.P.C. praying to quash the FIR	C.C.No. 635/2016 (Crime No. 202/2014)	Section 66(A) of Information Technology Act, 2000 and Sections 420 and 511 of IPC	Yes: Section 420 IPC	https://indiankanoon.org/doc/11853478/
7	29 August, 2018	Mithlesh Yadav vs The State Of Madhya Pradesh M.Cr.C. No. 33488/2018	Madhya Pradesh High Court	Application under Section 439 of the Cr.P.C. for grant of regular bail. "Applicant is in jail since 07.08.2018"	Crime No. 295/2018 registered at Police Station Samnapur, District Dindori (M.P.)	Sections 153- A, 295-A & 505(1)B(2) of IPC and under Section 66A of the Information Act	Yes: Section 153-A IPC, 295-A IPC	https://indiankanoon.org/doc/37108521/
8	14 August, 2018	Bakar Hussain vs State S.B. Criminal Misc(Pet.) No. 2234/2018	Rajasthan High Court - Jodhpur	Petition under Section 482 Cr.P.C. for quashing the proceedings	FIR No.34/2015 at Police Station Hiran Magri, Udaipur	Section 67 of the IT Act [Originates from an original FIR which has Section 66A as well in which the Petitioner was discharged]	No.	https://indiankanoon.org/doc/52469167/
9	10 August, 2018	Sanyog Kumar vs The State Of Bihar Cr.Misc. No. 45005 of 2018	Patna High Court	Petitioner in custody seeks bail. Bail granted.	POCSO Case No. 18 of 2018 arising out of Bikramganj P.S. Case No. 101 of 2018 pending before Additional Sessions Judge -1st Rohtas at Sasaram	Sections 354C, 384, 506 and 34 of the Indian Penal Code and Section 66, 66A, 66B, 66C, 66D and 66E of the Information Technology Act, 2000 and Section 12 of the Protection of Children from Sexual Offences Act, 2012.	Yes: Sections 354C, 384 IPC + POCSO Provisions	https://indiankanoon.org/doc/178830403/
10	6 August, 2018	Jay Prakash Jha @ Uma Jha vs The State Of Jharkhand A.B.A. No. 4359 of 2018	Jharkhand High Court	Petitioner seeking Anticipatory bail. Bail granted subject to conditions.	O.C.R Case No. 771/2017 pending before CJM, Dumka	Sections 29, 30(C), 32(G), 33, 66 and 66A of the Indian Penal Code.	Problems in the underlying judicial order which incorrectly notes them as IPC offences	https://indiankanoon.org/doc/6815361/
11	2 August, 2018	M/s. Pruthvi Agro Services vs State of Maharashtra Criminal Misc. Application No. 524 of 2017	Bombay High Court	Application under Section 457(2) of the Criminal Procedure Code, 1973, for return of property	Crime No. 185 of 2017	Sections 408, 417, 419, 467, 468, 471, 420, 381, 120B of the Indian Penal Code, 1860; Section 7 of the Seeds Act, 1999; Section 3 and 8A of the Seeds Control Act, 1983; Sections 43B, 66A & 66C of the Information Technology Act, 2000, and Sections 3 and 7 of the Essential Commodities Act, 1955.	Yes: Sections 419, 468, 471, 420, 381, 120-B IPC	https://indiankanoon.org/doc/191002177/
12	1 August, 2018	Bhaskar Kumar Thakur vs The State of Bihar Criminal Miscellaneous No. 46511 of 2018	Patna High Court	Petitioner under custody seeks bail	Balua Bazar P.S. Case No. 16 of 2018	Sections 420, 504 and 506/34 of the Indian Penal Code, 1860 and 66A of the Information and Technology Act, 2000.	Yes: Section 420 IPC	https://indiankanoon.org/doc/104645095/

No	Case Order Date	Case Name and Docket	Court	Nature of case	FIR No. / Crime No.	Sections of offences	Cognizable offences besides IT Act	Weblink
13	17 July, 2018	Rajesh Kumar vs The State Of Bihar Criminal Miscellaneous No.29324 of 2018	Patna High Court	Petitioner in custody seeks bail	Rupaspur P.S. Case No. 28 of 2018 "the alleged occurrence is dated 23.01.2018"	Sections 354, 354A, 354C, 354D, 506 and 509 of the Indian Penal Code, Section 66A of the Information and Technology Act and Section 3 of the Protection of Children from Sexual Offences Act	Yes: Sections 354, 354A, 354C, 354D, 509 IPC	https://indiankanoon.org/doc/42280092/
14	16 July, 2018	Aswin B vs State of Kerala CrI.MC.No. 1860 of 2018	Kerala High Court	Petitioner seeking quashing of proceedings on the ground of delay in filing of chargesheet. Expeditious trial ordered.	Crime No. 1956/2012 of Ernakulam Town North Police Station and in Crime No. 172/2014	Section 66(A)(a) and 67A of Information Technology Act, 2000 and Section 406, 34 IPC, 1860	Yes: Section 406 IPC, and Section 67A IT Act	https://indiankanoon.org/doc/193915379/
15	12 July, 2018	Ganesh Mandal @ Ganesh Kr. Mandal vs State Of Jharkhand	Jharkhand High Court	Petitioner in custody seeking bail. Bail granted.	Bengabad Police Station Case No. 167 of 2016 (G.R. No. 1907 of 2016) pending before Judicial Magistrate, 1st Class, Giridih	Sections 419, 420, 467, 468, 471 IPC & Section 66A, C, D, IT Act.	Yes: Sections 419, 420, 468, 471 IPC	https://indiankanoon.org/doc/100573884/
16	9 July, 2018	Dwarika Prasad Rana vs The State Of Jharkhand A.B.A. No. 2877 of 2018	Jharkhand High Court	Petition seeking anticipatory bail. Bail granted.	Chandwara P.S. Case No. 06 of 2017, corresponding to G.R. No. 103 of 2017 pending before J.M. 1st Class at Koderma	Sections 121 A, 123, 153 A, 420, 465, 468, 469, 500, 504, 505 of the I.P.C., and Section 66A, 66D, 72 of I.T. Act	Yes: Section 121-A, 123, 153-A, 420, 468, 469 IPC	https://indiankanoon.org/doc/149654369/
17	5 July, 2018	Prasanjeet Kumar vs The State Of Bihar Criminal Miscellaneous No.30726 of 2018	Patna High Court	Petitioner seeks regular bail	Kotwali P.S. Case No.449 of 2017	Sections 417, 418, 419, 465, 468, 469, 471 and 120(B) of the I.P.C. and Sections 66A and 66B of the I.T. Act.	Yes: Sections 419, 468, 469, 120-B IPC	https://indiankanoon.org/doc/156217991/
18	3 July, 2018	Hardik Mahendrabhai Pandya vs State Of Gujarat R/Criminal Misc. Application No. 9817 of 2018	Gujarat High Court	Application under Section 438 of the Code of Criminal Procedure, 1973, for grant of anticipatory bail	I- C.R. No. 102 of 2018 with City-B Division Police Station, Jamnagar	Sections 376, 384, 507 of the Indian Penal Code, 1860, and Sections 66A, B, 66E (A,B,C,) of the Information Technology Act, 2000.	Yes: Sections 376, 384 IPC	https://indiankanoon.org/doc/9731250/
19	28 June, 2018	Narendra bhaskar Kana Patil vs State of Gujarat, Criminal Misc. Application No. 8456 of 2018	Gujarat High Court	Application under 439 Criminal Procedure Code, 1973, for regular bail	Criminal.No.105 of 2017 at Langhanaj Police Station, Mehsana	Sections 406,420,467,468,471, 14 and 120(B) of the India Penal Code, 1860 and Sections 66A,66C,66D of the Information Technology Act, 2000.	Yes: Sections 406, 420, 468, 471, 120-B IPC	https://indiankanoon.org/doc/73987828/
20	27 June, 2018	Rishav Raj vs State of Bihar Criminal Miscellaneous No.35919 of 2018	Patna High Court	Petitioner already in custody seeks bail	Patrakar Nagar P.S. Case No. 573 of 2017	Sections 406, 419, 420, 467, 468 and 471/34 of the Indian Penal Code, 1860 and 66A of the Information and Technology Act, 2000.	Yes: Sections 406, 409, 468, 471 IPC	https://indiankanoon.org/doc/12066553/
21	20 June, 2018	Md. Neyaz vs State of Bihar Criminal Miscellaneous No.30409 of 2018	Patna High Court	Second petition seeking bail	Gaya Mahila P.S. Case No. 12 of 2016	Sections 376(D), 114, 342, 365, 352, 379, 471/34 of the Indian Penal Code, 1860 and Section 66A and 66E of the Information Technology Act, 2000	Yes: Sections 376D, 342, 365, 379 IPC	https://indiankanoon.org/doc/107248034/
22	13 June, 2018	Jyoti Lal Majhi vs The State Of Jharkhand B.A. No. 1614 of 2018	Jharkhand High Court	Petitioner in custody seeking bail. Bail granted.	Ichagarh P.S. Case No. 33/2017, corresponding to G.R. No. 1095/2017 pending before Chief Judicial Magistrate, Seraikeela	Sections 153A, 153B, 506 and 120B of the Indian Penal Code and Section 66A of the Information Technology Act.	Yes: Sections 153-A, 153-B	https://indiankanoon.org/doc/179675971/

No	Case Order Date	Case Name and Docket	Court	Nature of case	FIR No. / Crime No.	Sections of offences	Cognizable Offences besides IT Act	Weblink
23	5 June, 2018	K.Ramamoorthy vs The Inspector of Police, Jetty Police Station, Rameswaram CrI.O.P. (MD)No.7448 of 2018	Madras High Court	Petition filed under Section 482 Criminal Procedure Code, 1973	Jetty P.s Crime No.31 of 2018	Sections 153 and 505 IPC, 1860 and Section 66A of IT Act, 2000	Yes: Sections 153, 505 IPC	https://indiankanoon.org/doc/29354249/
24	17 May, 2018	Tinku Saw vs The State Of Jharkhand B.A. No. 3081 of 2018	Jharkhand High Court	Petitioner in custody seeking bail. Bail granted.	Dhanbad Police Station Case No. 11 of 2018(G.R. No. 113 of 2018) before Chief Judicial Magistrate, Dhanbad	Sections 387 IPC and Section 66A of the IT Act.	Yes: Section 387 IPC	https://indiankanoon.org/doc/25242413/
25	1 May, 2018	Tusi Kumar vs State Of Bihar Criminal Miscellaneous No.26114 of 2018	Patna High Court	Petitioner in custody seeking bail. Bail granted.	Kotwali P.S. Case No.449 of 2017	Sections P2/ 417/418/419/420/120 B of the Indian Penal Code and Sections 66A/66D of the I.T. Act	Yes; Sections 419, 420 IPC	https://indiankanoon.org/doc/93221275/
26	1 May, 2018	Dhanraj Kumar vs State of Bihar Criminal Misc. No. 26121 of 2018	Patna High Court	Petitioner in custody seeking bail	Kotwali P.S. Case No.449 of 2017	Sections 417/418/419/420/120 B of the Indian Penal Code, 1860 and Sections 66A/66D of the I.T. Act, 2000	Yes: Section 419, 420, 120-B IPC	https://indiankanoon.org/doc/197643689/
27	26 April, 2018	Santoh Dan vs The State Of Jharkhand A.B. A. No. 6932 of 2017	Jharkhand High Court	Petitioner seeking Anticipatory bail. Bail granted subject to conditions.	Narayanpur P.S. Case No. 186 of 2017, corresponding to G.R. No. 983 of 2017	Sections 414, 419, 420, 467, 468, 471 and 120B of the Indian Penal Code and under section 66A, 66B, 66C of the I.T Act.	Yes; Sections 419, 4290, 468, 471 IPC	https://indiankanoon.org/doc/141341903/
28	13 April, 2018	Rahul Kumar v. The State Of Jharkhand B.A. No. 1670 of 2018	Jharkhand High Court	Petitioner in custody seeking bail. Bail granted.	Sadar P.S. Case No.25 of 2017, corresponding to G.R. No. 147 of 2017, C.J.M., Chaibasa	Sections 354-A, 354-C of the Indian Penal Code and under section 66A, 66E and 67A of the Information Technology Act.	Yes: Sections 354-A, 354-C IPC	https://indiankanoon.org/doc/27259776/
29	9 April, 2018	Nagaraja vs State by Parashurampura P.s Criminal Petition No. 1627 OF 2018	High Court of Karnataka, Bengaluru	Petitioner seeking Anticipatory bail	Parashurampur a P.s Cr.No. 37/2017	Section 354-D IPC, 1860 and Section 66A of Information Technology Act,2000.	Yes: Section 354-D IPC	https://indiankanoon.org/doc/116186879/
30	5 April, 2018	Anjay Kumar @ Gore vs The State Of Bihar Criminal Miscellaneous No.14003 of 2018	Patna High Court	Petitioner seeking Anticipatory bail	Giriyak (Katrisarai) P.S. Case No.434 of 2017	Sections 419, 420, 467, 468, 471 of the Indian Penal Code, 1860 and Section 66A of IT Act, 2000.	Yes: Sections 419, 420, 467, 468, 471 IPC	https://indiankanoon.org/doc/126747659/
31	4 April, 2018	Bablu Kumar Sharma vs State of Bihar Criminal Misc. No. 12457 of 2018	Patna High Court	Petitioner seeking anticipatory bail and it is rejected.	Lakhisarai Mahila P.S.Case No. 17 of 2017	Sections 323, 341, 376, 506, 385 of the Indian Penal Code, 1860 and Sections 66A (E), 67(A) of I.T. Act, 2000.	Yes: Sections 341, 376, 506 IPC	https://indiankanoon.org/doc/155600336/
32	2 April, 2018	Gurdeep Singh vs State of Haryana CRM-M No. 8119 of 2018 (O&M)	Punjab and Haryana High Court	Petitioner seeking to get the FIR quashed pursuant to compromise. FIR Quashed.	Kurukshetra University p.s., Kurukshetra, FIR No.286 dated 17.11.2014	Sections 66A, 67 of Information Technology Act, 2000 and Section 201 of the Indian Penal Code, 1860.	Yes: 67 IT Act	https://indiankanoon.org/doc/125634655/

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33	28 March, 2018	Aditya Kaushik vs The State of Jharkhand B.A. No. 353 of 2018	Jharkhand High Court	Petition seeking bail. Bail granted.	Dhanbad Police Station Case No. 332 of 2017 (G.R. No.2580 of 2017) corresponding to Sessions Trial No. 400 of 2017, pending in the Court of learned Additional Sessions Judge-II, Dhanbad.	Sections 328, 376 IPC and under Sections 66A, 66E, 67A of the IT Act and later on section 8 of POCSO Act and Section 77 of JJ Act	Yes; Section 328, 376 IPC	https://indiankanoon.org/doc/6964460/
34	27 March, 2018	Jalendra Kumar vs The State of Jharkhand B.A. No. 1748 of 2018	Jharkhand High Court	Petition seeking bail. Bail granted.	Harla Police Station Case No. 139 of 2017 corresponding to G.R. No.1649 of 2017	Sections 420, 120B of the Indian Penal Code, Section 66A of the Information Technology Act and Sections 3, 4, 10 of the Jharkhand Conduct of Examination Act	Yes; Section 420 IPC	https://indiankanoon.org/doc/37154837/
35	26 March, 2018	Umesh Nandan Sinha vs The State Of Bihar Criminal Misc. No. 28656 of 2017	Patna High Court	Petition to quash the Hon'ble CJM Court order whereby cognizance under Section 66A is taken and petitioner summoned to face trial.	Kishanganj P. S. Case No. 262 of 2016	Sections 295-A, 153-A, 500, 501, 504, 505(2) and 506 of the Indian Penal Code, 1860 and Section 66A of the Information Technology Act, 2000	Yes: Sections 295A, 153-A, 505(2) IPC	https://indiankanoon.org/doc/141244590/
36	23 February, 2018	Sonu Kumar vs State of Bihar Criminal Appeal (SJ) No.269 of 2018	Patna High Court	Appeal under Section 14(A)(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 for grant of bail. Bail granted.	Siwan Mahila Police Station Case No.30 of 2017	Sections 354D/120B of the Indian Penal Code, 1860 and Section 66A of the I.T. Act, 2000 and Section 3(xi) (x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.	Yes: Sections 354D IPC	https://indiankanoon.org/doc/29582342/
37	23 February, 2018	Mallikarjuna radhya M. vs State of Karnataka CRL.P. NO. 7396/2015	Karnataka High Court	Petitioner seeking quashing of FIR pursuant to compromise. Initially accused of several offences but chargesheet filed only on u/s.498A of IPC and Sections 3 & 4 of Dowry Prohibition Act.	Chandra Layout P.s Crime No. 457/2015	Section 3 and 4 of Dowry Prohibition Act, 1961, Section 3(1) (xi) of SC/ST (Prevention of Atrocities) Act 1989, Section 66A of the Information Technology Act, 2008 and under Section 498A of the I.P.C., 1860.	Yes: Section 498A IPC, Section 3, SC/ST Act	https://indiankanoon.org/doc/78955190/
38	22 February, 2018	A. Nataraj vs Stae of Karnataka Criminal Petition No. 1023/2018	Karnataka High Court	Petitioner seeking Anticipatory bail. Bail granted subject to conditions.	Thirumala Shettyhalli P.s Crime No. 193/2017	Sections 354A, 354D, 509, 511 of IPC, 1860 and Sections 66A, 66E, 67 AND 72 of the Information Technology Act, 2000	Yes: Sections 354A, 354D, 509 IPC	https://indiankanoon.org/doc/102312335/
39	6 February, 2018	Tafijul Sk vs Unknown C.R.M. 1068 of 2018	Calcutta High Court (Appellate Side)	An application for anticipatory bail under Section 438	Banshiharai P.S. Case No. 218 of 2017 dated 29.11.2017	Sections 295(A) of the Indian Penal Code read with Section 66A and 67A of the Information Technology Act, 2000.	Yes; Sections 295(A) of the Indian Penal Code and 67A of the Information Technology Act, 2000.	https://indiankanoon.org/doc/154338038/
40	29 January, 2018	Syed vs State of Karnataka Criminal Petition No. 154/2018	Tafijul Sk vs Unknown on 6 February, 201	Petitioner seeking anticipatory bail. Relief declined with liberty to Petitioner to seek afresh on completion of investigation.	Srinivasapura P.S., Kolar District, Cr.No. 342/2017	Sections 366A, 376, 506, 509 read with Section 34 of IPC, 1860 and Section 66A of Information Technology Act, 2000.	Yes: 366A, 376, 509 IPC	https://indiankanoon.org/doc/169957671/
41	24 January, 2018	Md. Ali Siddiqi vs State of Bihar Criminal Misc. No. 61226 of 2017	Patna High Court	Petitioner in custody seeking bail. Bail given.	Sitamardi PS Case No. 381 of 2017	Sections 295(A), 298/34 of the IPC, 1860 and Section 66A(a)(b) of I.T.Act, 2000	Yes: Section 295A	https://indiankanoon.org/doc/172107663/

No	Case Order Date	Case Name and Docket	Court	Nature of case	FIR No. / Crime No.	Sections of offences	Cognizable Offences besides IT Act	Weblink
42	11 January, 2018	D S vs K C & Anr. LPA 274/2016 & C.M. 27932/2017	Delhi High Court	Petitioner seeks quashing pursuant to compromise. Matrimonial case.	FIR no.180/13, PS Nanakpura, Delhi FIR bearing no. 38/2015, PS Chitranjan Park, Delhi	FIR No. 180 - Section 498A/406/34 IPC. FIR No. 38 - Section 66A of the IT Act	Yes: Sections 498A/406/34 IPC.	https://indiankanoon.org/doc/38489331/
43	10 January, 2018	Bhawani Singh vs State & Anr S.B. Criminal Misc(Pet.) No. 77 / 2018	Rajasthan High Court - Jodhpur	Petitioner seeks quashing pursuant to compromise. Quashed pursuant to guidelines in Gian Singh's Singh's case.	Cr. Case No. 89/2014 pending in the Court of learned CJM, Pali	Section 66A	No.	https://indiankanoon.org/doc/26972990/
44	9 January, 2018	Akul Mahajan vs State of Punjab And Haryana Criminal Misc. No. M-5242 of 2017(O&M)	Punjab and Haryana High Court	Petitioner seeks under Section 482 of the CrPC for quashing of FIR pursuant to compromise. FIR quashed and petition allowed.	Civil Lines Police Station, Amritsar, FIR No.89 dated 13.03.2015	Sections 294/427/506/354/341 IPC, 1860 and Sections 66A/67A of the Information Technology Act, 2000	Yes: 294, 341, 354 IPC	https://indiankanoon.org/doc/126727419/
45	9 January, 2018	Md. Neyaz vs The State Of Bihar Criminal Miscellaneous No.56352 of 2017	Patna High Court	Petitioner in custody seeking bail. Bail denied.	Gaya Mahila P.S. Case No. 12 of 2016 dated 08.03.2016	Sections 376(D), 114, 342, 365, 352, 379, 471/34 of the Indian Penal Code and Section 66A and 66E of the Information Technology Act, 2000.	Yes: Sections 376(D), 114, 342, 365, 352, 379, 471/34 of the IPC and 66E of the IT Act, 2000.	https://indiankanoon.org/doc/40343700/

SCCOnline March, 2015 - October 2018

No	Case Order Date	Case Name and Docket	Court	Nature of case	FIR No. / Crime No.	Sections of offences	Cognizable Offences besides IT Act
1	15 February, 2018	Anoop v. State of Kerala, Crl MC 733 of 2018, 2018 SCC OnLine Ker 290 (Kemal Pasha J)	Kerala High Court	Section 482 Cr.P.C. praying for quashing of pending criminal case under <i>inter alia</i> Section 66-A IT Act - allowed following <i>Shreya Singhal</i>	CC No. 4421 of 2014 registered at P.S. Thrissur, Rural	Sections 447, 500, 506 IPC and Section 66A IT Act	Yes: Section 447 IPC
2	04 August 2017	Binoy v. State, B.A. No. 4224 of 2017 (2017 SCC OnLine Ker 10534) (Sunil Thomas J)	Kerala High Court	Bail Application seeking release from custody, person arrested on FIR disclosing offences including Section 66-A - Bail granted, but no mention of <i>Shreya Singhal</i>	FIR No. 892 of 2017, at P.S. Varkala, Kerala	Offences under Sections 342, 506(i), 323, 376(D) and 34 of the Indian Penal Code and section 66A of Information Technology Act.	Section 342, 376D IPC
3	04 August 2017	Abhishek v. State of Gujarat, Crl MC 17997 of 2017 (2017 SCC OnLine Guj 816) (AJ Desai J)	Gujarat High Court	Application u/s 439 Cr.P.C. for bail - bail granted but no mention of <i>Shreya Singhal</i>	FIR being C.R No. I-127 of 2016 registered with Una Police Station, Gir Somnath	Sections 307, 397, 395, 365, 355, 354, 342, 147, 148, 149, 324, 323, 504, 506(2), 120(B), 201, 166A, 167, 466, 177, 204, 294(b), 505(1)(b), 509, etc. of the Indian Penal Code; Section 135 of the Gujarat Police Act; Sections 3(1)(e), (r), (s), (u), 3(2)(5a), 3(1)(d), 3(1)(za) (E), 3(1)(w)(i), (ii), 3(2)(vi), 3(2)(vii), 4 etc. of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989; Section 66A & 66B of The Information Technology Act.	Yes - Multiple.
4	24 July 2017	Shameer v. State of Kerala, Crl MC 4564 of 2017 (2016 SCC OnLine Ker 25807) (Sudheendra Kumar J)	Kerala High Court	Application under Section 482 Cr.P.C. seeking quashing on basis of settlement - dismissed as settlement not reached	S.C No. 100 of 2016, Addl. DC & Sessions Court (Violence Against Women & Children)	Sections 465, 468, 471, 384 and 376 read with Section 34 I.P.C and Sections 66A and 66E of the Information Technology Act. 2000.	Yes: Section 376, 384, 468, 471 IPC

No	Case Order Date	Case Name and Docket	Court	Nature of case	FIR No. / Crime No.	Sections of offences	Cognizable Offences besides IT Act
5	13 July 2017	Siby Sukumaran v. State of Kerala, CrI MC 4412 of 2017 (2017 SCC OnLine Ker 24774) (Sudheendra Kumar J)	Kerala High Court	Application under Section 482 CrPC seeking quashing of pending case on grounds of <i>Shreya Singhal</i> - allowed	CC 2281/2014 of J.M.F.C-II, Kollam	Section 201 I.P.C, Section 66A of the Information Technology Act and Section 118(d) of the Kerala Police Act	No.
6	11 July 2017	Geetu Mohan v. State of Kerala, CrI MC 4401 of 2017 (2017 SCC OnLine Ker 24305) (Abraham Mathew J)	Kerala High Court	Quashing petition u/s 482 CrPC filed on grounds of settlement between parties - allowed - no mention of <i>Shreya Singhal</i>	CC No. 534 of 2016 on the file of the Chief Judicial Magistrate Court, Kollam	Offences under Sections 500, 501 & 506 of the Information Technology Act and under Sections 66A & 66D of the Indian Penal Code.	No.
7	03 July 2017	S. Unnikrishnan v. Supdt of Police, CrI MC 1973 of 2014 (Sudheendra Kumar J)	Kerala High Court	Quashing petition u/s 482 CrPC on grounds of <i>Shreya Singhal</i> - allowed - important to note that no withdrawal application filed by police	Crime No. 204 of 2011 of Adimali Police Station. Final Report filed and case registered as CC No. 290 of 2013.	Section 66A of the Information Technology Act, 2000	No.
8	05 June 2017	Murukanth v. State of Kerala, CrI MC 1116 of 2016 (2017 SCC OnLine Ker 18420) (Sudheendra Kumar J)	Kerala High Court	Quashing petition u/s 482 CrPC against FIR - dismissed as police argued that Final Report has been filed and magistrate should be given an opportunity to assess merits - no mention of <i>Shreya Singhal</i>	F.I.R is Crime No. 604 of 2012 of Harbour Police Station, Kochi. Case registered as C.C No. 206 of 2016	Sections 386 and 506(B) I.P.C and Sections 65, 66A and 66B of the Information Technology Act, 2000	Yes: Section 386 IPC
9	24 May 2017	Sajan v. Anjaly Mary Joseph, CrI MC 4724 of 2015 (2017 SCC OnLine Ker 16797) (Sudheendra Kumar J)	Kerala High Court	Quashing petition u/s 482 CrPC - dismissed holding that "petitioner is having right and opportunity to raise all his contentions before the trial court and plead for discharge under Section 239 Cr.P.C" - no mention of <i>Shreya Singhal</i>	C.C No. 1211/2015	Sections 109 and 501 r/w Section 34 IPC and Sections 66A(b), 66C and 66D of the Information Technology Act, 2000	No.
10	18 April 2017	Amar Thapa v. State of Meghalaya, WP (CrI) 2 of 2017 [(2017) 175 AIC 788] (Maheshwari CJ & Vaish J)	Meghalaya High Court	Writ petition under Art 226 challenging preventive detention order issued on <i>inter alia</i> grounds that accused had pending case under Section 66-A - Court dismissed petition	Williamnagar P.S No. 70(6) 16	Sections 385/506 IPC read with Section 66A Information & Technology Act, 2000	Yes: Section 385 IPC
11	09 March, 2017	Kirti Manish Sharma v. State of Maharashtra, Bail App 501 of 2017(2017 SCC OnLine Bom 3348) (Mridula Bhatkar J)	Bombay High Court	Bail application - FIR registered in 2016 for offences including 66-A - Court granted bail but no mention of <i>Shreya Singhal</i>	C.R No. 140 of 2016 registered with Manmad Police Station, Nashik.	Sections 406, 408, 409, 420, 465, 467, 468, 470, 471, 472, 477A, 201 of the Indian Penal Code and under section 66A of the Information Technology Act	Yes: Multiple
12	09 March 2017	Sanjay Prabhakar Gadekar v. State of Maharashtra, CrI WP 3982 of 2015 (2017 SCC OnLine Bom 2167) (Oka & Prabhudesai JJ)	Bombay High Court	Writ Petition is for quashing the FIR and the proceedings of the criminal case - charge only framed under Section 66A - counsel relied on <i>Shreya Singhal</i> - allowed		Sections 504, 507 and 509 of the Indian Penal Code read with Section 66(A) of the Information Technology Act, 2000	Yes: Section 509 IPC
13	27 January 2017	Debashish Saha v. State of W.B., WP 4940 of 2016 [(2017) 1 CNH 613] (Joymala Bagchi J)	Calcutta High Court	Writ petition alleging illegal arrest in September 2015 - alleging non-compliance with SC directions in <i>Armesh Kumar v State of Bihar</i> - no mention of <i>Shreya Singhal</i>	Baguihati Police Station Case 668 of 2015 dated July 26, 2015	Sections 341/323/354/354D/506 of the India Penal Code and under Sections 66A/66E of the Information Technology Act	Yes: Section 354, 354-D IPC
14	25 January 2017	Aneesh Balan v. State of Kerala, CrI MC 5803 of 2016 (2017 SCC OnLine Ker 5574) (Vijayaraghavan V., J.)	Kerala High Court	Quashing petition u/s 482 CrPC filed based on settlement between parties - case quashed because of settlement.	C.C No. 881 of 2016 on the file of the Judicial Magistrate of 1st Class-IX, Ernakulam	Section 66A of the Information Technology Act and under Section 384 read with Section 34 of the IPC	Yes: Section 384 IPC

No	Case Order Date	Case Name and Docket	Court	Nature of case	FIR No. / Crime No.	Sections of offences	Cognizable Offences besides IT Act
15	20 January 2017	P.N. Satheesan v. State of Kerala, Crl MC 3547 of 2016 (2017 SCC OnLine Ker 4713)	Kerala High Court	Quashing petition u/s 482 CrPC against Final Report - allowed	C.C No. 1592 of 2012 on the file of the Judicial Magistrate of First Class- Kunnamkulam.	Sections 294(b), 506(i) of the IPC, Section 118(d) of the Kerala Police Act and under section 66A of the Information Technology Act.	Yes: Section 294 IPC
16	18 October 2016	B. Riaz Ahmed v. State of Karnataka, Crl Petition 5434/2015 (2016 SCC OnLine Kar 5493) (Anand Byareddy J)	Karnataka High Court	Quashing petition - argued <i>Shreya Singhal</i> as well - but Court dismissed petition: "In any event, if the contentions of the learned counsel are to be addressed, it would appear that no case is made out against the petitioner. This however, is a matter to be examined further by the trial Court at the appropriate stage with reference to the material that may be available on record and it would not be prudent for this Court to come to a conclusion as sought to be canvassed by the learned Senior Advocate. Hence, the trial Court is requested to view the matter with some circumspection in the light of the submissions and the circumstances sought to be meted out by the learned Senior Advocate."		Sections 43A, 66(A), 65, 66, 43 of the Information Technology Act, 2000 as well as Sections 120B, 406 and 420 of Indian Penal Code, 1860.	Yes: Multiple
17	04 October 2016	Khalid Nashim v. State of Haryana, Crl M M 22333 of 2015 (2016 SCC OnLine P&H 10144) (Jitendra chauhan J)	Punjab & Haryana High Court	Section 482 petition seeking quashing of FIR - dismissed	FIR No. 20 dated 16.01.2014, registered at Police Station Gharaunda, District Karnal	Sections 292, 509, 506 of the Indian Penal Code and Sections 66A and 67 of Information Technology Act	Yes: Section 292, 509 IPC
18	02 September 2016	Asfak v. State of Haryana, Crl M M 22281 of 2016 (2016 SCC OnLine P&H 6702) (Ajay Tewari J)	Punjab & Haryana High Court	Petition u/s 438 CrPC seeking anticipatory bail - dismissed	FIR No. 733 dated 17.11.2015, registered at P.S City Palwal, Haryana.	Sections 384, 388, 389, 120-B IPC and Sections 66, 66A of the I.T Act	Yes: Sections 384, 388, 389 IPC
19	28 June 2016	Gangadharan v. Venugopalan Nambiar, Crl RP 1114 of 2015 (2016 SCC OnLine Ker 20902) (Sunil Thomas J)	Kerala High Court	Petition u/s 482 CrPC challenging discharge of accused by Magistrate - dismissed	C.C No. 1896/2014 on the files of the Judicial First Class Magistrate Court, Thalassery	Section 66(A) and (C) of the Information Technology Act, 2000.	No.
20	28 June 2016	Anil Kumar v. State of Maharashtra, ABA 547 of 2016 (2016 SCC OnLine Bom 6776)	Bombay High Court	Section 438 Cr.P.C. application for anticipatory bail - allowed	C.R No. 38 of 2016 registered with the Cyber Police Station, BKC, Bandra(E), Mumbai	Sections 419, 420 r/w. 34 of the Indian Penal Code and under Sections 66A & 66D of the Information Technology Act.	Yes: Section 420 IPC
21	26 February 2016	Ajay Rawat v. State of Haryana, Crl MM 1139 of 2016 (2016 SCC OnLine P&H 10369)	Punjab & Haryana High Court	Bail application - allowed	FIR No. 733 dated 17.11.2015 registered at P.S. City Palwal, Dist Palwal	Sections 66, 66A IT Act and Sections 384, 388, 389 and 120-B IPC	Yes: Sections 384, 388, 398 IPC

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