



An (unintentional) safe harbour for online counterfeiting?

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The decision in Shreya Singhal v Union of India by the Supreme Court striking down the much maligned Section 66A of the Information Technology Act, 2000 is undoubtedly a watershed judgment in Indian Constitutional jurisprudence. A closer reading of the judgment however reveals that it could have wider ramifications in a realm much beyond the traditional free speech context. Amidst the various challenges that were posed to the apex court as regards provisions contained in the IT Act, a petition moved by the IAMAI (Internet & Mobile Association of India) sought to have another provision in the IT Act struck down as being unconstitutional. The petition challenged Section 79 of the IT Act which grants an exemption to intermediaries from being held liable for third party information which is hosted through their platforms on the internet. As this article will discuss, while ruling on the intermediary section, the Supreme Court eviscerated well-established mechanisms for countering online counterfeiting. This article posits that while the intent of the Supreme Court was noble, it did not perhaps fully consider the ramifications of its decision specifically in the context of Section 79 of the IT Act and, as a result, on online counterfeiting. This article was published in 2015. To continue reading, please contact us email@anandandanand.com

