

Dated: 07.10.2020

To

The Hon'ble Chief Justice,

Supreme Court of India,

Bhagwan Das Road, New Delhi.

SUB: Letter Petition by law students in the wake of the Hathraas Gang Rape case, seeking intervention of this Hon'ble Court, for appropriate order/ direction for action to be taken against guilty officials, and seeking orders/directions for framing guidelines for protocol to be followed by both the hospitals and police.

Respected Sir,

In the past few days the citizens of India have seen a higher degree of brutality in crime against women, which one thought could not be more gruesome after the 2012 Nirbhaya Rape Case. Crime against women in India, is not only drawing the attention of the citizens of India, but is being reported in newspapers all around the world. There are talks about fast track courts, decreased rate of conviction and statistics of all kind are all over the news and the internet, but we write to you as students of law who are so jolted and disheartened with the state of affairs in our nation, that we find it imperative to write to the Highest Court of our nation for some relief.

It is a well-known fact that this Hon'ble Court shares the sentiment of the people at large when it comes to crimes of this nature. The Supreme Court has repeatedly observed that rape is the most heinous crime and in a judgement that was passed almost two decades ago, the Judges of this Hon'ble Court have held that "*Rape is not only a crime against the person of a woman (victim), it is a crime against the entire society. It destroys the entire psychology of a woman and pushes her into deep emotional crises. It is only by her sheer will power that she rehabilitates herself in the society, which, on coming to know of the rape, looks down upon her in derision and contempt. Rape is, therefore, the most hated crime. It is a crime against basic human rights and is also violative of the victim's most cherished of the fundamental rights, namely, the right to life with human dignity contained in Art 21*" [***Bodhisattwa Gautam v. Subhra Chakraborty* 1996 SCC (1) 490**] and it is so unfortunate that such extracts are being reiterated year after year, in case after

case while the perpetration of the same crime just gets worse. It is apposite to mention here, that the statistics, of each year show a drastic increase in the number of rape cases being reported and that the conviction rate on the other hand, shows no improvement. The NCRB Data shows that India has seen an increase in crime against women by 7.3% in 2019 with Uttar Pradesh being the highest contributor to the registered cases of crime against women with 14.7% of the total cases in India. One of the most unfortunate results of this data is that a girl getting raped has become so common, that we only talk about it in a few selected cases when the nature of the crime is such that it shakes the conscience of a person.

The most recent incident of such kind is the Hathras Rape Case which caused widespread and immediate anger and disgust among the public because a 19 year old girl, in her dying statement stated that she has been raped and the manner in which her body was treated after she had been raped is nothing less than inhuman. Despite this, the police officials who are the investigating wing of the justice system and protectors of our society and are responsible by law to register, investigate and frame charges in cognizable cases are now the ones who are depriving the victim and the family of the victim a chance to bid farewell, by burning the victim's body in the middle of the night, in a field, alone with the family under illegal house arrest while restricting other spectators such as the media and villagers to come near the place of burning.

This Hon'ble Court has also discussed and has observed in many of its decisions that even in provisions where the Statute is specifically providing for an immunity, there must be a reasonable connection between the act and police officer and simply abusing his/her duty and acting outside the contours of his/her duty would not get the protection of the law. The Criminal Law provisions prescribe rights, duties and responsibilities and procedures based on which the investigating agency conducts itself and its acts, therefore, the police authority is liable for questioning on their act on the night of 30th September, 2020, when they burned the victim's body in the middle of a field by throwing petrol on her and then lighting it on fire which unarguably took away her right to die with dignity as the acts of police officials are not justifiable constitutionally and on the substantive provisions of law and these events pose a grave threat to the Fundamental right of 'Right to life with dignity' which also includes the right to decent cremation in accordance with culture and tradition of the person who is no more (*vide Parmanand Katra, Advocate v. Union of India (1995) 3 SCC 248*). It is imperative to mention here, that the deceased

body of a convicted terrorist, Ajmal Kasab who took part in the horrors of 2008 Mumbai terrorist attacks in Maharashtra, was also offered by the Government of India to the Government of Pakistan on humanitarian grounds after he was hanged until death. It is another fact that no one claimed the body and thus his body was buried in Yerawada Central Prison Pune, but the same humanity was not extended to the Hathras incident victim and her family who've lived all their lives in India and had lost their daughter to what is known as the most hated crime. There has been much debate and discussion on what are the rights of a family on a dead body and whether the family has exclusive rights on the body of the person? There is no guideline on this particular issue yet.

The police allegedly states that they had sought the permission of the family members to burn the victim's body, although it is pertinent to note that the family members on multiple accounts have stated that it was done against their will. The video to substantiate the family's claim is available all over the news and internet however there is no plausible document signifying the consent of the family members.

It is important to note that during these difficult and unprecedented times of a pandemic, the Ministry of Health Affairs in their guidelines pertaining to the disposal of COVID-19 Positive bodies have allowed the family members to have a last look at the body of the deceased. The Guidelines issued by the Ministry of Health affairs for disposal of dead bodies amid the Covid-19 crises. A bare glance of the Guidelines shows that even in these exceptional circumstances when there is great threat/ apprehension of infection from the dead bodies and timely disposal is a must, the Ministry in its guidelines has required that *“the dead and the bereaved should be respected at all times”*. The guidelines issued by the **“Guidelines for Safe disposal of dead bodies Annexure 2”** issued by National Centre for Disease under Ministry of Health and Family Welfare, Government of India states that *“Undignified handling and disposal of dead bodies may further traumatize relatives and should be avoided at all times. Careful and ethical management of dead bodies, including disposal, should be ensured, including respect for religious and cultural sensitivities.”* and there is a detailed procedure mentioned regarding the handling of dead bodies. Guidelines are needed to be framed for disposal of dead bodies in other cases in general in line and terms of the above guidelines. The same should be made applicable to all authorities dealing with such situations, be it police personnel or the hospitals. When the police is bound by above

mentioned guidelines to return the body and when even MHA has permitted to bid farewell to a COVID -19 Positive body, the same shall certainly be followed in other circumstances as well.

The Hathras police has instilled a fear of authoritarianism in the hearts of us Law Students and concerned citizens and the question that a lot of female law students are asking is whether the police are taking up the role of completing the crime for the criminal and if it is required, whether we can report a crime without questioning the intention and the result of reporting such a crime that we have been a victim of?

It is respectfully submitted that the defence and the stance being taken by the police and several other government officials is creating a situation of panic and distrust in the country. Acts like the imposition of section 144 of the Indian Penal Code, stopping political leaders, people, media and other villagers from visiting the family yet on 4th October'20 allowing a huge gathering near the premises of the victim's house to hold a meeting to discuss the rights of the accused , mannerism in which women's clothes were being held who tried to visit the family sends clear messages of suspicion to the public. The announcement made that there was no semen found in the body of the victim therefore the charge of rape is ruled out - are obscure and are making things worse. It is important to understand that the literacy rate in India is not 100% and such statements by government officials not only mislead the people about what the law prescribes but is a blatant attempt to contradict the dying statement of the victim.

The independence of the Judiciary from the Executive and the Legislature is a part of the basic principles of the Constitution which ensures and empowers the Judiciary to pass appropriate directions when one wing of the government falters and although the Allahabad High Court has taken Suo Moto cognizance in this matter, we write to this Hon'ble Court because as the Highest Court in our country, a statement, a direction or even an observation made by this Court holds a higher value than any other subordinate Court and also because this Hon'ble Court has taken action in matters of such gross violation of human and fundamental rights - few examples of the same are the Unnao Rape Case, Kathua Rape Case and the very recent Hyderabad Rape case where the alleged accused were shot in an encounter.

It is imperative to bring to this Hon'ble Courts' kind attention that apart from the Hathras Case, there have been several rape cases being reported each day, though very few or rarely any incident makes news in the Media. Inarguably, each rape is condemnable and should be

completely unexceptionable to a civilised society. We have to create an exceptional level of intolerance in our society for this most heinous crime of rape and in this process the courts would have to play an exceptional role. Instead, Rape - the most heinous and hated crime - has become a subject of daily reporting in newspapers and other media. Each and every day, in some city/town/village in India, several rapes are happening. All statistics point out that a girl is raped every 15 minutes in India and we as female law students, brothers, and as the future of the justice system have no other place but this Hon'ble Court to share our fear and concern and seek redressal and assurance.

PRAYER:

It is prayed to this Hon'ble Court, that this Hon'ble Court may,

- (a) direct an inquiry of the Uttar Pradesh Police, Hathras Police and Hathras District Administration by a special investigation team, headed by a retired Supreme Court Judge.
- (b) direct all state and U/T governments to utilise the unused funds present in the Nirbhaya Fund constituted in 2013 by the DEA towards policies ensuring safety of women.
- (c) discuss or issue appropriate guidelines, as the court may deem fit, regarding the right of a family on the dead body and the right to die with dignity.
- (d) order the strict implementation of all the steps and initiatives are in force such as Fast track Courts.
- (e) take any other action that this Hon'ble Court deems fit to instill confidence in the general public and revive the lost hope of each female in our country.

We the undersigned Law Students shall be ever grateful for the intervention of this Hon'ble Court in these times when our country needs it the most.

Thanking you,

Yours sincerely,

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278.	Mahak Agarwal	Symbiosis Law School, Noida
279.	Lisa Sankrit	Symbiosis Law School, Noida
280.	Saumya Srivastava	Symbiosis Law School, Noida
281.	Mohammad Mobeen Khan	Allahabad University
282.	Vipul Yadav	UPES
283.	Achulendra	GNLU, Gandhinagar
284.	Aman Gupta	IPU Delhi
285.	Rishabh Singh	Gurukul Kangri Vishwavidyalaya
286.	Harshit Mishra	LPU
287.	Samakshi Pandey	ILS, PUNE
288.	Nishant Upadhyay	Institute of Law, Nirma University
289.	Sarthak Dhondiyal	Amity Law School, Noida
290.	Shubham Pandey	Amity Law School, Noida
291.	Konika Danwar	Amity Law School, Noida
292.	Sarthak Mittal	VIPS
293.	Vaibhav Chentani	WBNUJS
294.	Jyotika Shah	BVP, PUNE
295.	Hamza Nauman Masood	AMU
296.	Rishabh Choudhary	UFYLC, Rajasthan University
297.	Vaastu Tyagi	UPES
298.	Harshil Bansal	UWSL, Ahmedabad
299.	Priyansh Khandelwal	Symbiosis Law School, Noida
300.	Vipul Verma	Symbiosis Law School, Noida
301.	Shivam Krishnam	Symbiosis Law School, Noida
302.	Aditya Nath Sharma	Faculty of Law, University of Delhi
303.	Pragya Vats	Symbiosis Law School, Noida
304.	Vrinda Dwivedi	Symbiosis Law School, Noida

305.	Sudiksha Gupta	Symbiosis Law School, Noida
306.	Tarun Yadav	Faculty of Law, Delhi University
307.	Pulkit Kapoor	Delhi Metropolitan Education, Noida
308.	Syamantak Modgill	Amity Law School, Noida
309.	Payas Mahajan	Symbiosis Law School, Noida
310.	Parth Mishra	Symbiosis Law School, Noida
311.	Ritansh Kr. Nand	Amity Law School, Noida
312.	Ch. Tanay Singh Tanwar	School of Law, Gautam Budh Nagar University
313.	Snehal Singh	Symbiosis Law School, Hyderabad
314.	Apurv Luniyal	Symbiosis Law School, Hyderabad
315.	Mishthi Seth	Symbiosis Law School, Hyderabad
316.	Gargi Kulkarni	Symbiosis Law School, Hyderabad
317.	Harinaga Abhigna	Symbiosis Law School, Hyderabad
318.	Dodla Pranay	Symbiosis Law School, Hyderabad
319.	Yashraj Dokania	Symbiosis Law School, Hyderabad
320.	Ashutosh Ranajn Srivastava	Symbiosis Law School, Hyderabad
321.	Aditya Raj Subham	Campus Law Centre, Faculty of Law, DU
322.	Mahima Chanchalani	Faculty of Law, Jamia Millia Islamia
323.	Srishti Upadhyay	Gautam Buddha University
324.	Sakshi Tiwari	Manipal University Jaipur
325.	Shubhani Arora	Amity Law School, Noida
326.	Shubh Gaur	Law college Dehradun
327.	Nikita Amoli	Law college Dehradun
328.	Mimansa Pandey	Law College Dehradun
329.	Shaaz Peerbaksh	IMS Unison, Dehradun
330.	Mradul Narayan Pandey	Law college dehradun
331.	Piyush Kumar	Law college dehradun

332.	Bhashi Chaudhary	Amity law school, Noida
333.	Sonika Bisht	Law college Dehradun
334.	Shrija Chauhan	Law college Dehradun
335.	Ritika Negi	Law college Dehradun
336.	Mudra Sharma	Law college Dehradun
337.	Aashna Manocha	Symbiosis Law School, Noida
338.	Bhavika Monga	SD College, Chandigarh
339.	Kartik Gandhi	SD College, Chandigarh
340.	Vanessa Fathome	SD College Chandigarh
341.	Prachi Pandey	Symbiosis Law School, Noida
342.	Yashashvi Mittal	Symbiosis Law School, Noida
343.	Rohil Pandit	Symbiosis Law School, Noida
344.	Syed Mohammad Samar	Allahabad State University
345.	Ayesha Siddiqui	Symbiosis Law School, Noida
346.	Shatakshi Arora	Hidayatullah National Law University
347.	Himanshu Arya Khawal	Symbiosis Law School, Noida
348.	Shubham Singh	Gautam Buddha University, Greater University
349.	Yashodhara Raina	Symbiosis Law School, Noida
350.	Aryan Rajpal	Symbiosis Law School, Noida
351.	Asrar Ahmad	Symbiosis Law School, Hyderabad
352.	Shriya Sehgal	Symbiosis Law School, Noida
353.	Sarthak Verma	Symbiosis Law School, Noida
354.	Priyanshu Singh	School of Law, Gautam Buddha University
355.	Lakshita Makan	Amity Law School, Noida
356.	Utkarsh Singh	Symbiosis Law School, Noida
357.	Aditya Vikram Singh	Guru Gobind Singh, Indraprastha University
358.	Ananya Singh	Symbiosis Law School, Noida

359.	Rishi Uttam	Symbiosis Law School, Noida
360.	Pulkit Singh Bisht	Jindal Global Law School
361.	Siddhart Pratap Singh	Campus Law Centre, Delhi University
362.	Nirbhay Bhardwaj	Amity Law School, Noida
363.	Kunal Sabharwal	JIIMS
364.	Vignesh Ramanathan	Jindal Global Law School
365.	Kamya Jaitley	Symbiosis Law School, Noida
366.	Soorya B.	Symbiosis Law School, Noida
367.	Piya Sewani	Amity Law School, Lucknow
368.	Jyotsana	Symbiosis Law School, Pune
369.	Mrithunjay Mishra	Amity Law School, Lucknow
370.	Yuvraj Mishra	Amity Law School, Lucknow
371.	Himanshoo Singh	NIMT Method and Law, Greater Noida
372.	Akansha Chaturvedi	Amity Law School, Lucknow
373.	Ajay Singh	Faculty of Law, Delhi University
374.	Jasmine Paweriya	Symbiosis Law School, Noida
375.	Mubeena Shakeel	Jindal Global Law School
376.	Nandini Gupta	Symbiosis Law School, Noida
377.	Reetika Dawer	Himachal Pradesh National Law university, Shimla
378.	Rituraj soni	Himachal Pradesh National Law university, Shimla
379.	Shikhar Bhardwaj	Himachal Pradesh National Law university, Shimla
380.	Anuj Goyal	Himachal Pradesh National Law university, Shimla
381.	Kirti Sharma	Banasthali Vidyapeeth, jaipur
382.	Raj Berwal	Rajasthan University, Jaipur
383.	Harshvardhan Jha	Symbiosis Law School, Noida
384.	Devanshi Tiwari	Symbiosis Law School, Noida
385.	Gursheen Kaur Sethi	Amity Law School, Noida

386.	Shivika Parihar	Symbiosis Law School, Noida
387.	Harsh Pratap Singh Nagar	Campus Law Centre, Delhi University
388.	Nikhil Daga	Jindal Global Law School
389.	Apurva Tyagi	School of Law, VIPS
390.	Arshita Taneja	Amity Law School, Noida
391.	Saloni Kumar	Symbiosis Law School, Noida
392.	Shristhi Singh	Symbiosis Law School, Noida
393.	Uddeshya Singh	Symbiosis Law School, Noida
394.	Shakti Singh	Law Faculty, University of Delhi
395.	Vineet Awana	Campus Law Centre, Delhi University
396.	Shriya Verma	Campus Law Centre, Delhi University
397.	Shweta Yadav	Campus Law Centre, Delhi University
398.	Arshdeep	Campus Law Centre, Delhi University
399.	Shailendra Baisla	Campus Law Centre, Delhi University
400.	Janvi Suri	JIIMS
401.	Yashna Malik	VIPS, IP
402.	Vaishnavi Rao Chitneni	VIPS, IP
403.	Sikander Hyatt	NLU Bombay
404.	Arshita Taneja	Amity Law School, Noida
405.	Shubhra Shrivastava	Amity Law School, Noida
406.	Beleena Biju	Amity Law School, Noida
407.	Sonakshi Singh	Amity Law School, Noida
408.	Ira Dhingra	Amity Law School, Noida
409.	Jahnvi Madan	Amity Law School, Noida
410.	Saurabh Sharma	Amity Law School, Noida
411.	Abhishekaran Roy	Amity Law School, Noida
412.	Virishita Sethi	Amity Law School, Noida

413.	Khushi Malhotra	Amity Law School, Noida
414.	Akshat chauhan	Amity Law School, Noida
415.	Tanishka Pawar	Amity Law School, Noida
416.	Panchami Menon	Amity Law School, Noida
417.	Aryaman Nehra	Amity Law School, Noida
418.	Somya Agrawal	Amity Law School, Noida
419.	Yashashvi Singh	Amity Law School, Noida
420.	Jaskaran Singh Bhandari	Amity Law School, Noida
421.	Nikita Srivastava	Amity Law School, Noida
422.	Ayush Shankar	Amity Law School, Noida
423.	Ayush Panwar	Amity Law School, Noida
424.	Raghav Dikshit	Amity Law School, Noida
425.	Rudra Rout	Amity Law School, Noida
426.	Rishi Raj Raman	Amity Law School, Noida
427.	Supriti	Amity Law School, Noida
428.	Charchika Garg	Amity Law School, Noida
429.	Ajay Sharma	Amity Law School, Noida
430.	Rahul Mishra	Amity Law School, Noida
431.	Swati Pandey	Amity Law School, Noida
432.	Rudra Rana	Amity Law School, Noida
433.	Avantika Bhandari	Law College, Dehradun
434.	Kriti Gaur	Amity Law School, Noida
435.	Ishita Bajaj	Amity Law School, Noida
436.	Devansh Pundir	Amity Law School, Noida
437.	Arnav Mittal	Symbiosis Law School, Pune
438.	Daksh Kaushik	School of Law, JIIMS
439.	Shubhamgi Gupta	School of Law, JIIMS

440.	Akanksha	School of Law, JIIMS
441.	Jaswant Singh Chauhan	School of Law, JIIMS
442.	Iva Sharma	School of Law, JIIMS
443.	Harshit Rohilla	School of Law, JIIMS
444.	Shivam Singh	Symbiosis Law School, Noida
445.	Zuhaib Habib	Symbiosis Law School, Noida
446.	Deepanshi Trivedi	Symbiosis Law School, Noida
447.	Shivanjali Pandit	Symbiosis Law School, Pune
448.	Vidushi Sansi	Symbiosis Law School, Noida
449.	Atrij Mauni	Symbiosis Law School, Noida
450.	Sanjri Misri	Symbiosis Law School, Noida
451.	Anvi Jha	Symbiosis Law School, Noida
452.	Muskan Ranga	VIPS, IP
453.	Akash Srivastava	Symbiosis Law School, Noida
454.	Abhigyan Thakur	Symbiosis Law School, Noida
455.	Vanshika Rana	VIPS, IP
456.	Raghav Goyal	Amity Law School, Noida
457.	Sarthak Sawhney	Amity Law School, Noida
458.	Malvica Satija	Amity Law School, Noida
459.	Rashi sharma	Amity Law School, Noida
460.	Akanksha Singh	Amity Law School, Noida
461.	Akshita Mathur	Amity Law School, Noida
462.	Pooja Sharma	Amity Law School, Noida
463.	Hrishdha Bhatia	Amity Law School, Noida
464.	Disha Sharma	Amity Law School, Noida
465.	Divyanshi K Vineet Malviya	Amity Law School, Noida
466.	Sarthak Upadhyay	Amity Law School, Noida

467.	Akshita Bhaskar	Amity Law School, Noida
468.	Palak Agarwal	Amity Law School, Noida
469.	Apurva Sachdeva	Amity Law School, Noida
470.	Samridhi Makhija	Amity Law School, Noida
471.	Nikhil Bharadwaj	Amity Law School, Noida
472.	Tushar Upadhyay	Amity Law School, Noida
473.	Bhavya Nandrajog	Amity Law School, Noida
474.	Mandeep Singh	Amity Law School, Noida
475.	Harnaman Singh	Amity Law School, Noida
476.	Amisha Sharma	Amity Law School, Noida
477.	Raina Anand	Amity Law School, Noida
478.	Navya	Amity Law School, Noida
479.	Abhiroop Singh	Symbiosis Law School, Noida
480.	Akshat Jain	Amity Law School, Noida
481.	Nikhil Panwar	Amity Law School, Noida
482.	Saksham Reddy	Amity Law School, Noida
483.	Suchismita	Symbiosis Law School, Noida
484.	Nirjhar Gupta	Symbiosis Law School, Noida
485.	Ali Afroz	NLU, Delhi
486.	Avinash Kumar	Lloyd College, Greater Noida
487.	Ishika Marwaha	Symbiosis Law School, Noida
488.	Aditya Kumar	School of law, Christ University
489.	Rahul	School of law, Christ University
490.	Riya soni	School of law, Bennett University
491.	Karan Sikaria	IP DME, Law School
492.	Anushka Sharma	IP DME, Law School
493.	Tanvi Chopra	School of law, Bennett University

494.	Rajnandinee Saxena	School of law, Bennett University
495.	Vishnu Pisapati	School of law, Christ University
496.	Aman muthayala	NALSAR
497.	Pascal Sasil	School of law, Christ University
498.	Aniket Voruganti	Symbiosis law school, Hyderabad
499.	Shiven Asthana	VIPS law school
500.	Aditya Tripathi	VIPS law school
501.	Rogan rome	School of law, Bennett University
502.	Avinash Jha	LLoyd College, Greater Noida
503.	Ayushmaan Bhatt	IP university
504.	Daskhita Sharma	IP DME, law school
505.	Gourang Dubey	School of law, Christ University
506.	Riha Rao	School of law, Christ University
507.	Sania Gupta	School of law, Christ University
508.	Aishik Chakraborty	School of law, Christ University
509.	Harshit kumar	School of law, Christ University
510.	Gauri Sharma	Symbiosis Law School, Hyderabad