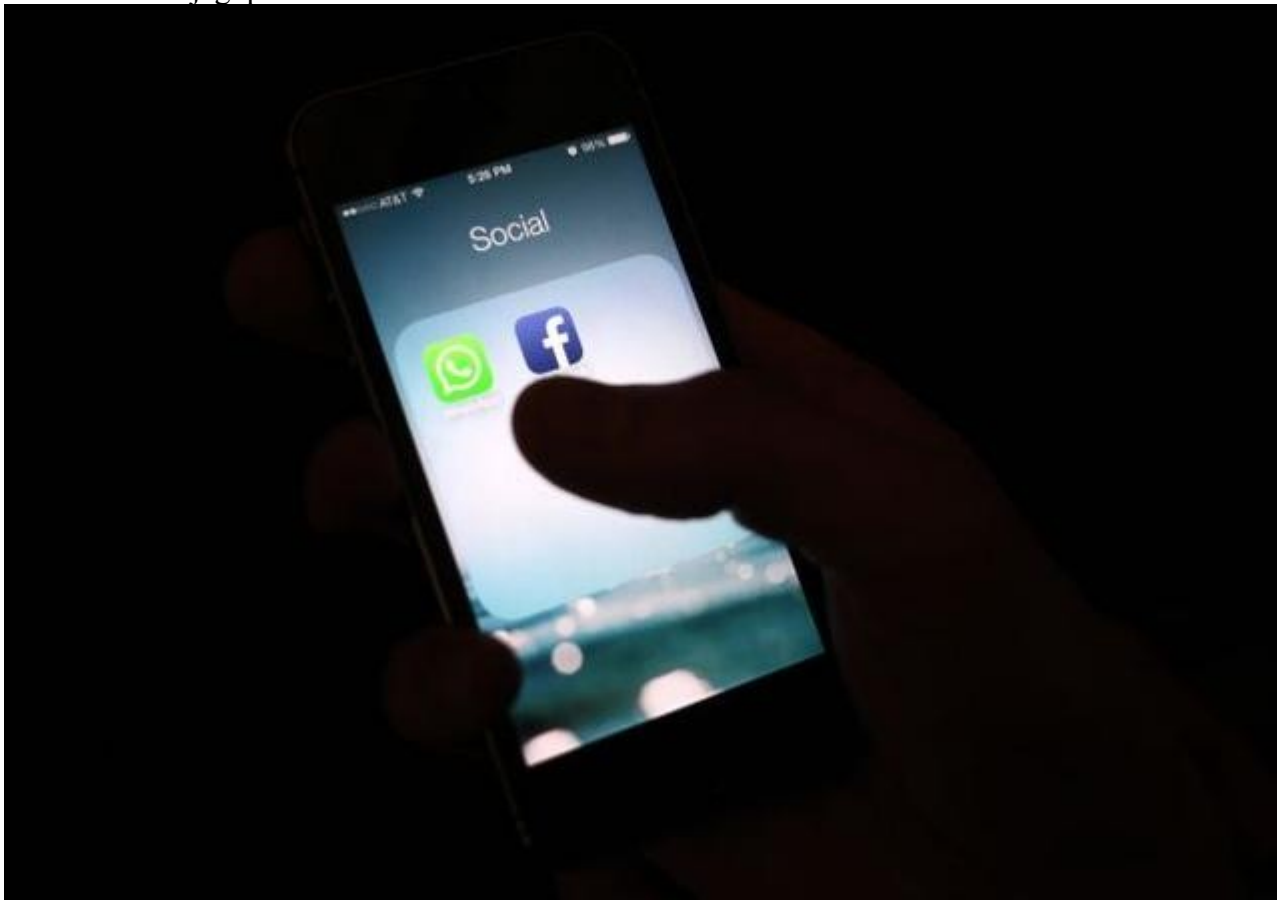


‘Decent’ humour, dissent, not prohibited

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The government excluded comments expressing political dissent, contrarian views and “decent” humour from what constitutes “grossly offensive” or “menacing” on social media, and thus, violative of Section 66 A of the Information Technology Act of 2000.

Handing over a small bulk of documents in a sealed cover to a Bench of Justices J. Chelameswar and Rohinton F. Nariman in the Supreme Court on Tuesday, Additional Solicitor General (ASG) Tushar Mehta, appearing for the government, said that even the court would agree after perusing the papers that they deserve to be prohibited.

Mr. Mehta suggested that the documents remain sealed and not be circulated even to lawyers on the

opposite side, so that the contents continue to be under wraps. But the Bench decided otherwise, directing the Centre's law officer to pass on a copy to the other side. The documents, however, would not be circulated.

The Bench was hearing a batch of petitions challenging the constitutionality of certain legal provisions in the Information Technology Act, especially Section 66 A, which provides for a three-year jail sentence for posting "offensive" comments on social media.

But Mr. Mehta contended that prohibitions under the 2000 Act are "reasonable" and in consonance with the restrictions placed on free speech in Article 19 (2) of the Constitution.

One of the petitions challenging Section 66 A is by Shreya Singhal, a law student, which deals with the arrest of two girls, Shaheen Dhada and Rinu Shrinivasan, at Thane district in Maharashtra for allegedly posting a comment against the shutdown in Mumbai following Shiv Sena leader Bal Thackeray's death. The second girl had allegedly 'liked' the comment.

"The provision gives obtrusive powers for the police to barge into anyone's house. It creates a regime where if anybody sends an email, puts up a post or even sends an SMS which may cause annoyance to somebody, that person can be arrested, her home searched and the website locked," Prashant Bhushan, counsel for Common Cause, one of the petitioners, argued.

He pointed out that Section 66A uses vague terminologies like "annoyance" and "menacing character", and the "width of the provision exceeds the permissible restrictions on free speech."

"These sections have a chilling effect on the freedom of speech," Mr. Bhushan argued.