

**Court No. - 1**

**Case :-** CRIMINAL MISC. WRIT PETITION No. - 24804 of 2019

**Petitioner :-** Rajesh Singh And 7 Others

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

**Counsel for Petitioner :-** Nikhil Kumar, Prashant Kanha

**Counsel for Respondent :-** G.A., Kundan Rai

**Hon'ble Ramesh Sinha, J.**

**Hon'ble Samit Gopal, J.**

Sri Kundan Rai, learned counsel for the private respondent no.4 is not present though the matter has been taken up in the revised list.

Heard Sri Nikhil Kumar, learned counsel for the petitioners, Ms. Archana Singh, learned A.G.A. for the State and perused the impugned F.I.R. as well as material brought on record.

This writ petition has been filed by the petitioners with a prayer to quash the impugned F.I.R. dated 18.11.2019, registered as Case Crime No.1284 of 2019, under Section 66A Information Technology (Amendment) Act, 2008, Police Station Sector-49, Noida, District Gautam Buddha Nagar.

It has been contended by the learned counsel for the petitioners that no counter affidavit has been filed by respondent no.4 till date. He further submits that the impugned F.I.R. has been by respondent no.4 under Section 66A of Information Technology (Amendment) Act, 2000 cannot be lodged against the petitioners as the offence under Section 66A of Information Technology (Amendment) Act, 2000 has been declared *ultra-vires* by the Hon'ble Apex Court in the case of **Shreya Singhal Vs. Union of India: (2015) 5 SCC 1** but still the F.I.R. has been lodged under the aforesaid offence.

Learned A.G.A. though opposed the prayer for quashing of the F.I.R. but also concedes the fact that the impugned FIR could not be registered under Section 66-A of the Information Technology Act, 2000 in view of the order of the Hon'ble Apex Court in the case of **Shreya Singhal** (Supra).

Considered the submissions advanced by learned counsel for the parties.

After the judgment of Shreya Singhal (Supra) declaring Section 66-A of the Information Technology Act, 2000 as ultra-vires, First Information Reports are being registered in the State of Uttar Pradesh and even other places. The Hon'ble Apex Court took cognizance of the said illegality and

in the case of **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."*

This Court is encountering such a situation often where the First Information Reports lodged under Section 66-A of the Information Technology (Amendment) Act, 2008 are being challenged. The authorities concerned in spite of the clear mandate of the Hon'ble Apex Court in the Case of Shreya Singhal (Supra) declaring the same as ultra-vires and later on in the case of Peoples' Union for Civil Liberties (Supra) having reminded the said situation through a specific order have become inresponsive and insensitive to the issue. Time and again reminders have been issued by this Court for effective and actual enforcement of it and of the fact that Section 66-A of the Information Technology Act, 2000 has been declared ultra-vires and also in spite of the fact that the said judgment declaring it to be so, has been ordered to be circulated amongst the officers concerned, there appears to be no regards for the same and the situation remains as earlier as is the said section is well in force. The present situation prompts us to take up the issue again.

In this writ petition also, we find that the FIR has been registered for the said offence and the State has not taken corrective measures in pursuance of the order of the Hon'ble Apex Court to direct its officials/officers not to register First Information Reports for the said offence as the same has been declared ultra-vires.

In view of the above, the impugned FIR and all subsequent proceedings taken against the petitioners in pursuance thereof are hereby quashed. The writ petition accordingly succeeds and is allowed.

There shall however be no order as to costs.

The party shall file computer generated copy of order downloaded from the official website of High Court Allahabad, self attested by it alongwith a self attested identity proof of the said person (s) (preferably Aadhar Card) mentioning the mobile number (s) to which the said Aadhar Card is linked, before the concerned Court/Authority/Official.

The concerned Court/Authority/Official shall verify the authenticity of the computerized copy of the order from the official website of High Court Allahabad and shall make a declaration of such verification in writing.

(Samit Gopal, J.) (Ramesh Sinha, J.)

**Order Date :- 18.11.2020**

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