

Appld By. Rahul R. Singh
O/A No. 2476/2022
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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 3499 OF 2021

ABC

...Petitioner

Versus

Union of India & Ors

...Respondents

Mr Rahul Singh, *with Prashant Mali, for the Petitioner.*

Mr Sukanta Karmakar, AGP, *for the Respondent-State.*

Mr Sanjay Udeshi, *i/b Sanjay Udeshi & Co, for Respondent No.3.*

Mr Yogesh Rane, *Registrar (Legal and Research) present.*

CORAM G.S. Patel &
Madhav J. Jamdar, JJ.

DATED: 28th February 2022

PC:-

1. Having regard to the nature of the Petition and the order we propose to pass, as a first order of business, we direct the Registry to completely mask the name of the Petitioner in the physical records as also in the CIS.

2. The Writ Petition seeks the following principal relief.

“(a) issue a writ order or direction, directing the Respondent Nos. 1 and 3 to respect the right to privacy of the Petitioner and remove the case details/judgment/URL in respect of judgment dated 12.02.2013 of the Judicial Magistrate First Class, Court No. 6, Nagpur in the Summary Criminal Case NO. 561/2014 relating to the



Petitioner from their respective internet sites/e-courts websites;

or

Mask the name of the parties to the matter so as the various search enquiries would not be able to index the said order.”

3. The issue is of some wide significance in regard to the right to privacy or the right to be forgotten as it is called. The Supreme Court’s decision in *KS Puttaswamy (Retd) And Anr v Union of India And Ors¹ (Puttaswamy-II)* recognizes this as a component of Article 21 of the Constitution of India.

4. We make it clear that at the outset that the order that we pass today is confined to the facts of this case. For reasons that are self-evident and which we will explain a little more fully below, no such order in a particular case can ever serve as a precedent for any future order or case. Each case must necessarily be decided on its own facts and with regard to its peculiar circumstances.

5. These circumstances in this case are indeed peculiar. The Petitioner currently works with a firm in Tokyo, Japan. He was accused in a summary criminal case no. 561 of 2013. That was before the JMFC Court in Nagpur. That litigation resulted in an acquittal on 12th February 2013. The criminal case was initiated under Section 66A of the Information And Technology Act. The resultant order was uploaded to the Court system website. We leave aside the more personal details and for the purposes of the present order, we rest at the undisputed fact of the acquittal mentioned

¹ 2017 (10) SCC 1.



above. We are also informed, and the record so reflects, that the opposite party has also moved on. Independent relations have been established on both sides. Neither side wishes to continue to prosecute or defend one against the other.

6. It is in these extremely specific and peculiar facts that the Petitioner asserts his "*Right to Forgotten*" or "Right to Privacy". Specifically, he says that there must be a delinking of the judgment from the Court website. Notably, the Petitioner does not say, as indeed he cannot, that the Court records should be destroyed. The prayer reproduced above is limited to the availability of the case details and the judgment on the Court system website, i.e. a resource that is publicly accessible.

7. Having regard to the observations of the Supreme Court in *Puttaswamy-II*, particularly paragraphs 168 to 169 and 173, 176, 177, 180 and 183, we are inclined to grant the Petitioner an appropriately moulded relief. As the Supreme Court specifically observed, privacy is constitutionally protected right that can be traced to the guarantee of life and liberty in Article 21 of the Constitution of India. What the Petitioner really asserts, again drawn from the *KS Puttaswamy-II* judgment, is that privacy connotes a right to be left alone. It safeguards individual autonomy and recognizes the ability of the individual to control vital aspects of his or her life.

8. It is for this reason that we do not believe there is substance to the submission that every acquittal will result in an application of this nature or that every such application will be automatically



granted. That simply cannot be. Each case will have to be assessed independently on its merits.

9. It is in this context and with this background that we therefore issue Rule and make it returnable forthwith by consent, Respondents having waived service, this being a pure question of law. Indeed the facts are not contentious.

10. Having regard to the forgoing discussion we direct the Registry to issue the necessary directions to remove the order and judgment of 12th February 2013 in summary criminal case no. 561 of 2013 from the website and the database accessible from the website of the JMFC and in the NJDG.

11. We make it clear that the original records of the case will be dealt with in accordance with the Rules regarding destruction of records in the normal course and we are not by this order directing the immediate destruction of those records.

12. We also direct by way of abundant caution that should anyone request access to those records, that request for access will be addressed following the usual Rules and practices in that regard, including requiring the filing of an Affidavit by the Applicant explaining clearly why such access is required.

13. We re-emphasize the requirement to mask the name of the Petitioner in the records of this Writ Petition also.



14. As a last order of precaution, while an authenticated copy of this order will be made available to the Petitioner and the Advocate for the Respondents, this order is not be uploaded to the High Court website.

15. Rule is made absolute in these terms.

16. All concerned will act on production of a digitally signed copy of this order.

(Madhav J. Jamdar, J)

(G. S. Patel, J)

Note: This order is modified by an order dated 24th March 2022. Corrections are shown in bold and italics.



CERTIFIED TO BE A TRUE COPY
this 1st day of APR 2022

Shri. C. K. Pashime
(Associate)

For Registrar (O.S.) / Prothonotary
and Senior Master, High Court, Bombay

JA

PM