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Home / News Updates / Right To Be Forgotten: ...

NEWS UPDATES

Right To Be Forgotten: Kerala HC Asks Indian Kanoon To Remove Name Of Rape Victim From Judgment

M.A Rashid 1 March 2017 2:07 PM



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The Kerala High Court has recently asked legal online search portal indiankanoon.com to remove the name of a rape victim from a Kerala High Court judgment published on the site.

Justice Shaji P Chaly passed the interim order in a petition filed by a rape victim, who was aggrieved by the disclosure of her name and personal information in the judgments rendered by Kerala High Court in two writ petitions filed by her seeking proper investigation into the complaint filed by her, pursuant to the rape committed on her by the accused.

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[In A First An Indian Court Upholds The 'Right To Be Forgotten' \[Read Order\]](#)

She submitted in the petition that she was aggrieved due to the publication of the judgments rendered by the high court by the website named indiankanoon.org, without obtaining prior permission from the court or from the petitioner as mandated under Rule 5 of the Information Technology (Reasonable Security Practices and Procedures and Sensitive Personal Data or Information) Rules, 2011.

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She also submitted that she is further aggrieved by the publication of these judgments in the general search results of the search engine owned and run by the 4th (Google) and 7th respondents (Yahoo).

According to the petitioner, such publications infringed the right to privacy and right to lead a dignified life guaranteed to the petitioner under Article 21 of the Constitution of India.

“Apart from the prejudice caused by the publication of Exhibit P4 and Exhibit P5 to the job prospects and social life of the petitioner, the same has augmented the disrepute and shame already caused to the petitioner and her family by the offences committed by Accused against her. The petitioner, a rape victim, is being subjected to a wider public scrutiny on the global level and victimization due to the publication of Judgments. She is being directly associated as a victim of unnatural offences. The petitioner, now aged 30 years, has lost any chance of getting married and leading a normal life due to the publication of Judgments,” the petition said.



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"The Apex Court has time and again held that in order to achieve the true purport and intent of enactment of Section 228A of the Indian Penal Code, 1860, it would be appropriate that in the judgments, be it of the Supreme Court, High Court or lower Court, the name of the rape victim should not be indicated. Such diligence should also be extended to ancillary proceedings arising out of the main criminal complaint, such as Writ Petitions, Criminal Miscellaneous Cases filed Section 482 of CrPC etc., such as in the instant case, where the rape victim herself is the petitioner. The judgment includes its cause title. Thus, it is high time that guidelines are laid down stipulating that the name of a rape victim should not be indicated even in ancillary proceedings to the main case including in the cause title," the petition stated.

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The petitioner also submitted that 'the right to be forgotten' is accepted in many foreign countries.

"Right of a rape victim to be anonymous or not to have personal sensitive information indicating that she is a rape victim should not be published overrides the right to information of the general public or right to publish and right to information," she said.

The petitioner also sought a direction commanding the respondents to compensate her for the disrepute, mental agony, distress, pain and suffering and loss of earnings caused to her by the disclosure of her identity and personal information as a rape victim by the publication of the documents.

Speaking to *Livelaw*, Sushant Sinha, founder of Indian Kanoon, said he would obey the interim order. But, he clarified that he had not received any orders from court yet.

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