

Court No. - 48

Case :- CRIMINAL MISC. WRIT PETITION No. - 6684 of 2020

Petitioner :- Nand Lal Singh Yadav

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Sunil Kumar,Hira Lal Yadav

Counsel for Respondent :- G.A.

Hon'ble Manoj Misra,J.

Hon'ble Anil Kumar-IX,J.

Heard learned counsel for petitioner, learned A.G.A. for respondent nos. 1, 2 & 3 and perused the record.

The instant petition seeks quashing of the First Information Report dated 19.04.2020 registered as Case Crime No. 0070/2020, under Section 66A Information Technology (Amendment) Act 2008, Police Station- Mirahachi, District- Etah.

As section 66A of the Information Technology Act had been declared ultra vires, on 08.07.2020, the court while entertaining this petition passed the following order:-

*We are amazed that despite Section 66-A of the Information Technology Act, 2000 having been declared ultra vires by the Apex Court in **Shreya Singhal vs. Union of India, (2015) 5 SCC 1** yet F.I.R's are being registered in our State under the said provision. Taking cognizance of the aforesaid illegality, the Apex Court in **Peoples' Union For Civil Liberties vs. Union of India and Others, W.P. (Crl) No.199/2013** passed the following order on 15.2.2019:-*

"The learned Attorney General appears before us and has made a concrete suggestion, which we accept. The suggestion is that copies of this Court's judgment in 'Shreya Singhal v. Union of India' [(2015) 5 SCC 1] will be made available by every High Court in this country to all the District Courts. This should be done within a period of eight weeks from today.

Also, we direct the Union Government to make available copies of this judgment to the Chief Secretaries of all the State Governments and the Union Territories. This should be done within a period of eight weeks from today. The Chief Secretaries will, in turn, sensitise the police departments in this country by sending copies of this judgment to the Director General of Police in each State, within a period of eight weeks thereafter.

The application stands disposed of accordingly."

We are back to square one wherein the instant FIR has been registered under Section 66-A of the I.T. Act, 2000. Prima facie the action discloses complete disregard to the orders of the Hon'ble Apex Court. We could have summoned the senior police officials but refrain from doing so in view of the current pandemic.

However, the IO shall be physically present along with records and his explanation.

List on 20.7.2020.

Till the next date, investigation and arrest of the petitioner in Case Crime No.0070/2020, under Section 66-A of the Information Technology (Amendment) Act, 2008, P.S. Mirahachi, Etah shall remain stayed.

Let a copy of this order be supplied to the learned AGA and also placed before the D.G. (Police), U.P., Lucknow and the S.S.P. Etah."

Pursuant to the above order, Shri Rajiv Kumar, Inspector P.S.-Pilua, Etah, to whom the investigation of the case was assigned, has appeared and filed an affidavit stating therein, specifically, that except offence punishable under Section 66A of I.T. Act, no other offence is disclosed against the petitioner.

As in ***Shreya Singhal Vs. Union of India, (2015) 5 SCC 1***, Section 66A of the I.T. Act has been declined ultra vires, the impugned first information report is liable to be quashed and is hereby quashed.

The petition stands **allowed** as above.

Order Date :- 8.9.2020

Sharad/-