Free Speech

Why in news?

Kerala has promulgated a draconian ordinance to curtail free speech.

What is the ordinance all about?

- It amends **Section 118A in the Kerala Police Act** giving uncontrolled powers to the police to curtail free speech.
- Now, the police can arrest anyone expressing or disseminating any matter deemed threatening, abusive, humiliating or defamatory to a person or a class of persons in any manner making it an cognizable offence.

What the State government says?

- It indicates that law targets only defamatory social media posts.
- It will not curb reportage, political satire or expression of opinion.
- However in the **Shreya Singhal vs. Union of India (2015)** case, the Supreme Court struck down **Section 66A of the IT Act** which criminalised sending of any message through a computer resource that was grossly offensive, menacing, or caused annoyance, inconvenience, danger, insult, injury and intimidation.
- The court cited that act brought innocent and offensive messaging under its ambit.

What are the issues with the ordinance?

- The new law is vaguely defined and is made cognizable whereas criminal defamation under the IPC is non-cognisable.
- **Section 118A** lays down a three-year prison term whereas it is two year term under the IPC.
- The present ordinance contravenes with earlier Supreme Court judgement - A police officer cannot register an FIR for the offence & they can only be prosecuted by a private complaint.
- However, Centre's assent is mandatory as it is in conflict with central laws & the ordinance itself required prior presidential assent.
- It is regrettable that the State sought to equip with extraordinary powers to deal with a problem that can be dealt with other provisions relating to

stalking, harassment, criminal intimidation and verbal abuse.

Source: The Hindu

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