

IN THE HIGH COURT OF DELHI AT NEW DELHI

ORIGINAL WRIT JURISDICTION

CIVIL WRIT PETITION No.....2015

IN THE MATTER OF PUBLIC INTEREST LITIGATION

1 Vibhor Anand
3/1 West Patel Nagar
Above Indian Bank
NewDelhi

Petitioner

VERSUS

1 Union of India
Ministry of Home Affairs
Through its Secretary
North Block, Central Secretariat
New Delhi

2 Union of India
Ministry of Information and Broadcasting
Through its Secretary
North Block, Central Secretariat
New Delhi

3 Commissioner of Police
Police Head Quarter
I.P Estate
New Delhi

4 Directorate General of Tihar Jail
Jail Road New Delhi

Respondents

PUBLIC INTEREST PETITION UNDER ARTICLE 226/227 OF CONSTITUTION OF INDIA FOR ISSUANCE OF WRIT OF MANDAMUS OR ANY OTHER APPROPRIATE DIRECTIONS OR ORDER OR WRIT TO THE RESPONDENT 1-2 TO LIFT THE BAN OVER PUBLICATION AND BROADCASTING THE DOCUMENTARY NAMED INDIA'S DAUGHTER BASED ON DECEMBER 16 DELHI GANG RAPE CASE MADE BY BRITISH FILM MAKER LESLEE UDWIN AS IT HIGHLIGHTS THE BITTER MENTALITY OF THE INDIAN SOCIETY ABOUT WOMEN

CONCERN STATE

CONSTITUTION OF INDIA

JAIL MANUAL

To

Hon'ble Chief Justice and Other Companion Judges of High Court of Delhi

The Humble petition of above named petitioner

MOST RESPECTFULLY SHOWETH,

1 That the writ petitioner has no personal interest in the litigation and that the petition is not guided by self-gain or for gain of any other person/ institution/body and that there is no motive other than of public interest in filing the writ petition.

2 That present Public Interest Litigation Petition has been filed to the benefit of public at large as their fundamental right of freedom of speech and expression under Article 19 of the Constitution of India has been taken away by respondents illegally.

3 That as respondents failed to perform their statutory duties being state despite having knowledge and illegally put a ban on the broadcasting of documentary titled as India's Daughter which was made by British Film maker Leslee Udwin after due permission from the respondent 1-4 which has far reaching consequences and has public importance, the present Public Interest Litigation Petition has been filed and in case this Hon'ble Court grant relief as claimed, no person shall be affected by the orders rather public at large shall be benefited

It is submitted as per the knowledge of the petitioner no other persons/bodies/institutions are likely to be affected by the orders sought in the writ petition.

4 That the petitioner is public spirited 26 year old law student who has actively worked under the able guidance of his father Sh. V.K. Anand, Advocate and has assisted his father in a number of high profile cases like the December 16 Gang Rape Case and the PIL

against the Shahi Imam of Jama Masjid bearing Civil Writ petition no. 7990 of 2014 which is pending disposal before this Hon'ble Court..

It is submitted by way of this writ petition wishes to seek protect the fundamental right of freedom of speech and expression under Article 19 of the Constitution of India of public at large which has been taken away by respondents illegally.

5 It is submitted that the petitioner has the means to pay the costs, if any, imposed by the Court and petitioner hereby undertake to pay the cost to the cost , if any, in this respect

6 It is submitted the petitioner has not sent any representation/notice to respondents as every thing is within the knowledge of respondent through media report and on the basis of media report, respondents ban the broadcasting of documentary titled as India's Daughter on the ground that the late victim is being maligned or where threat is being issued to women in general transgress the domain of law.

It is submitted even on the basis of media report, the respondent-3 registered FIR under IPC sections 505(Statements conducing to public mischief), 504 (Intentional insult with intent

to provoke breach of the peace) 505(1)(b) (With intent to cause, or which is likely to cause, fear or alarm to the public), 509 (Word, gesture or act intended to insult the modesty of a woman) and section 66A of the IT Act (Punishment for sending offensive messages through communication service) at the Economic Offences Wing (EOW) of Delhi Police in connected .connected with a controversial interview of a convict namely Mukesh Singh in the December 16 gangrape case and also sought restraint order from the Delhi Court.

It is submitted Delhi Police Commissioner B.S Bassi urged the media not to broadcast any asseration which transgresses the domain of law.

It is submitted as per media report Respondent-3 obtained a restraining order from a court against the broadcast of a documentary film which features an interview of December 16 rapist Mukesh. It is submiited as per media report the restraining order said as under

“ British filmmaker Leslee Udwin from BBC interviewed Mukesh Singh.... in which he had made offensive and derogatory remarks against women creating an atmosphere of fear and tension with the possibility of

public outcry and law and order situation....The court has passed order prohibiting the publication/transmission of the interview till further orders “

It is submitted as per media report respondent-2 stepped into the controversy over's India's Daughter's late on Tuesday , issuing an advisory to all news channels asking them to not run the documentary that contains this interview.

Hence there is need to sent any representation as every thing is within the knowledge of respondent on the basis of media report.

7 It is submitted the petitioner although in his individual capacity has not filed/preferred any Public Interest Litigation petition in any court. However the petitioner is public spirited 26 year old law student who has actively worked under the able guidance of his father Sh. V.K. Anand, Advocate and has assisted his father in a number of high profile cases like the December 16 Gang Rape Case and the PIL against the Shahi Imam of Jama Masjid bearing Civil Writ Petition No. 7990 of 2014 . which is pending before this Hon'ble

Court .

B R I E F F A C T S

8 That on dated 16.12.2012 A 23 year old medical student was gang raped by convict in a moving bus in the National Capital Territory of Delhi and subsequently the incidents is widely highlighted by Indian and International media which resulted in widespread protest throughout the country and ultimately and FIR got registered against the convict

9 That on dated 2.02.2013 The trial in the said case commences in the Special Fast Track Court

10 That dated 10.09.2013 The Special Fast Track Court concluded the trial by convicting all the four remaining Accused on charges of Rape, Murder, Unnatural Sex Dacoity etc.

11 That on dated 13.09.2013 The Special Fast Track Court awarded Death Penalty to all the four accused declaring it a case falling under the category of ' Rarest Of Rare Cases'

12 That on dated 13.03.2014 The High Court Of Delhi

confirmed the Death Sentence passed by the trial court for all the accused and dismissed their appeals.

13 That 28.02.2015 BBC announced that a documentary film titled as India's Daughter on 16th December gang rape ,made by BBC, shall be aired on women days i.e on 8th March 2015 on the infamous December 16 Gang Rape Case and would include the interview of one of the convicts Mukesh in it.

It is submitted as per media report British film maker Lesslee

Udwin claimed that she took permission from the then Directorate General of Tihar Jail Vimla Mehra and also of Ministry of Home affairs

It is submitted British film maker further explained. as per media report , as under

“ According to the permission granted to us, we were supposed to show all unedited raw footage of the interview to Tihar Jail authorities. After I conducted a 16 –hours long interview of Mukesh, I submitted it for viewing to a three member panel of Tihar Jail official, They said it was too long to watch and instead asked for

an edited shorter version of the footage. I submitted the edited version which was cleared. I have all the documents and the permission letters granting me access to Mukesh Singh.

It is submitted after the said announcement of BBC the some of Indian T.V channel started anti campaign against the said documentary and after hue and cry of some of the Indian T.V Channel. Respondent-3 registered a criminal case against unknown person

14 That on dated 3.3.2015 Respondent-3 registered FIR under IPC sections 505 (Statements conducing to public mischief), 504 (Intentional insult with intent to provoke breach of the peace) 505(1)(b) (With intent to cause, or which is likely to cause, fear or alarm to the public), 509 (Word, gesture or act intended to insult the modesty of a woman) and section 66A of the IT Act (Punishment for sending offensive messages through communication service) at the Economic Offences Wing (EOW) of Delhi Police in

connected . connected with a controversial interview of a convict namely Mukesh Singh in the December 16 gangrape case and also sought restraint order from the Delhi Court.

It is submitted Delhi Police Commissioner B.S Bassi urged the media not to broadcast any asseration which transgresses the domain of law.

Mr. B.S Bassi further said Any assertion where the late victim is being maligned or where threat is being issued to women in general transgress the domain of law. We are going to move our court concerned for a restraint order, he added.

It is submitted Respondent-3 obtained a restraining order on dated 3rd March 2015 from a Delhi court against the broadcast of a documentary film which features an interview of December 16 rapist Mukesh. It is submiited as per media report the restraining order said as under

“ British filmmaker Leslee Udwin from BBC interviewed Mukesh Singh.... in which he had made offensive and derogatory remarks against women creating an atmosphere of fear and tension with the possibility of

public outcry and law and order situation....The court has passed order prohibiting the publication/transmission of the interview till further orders “

It is submitted as per media report respondent-2 stepped into the controversy over's India's Daughter's late on Tuesday , issuing an advisory to all news channels asking them to not run the documentary that contains this interview.

It is submitted British filmmaker Leslee Udwin after registration of FIR and the protest claimed as under

“This was a ghastly crime. One has to take into consideration that reporting of a crime does not transgress the domain of law and if that happens then the law will have to take its own course,” he told reporters here.

In the interview conducted by British filmmaker Leslee Udwin and BBC, Mukesh Singh, the driver of the bus in which the 23-year-old paramedical student was brutally gangraped by six men on December 16, 2012,

said women who went out at night had only themselves to blame if they attracted the attention of gangs of male molesters.

"A girl is far more responsible for rape than a boy," he had said. Singh also said that had the girl and her friend not tried to fight back, the gang would not have inflicted the savage beating, which led to her death later.

Udwin had claimed that she took permission from the then Director General of Tihar jail Vimla Mehra to interview Mukesh in prison for BBC.

Asked about this claims, Bassi said, "I am not aware of any permission. Even if it was given, it was given to remain in the domain of law. If any act transgresses the domain of law and particularly IPC, I am duty bound to take action and we have registered a case."

British filmmaker Leslee Udwin, whose latest film on December 16 gangrape has created furore in India for showing the interview of one of the convicts, today said the film is her attempt to examine the attitude of men towards women.

Leslee also claimed she took permission from the then Director General of Tihar jail Vimla Mehra before interviewing the convict Mukesh Singh.

"I wrote a letter to DG of Tihar. The DG of Tihar had to consult with MHA. The letter basically stated that it was a campaigning film. I had applied permission in May 2013 and I got the answer 'yes' in two weeks. Official permission of MHA had also come. Permission from the prison was also signed," she said.

'India's Daughter' tells the story of the horrific Delhi gang rape in December, 2012,

from the perspective of the convicts and victim's parents, she claimed.

15 That as per media report on dated 4.3.2015 BBC Aired 16/12 Film India's Daughter in UK at 3.30 A.M (IST) except India but it is available to viewers in India through You tube.com.

16 That as per media report on dated 5.3.2015 respondents served Legal notice to BBC over remove all links to a banned documentary on the 2012 Delhi Gang rape

It is submitted Respondent-4 also issued notice to BBC hours before it telecast documentary, saying that by airing it, the broadcaster had become liable for legal action.

17 It is submitted following is the reaction of public at large

The Editors Guild of India on Friday urged the Government to revoke the ban on the film "India's Daughter" to enable people to view "what is a

positive and powerful documentary touching on the freedom, dignity and safety'' of women.

In a statement, the Guild found no merit in the Government claiming that the film cannot be shown because the subject of the documentary - the Nirbhaya gang rape that shook India in the winter of 2012 - is sub judice. "To raise the issue of sub judice now at the stage of final appeal in the Supreme Court and seek to still discussion is absurd. Judges, particularly in the Supreme Court, are by training and temperament immune to the happenings in the public sphere outside the court, and it is an insult to the Supreme Court to suggest that the airing of the convict's perverted views would tend to interfere with the course of justice.''

Describing the ban as "wholly unwarranted'' and based on a misunderstanding of the power and message behind the documentary, the Guild noted that the film portrays the courage, sensitivity and liberal outlook of a family traumatised by the brutality inflicted on the daughter, the continuing shameful attitudes

towards women among the convict and the educated, including lawyers, besides multiple voices in support of women's freedom and dignity.

Pointing out that the Supreme Court itself has advocated "the broadest freedom to express even the most unacceptable of views'', the Guild said the message that emerges from the documentary is such that it would make people reexamine their own attitudes and the attitudes of people around them.

The Guild's statement also takes note of the fact that the Government seems to have taken the proscription route on the basis of initial expressions of outrage - including by members of Parliament - and without viewing the film in its entirety. "The rationale that the ban was in the interests of justice and public order as the film 'created a situation of tension and fear amongst women' and as that the convict would use the media to further his case in the appeal that was subjudice seems to be an afterthought.''

It is submitted The ban, however, seemed to have failed with a video of the movie going viral. A communication ministry official said YouTube and its owner, Google, had withdrawn the movie late evening after being asked to do so but several such videos remained available on the website. One raked up over 100,000 views in less than 12 hours.

It is submitted Besides YouTube, the videos are available on peer-to-peer torrent networks, virtually impossible for the government to crack down on.

The government went overboard to ban the telecast of the BBC documentary 'India's Daughter' due to fears of triggering street protests similar to those witnessed after the brutal gangrape of December 2012.

"In case the interview is telecasted (sic), it may lead to widespread public outcry and serious law and order problems as happened in the aftermath of the gangrape case,"

The film, despite the central government's ban, made into Indian homes and a few lakhs have reportedly

watched it. Was it a conspiracy to tarnish India's image, particularly when it's inching towards an 8 percent growth or was it a statement of plain truths to mobilise public opinion? Did it break Indian laws by carrying classified information?

Post the YouTube premiere of the film, the country seems to be divided now. Advocates of free-speech and human rights want the film to be screened so that people know what's in it while politicians want to block it.

The same thing is happening with "India's Daughter" as well. It's no secret that crime against women and that the country is the fourth most dangerous place for women in the world. Rape is one of the most common crimes against women in India and the UN human rights chief had called it a national problem.

Still, Home Minister Rajnath Singh and parliamentarians such as Jaya Bachan are hurt by the documentary, which shows nothing more than what has

been said a thousand times before. The only difference, perhaps, is that the rape convict and his lawyers are speaking on camera for the first time, but what they are mouthing is the same anti-women attitude that researchers have found among Indian men time and again.

They are not not saying anything different from what anti-women vigilantes such as Sri Ram Sena and religious bigots regularly say on Indian media - women are the embodiment of family honour and it's their responsibility to protect it. The convict is saying that good girls should not be on the streets at night and one of the lawyers insist that he will not mind killing his daughter if she violates family honour. India's record of rapes and honour killings corroborate their regressive views.

British filmmaker Leslee Udwin, whose latest film on December 16 gangrape has created furore in India for showing the interview of one of the

convicts, today said the film is her attempt to examine the attitude of men towards women.

'India's Daughter' tells the story of the horrific Delhi gang rape in December, 2012, from the perspective of the convicts and victim's parents, she claimed.

"We took a lot of time to make the film, almost two years. If we had something sensational, then we would have thrown it out immediately. There is nothing sensational about the film.

It's a very serious campaigning film in the public interest.

It's designed to see the change," Leslee told reporters in New Delhi.

Before making the BBC documentary, Leslee said she met the parents of all the convicts including the juvenile's.

"I actually met all the parents of the convict. Mukesh's (Singh) mother got him to speak. I interviewed his mother and told her we were doing this film and it was important for us to speak to him. She told him to speak to us," she said. In the interview, Mukesh said the women who went out at night had only themselves to blame if they attracted the attention of gangs of male molesters.

On Wednesday, many MPs were agitated over a documentary which shows one of the convicts in the December 16, 2012 Delhi gangrape making "outrageous" remarks. But this collective outrage does not fit well with the past statements on rape made by many elected representatives.

From Samajwadi Party supremo Mulayam Singh Yadav's "boys make mistakes" quip to JD(U) chief Sharad Yadav's smiling confession in the Lok Sabha about having stalked girls - political leaders have been guilty of insensitivity that goes beyond mere gaffe.

In April 2014, addressing an election rally in Uttar Pradesh, Mulayam Singh Yadav had told a cheering

crowd, "You are hanging people for rape... Boys tend to commit mistakes. We will try to change such a law. Those who do it will be punished and the law will also have provisions for punishment of people who file false reports."

Manohar Lal Khattar, now the Chief Minister of Haryana, also prescribed a dress code for women. "If a girl is dressed decently, a boy will not look at her in the wrong way. If they want freedom, why don't they just roam around naked? Freedom has to be limited," Khattar had said in the run-up to last year's Lok Sabha polls. While campaigning for the same elections, Trinamool MP Tapas Paul had threatened supporters of rival parties with rape. "I will send my boys to their houses to rape them."

SP's Naresh Aggarwal – currently an MP in the Upper House – caused a furore when, in the aftermath of the Badaun gangrape, he said that not even an animal can be forced out of the house. He had also said a lot of

rape complaints happen because men and women fall out after consensual sex.

Participating in the discussion on the proposed changes in the IPC after the Delhi gangrape, which included stringent penal provisions for stalking, Sharad Yadav had said: "Who among us has not followed (women). When you have to talk to a woman, when she initially does not entertain, you have to keep trying to talk to her...I have experienced this myself," Yadav had said in March 2013.

In June the same year, in Bhopal, former Rajya Sabha MP and currently vice-president of BJP, Raghunandan Sharma, had said, "Girls should stop wearing skin-tight jeans because they show the body in its natural shape, and that's not good. Nari ki ek maryada hoti hai."

Reacting to the Guwahati gangrape in September 2013, Madhya Pradesh Cabinet Minister Kailash Vijayvargiya had said, "Women should dress in a way that earns

liberty in jail and these rights cannot be taken away by anyone.

22 That the Govt. of India succumbed under the pressure of media who started a negative propaganda against the accused without even seeing the said documentary

23 That BBC made a documentary on the Delhi gang rape case of 2012- the rape that shocked the world in its brutality. It is submitted as per claim of BBC , the BBC received permission from all the authorities involved to film an interviews with one of the rapist. It is submitted the documentary is about the sick mentality prevalent among males in all societies.

24 That the said documentary contains interviews of highly respectable people of society such as Justice Leila Seth, Former Solicitor General of India Shri Gopal Subarmanium, Additional Deputy Commissioner of Police Shri Pramod kushwaha and Sub Inspector Pratibha Sharma, who were a vital part of this case.

25 That the petitioner is also a part of this documentary and is seen with the family of Ram Singh during the post mortem conducted in AIIMS after his suicide in Tihar Jail.

26 It is submitted petitioner has not filed any similar petitioner in any court throughout India including Supreme Court of India.

27 It is submitted present petition is maintainable as fundamental rights of freedom of speech and expression has been infringed of public at large and this court has extra original jurisdiction to entrain the present petition.

**FOLLOWING ARE SUBSTANTIAL QUESTION OF PUBLIC
IMPORTANCE BEFORE THE HON'BLE COURT FOR
THEIR CONSIDERATION**

- A. **Whether** citizens of India have a right to view the documentary titled as India's Daughter made by BBC after granting permission by the competent authority including respondent no. 1 and 4 . Does such ban on broadcasting the documentary satisfy that the fundamental rights of freedom of speech and expression which includes not only the right to utter or to print but also right to distribute, the right to receive, the right to

read and without that peripheral rights the specific rights would be less secure..... are not infringed by showing that there is a law and that it does amount to a reasonable restriction. Within the meaning of Art. 19(2) of the constitution. Does broadcasting of impugned documentary may lead to widespread public outcry and serious law and order problems as happened in the aftermath of the gangrape case, as claimed by respondent. Does the act of respondent to prohibit the telecast of the documentary on television and the Internet is unconstitutional in view of when officially documentary has not been broadcasted in India and only on the basis of media report FIR has been registered and direction has been issued to ban/prohibit the same.

Whether the freedom of speech and expression under Article 19 of Constitution of India entitles the press and citizen to publish, broadcast of impugned documentary accounts of citizen's life and activities including the convicts and if so to what extent in what circumstances?

What are the remedies open to a citizen of this country in case of infringement of his right to speech and expression and further in case such publication and broadcasting amount to penal action under Indian Penal Code or other law as claimed by the respondent.?

- B. **Whether** the Government respondent can maintain an action under Indian Penal Code or other law?
- C. **Whether** the Government respondent have any legal authority to impose prior restraint on the press to prevent publication of material defamatory. mention therein
- D. **Whether** the Government respondent can prevent the publication/broadcasting the life story of a convict and their reaction, reaction of high profile personality of the society who gave their interview and reaction towards the issue particularly permission was granted by respondents itself on the ground that it may lead to widespread public outcry and serious law

and order problems as happened in the aftermath of the gangrape case, as claimed by respondent.

E. **Whether** convicts have any constitutional or statutory right to express his view over the issue for which he /she has been convicted and sentenced to death. Does the convicts being incarcerated and thus not being in a position to adopt legal remedies to protect his rights, they are entitled to act on his behalf ?

F. **Whether** the constitutional protections for speech and press preclude the convicts to give his/her view of matters of public interest particularly in view of A Broadly defined freedom of the press which assures the maintenance of our political system and on open society.

G. **Whether** the citizens have a legitimate and substantial interest in the conduct of such condemn persons, their relatives, their lawyers, public figures including former judges, solicitors of India , social worker, victims family and others prominent persons of the

society and that the freedom of press extends to engaging in uninhibited debate about the involvement of public issues and events.

H. **Whether** respondent/state have the authority in law to impose a prior restraint upon publication of material defamatory of the state or of the victims on the grounds that it may lead to widespread public outcry and serious law and order problems as happened in the aftermath of the gangrape case.

I. **Whether** Government/respondent " carries a heavy burden of showing justification for the imposition of such a prior restraint or prohibition of publication can be imposed by the respondent upon the proposed by the respondents upon the proposed publication /broadcasting of documentary namely India's Daughter_o _will arise only after the publication_/broadcasting of documentary

J. **Whether** the Ban on the documentary which has still not been telecasted officially in India

violates the settled law propounded by the Hon'ble Supreme Court in R. Rajgopal vs. State of Tamil Nadu.

- K. **Whether** the Ban on the documentary infringes the fundamental right of freedom of expression of the citizens under article 19 of the Constitution of India?
- L. **Whether** the Ban is illegal after the competent authority gave all the required permissions needed to shoot the said documentary?
- M. **Whether** anyone would be affected by the telecast of the said Documentary?

GROUND OF INTERFERENCE

- (i) **Because** fundamental right of freedom of speech and expression of public at large/citizen under Article 19 of Constitution of India have been infringed due to State/Government illegal action

to ban the broadcasting of documentary and it is not only right of citizen but also the duty of the court to afford relief to the public at large by passing appropriate orders in this behalf. It is submitted The Hon'ble Supreme Court quoted as under in the judgement titled as Gobind vs State Of Madhya Pradesh And Anr. on 18 March, 1975 AIR 1975 SC 1378, 1975 CriLJ 1111, (1975) 2 SCC 148, 1975 3 SCR 946)

" right of freedom of speech and expression includes not only the right to utter or to print but also right to distribute, the right to receive, the right to read and without that peripheral rights the specific rights would be less secure.....

It is submitted there is no merit in the respondents claiming that the film cannot be shown because the subject of the documentary. - the Nirbhaya gang rape that shook India in the winter of 2012 It is submitted ban is "wholly unwarranted" and based on a misunderstanding of

the power and message behind the documentary, It is submitted the Guild the film portrays the courage, sensitivity and liberal outlook of a family traumatised by the brutality inflicted on the daughter, the continuing shameful attitudes towards women among the convict and the educated, including lawyers, besides multiple voices in support of women's freedom and dignity.

It is submitted Hon'ble Supreme Court itself has advocated in number of cases "the broadest freedom to express even the most unacceptable of views'', It is submitted the message that emerges from the documentary is such that it would make people re examine their own attitudes and the attitudes of people around them.

It is submitted respondents seems to have taken the proscription route on the basis of initial expressions of outrage - including by members of Parliament - and without viewing the film in its entirety.

It is submitted annexed document clearly suggest that public at large are against the ban of broadcasting of documentary and wanted to view the same and respondent has justification to ban the same.

(ii) **Because** there is a violation of fundamental right of public at large and, the state must satisfy that the fundamental rights are not infringed by showing that there is a law and that it does amount -to a reasonable restriction. Within the meaning of Art. 19(2) of the constitution. But in this in this case no such defence is available, as even till today documentary has not been telecast officially in India and it has been prepared with the prior permission from the competent authority

It is submitted restraints order are not for the protection of society and respondents have no statutory basis and whether it comes under the law within Art. 13(3) of Constitution of India,

It is submitted restrictions are not reasonable and has not been designed to preserve public order y suitable preventive action and infringe of citizen's fundamental rights guaranteed by part III of the constitution.

(iii) **Because** the action of respondent are not authorized by law and such action is an invasion of a fundamental right of public at large

It is submitted in the case Kharak Singh vs The State Of U. P. & Others on 18 December, 1962 1963 AIR 1295, 1964 SCR (1) 332, the Apex Court held **as under**When once it is proved to the satisfaction of this court that by state action the action the fundamental right of the petitioner tinder Art, 32 has been infringed, it is not only the right but the duty of this Court to afford relief to to him by passing appropriate order in this behalf.

(iv) **Because** there is violation of Fundamental right under Article 21 of Constitution of India It is

submitted Article 21 does not confine to mere freedom from bodily restraint and that liberty under law extended to the full range of conduct

(v) **Because** this petition raises a question concerning freedom of press and expression vis-à-vis the right of freedom of speech and expressions of the citizens of this country. It also raises the question as to the parameters of the right of the press to criticise and comment on the acts and conduct of public at large.

It is submitted the petitioner asserts the freedom of press and speech and expression of public at large guaranteed by Article 19(1)(a). It is submitted that the condemned prisoner has also the undoubted right to have his life story published and that he cannot be prevented from doing so.

(vi) **Because** respondent no 1 and 2 without looking at either the facts or, more importantly, the merits of the documentary took decision to ban the documentary. It is submitted that there are three

major things wrong with the ban, first, if you, are concerned about male violence against women as Government respondent should be, Government respondent should make sure the film is shown, regardless of legal technicalities. Second it is legally wrong to oppose the screening of the film after giving it legal approval and after the documentary-makers have fulfilled all legal commitments. Third, in this, day and age, by arguing for a ban on a film that can easily be shown and seen on You Tube, you are revealing to the world that you just do not get it.

It is submitted conduct of government respondent show worse that government respondent stating, in a very public fashion that you care more about false and fake national honour than the well being and respect of women.

(vii) **Because** the said documentary is a mirror which shows the ground reality of the sick and rotten mindset of the Indian Society and it must

be accepted, appreciated and work must be done to change this mindset.

(viii) **Because** the documentary is nothing but an honest look at the mind and mindset of one of the convicted rapists of the young woman and unfortunately the same mindset has been endorsed by many Politicians, Bureaucrats, Police officers in the past.

(ix) **Because** even parents of the Delhi Gang Rape Case 2012 victim wishes are strenuously arguing in favour documentary to be shown and are also a part of the said documentary.

(x) **Because** the respondents ban on the documentary is wholly illegal in view of the settled position of law as propounded in the judgement of R. Rajgopal vs. State of Tamil Nadu by the Supreme Court.

(xi) **Because** there is a larger disease at works in india-----it is the urge to ban anything that the " powerful " donot like. It is wrong to ban the screening of India's Daughter as it shows the

reality which is endorsed by many Lawmakers of our country on the floor of Parliament.

(xii) **Because** there is overriding public interest in broadcasting the documentary , India's Daughter, as Public have every right to know the truth and can invoke its right and can seek the broadcast of the documentary and Convict Mukesh has extensively spoken on what happened on the fateful night of December 16, 2012.

(xiii) **Because** Government respondent illegally and with malafide intentions had asked all television channel not to release the documentary, which are not only illegal , but also against the settled law pronounced by the apex Court.

(xiv) **Because** the documentary is not anti-women rather telecast will raise awareness of global problem and help the society to strongly introspect towards its stand of women empowerment, it is submitted as per News paper report within 24 hours 2,86,000 viewers watched the documentary before You Tube removed film from

server, which itself proves that public at large wanted to see the truth. The only difference, perhaps, is that the rape convict and his lawyers are speaking on camera for the first time, but what they are saying in the said documentary is the same anti-women attitude that researchers have found among Indian men time and again.

(xv) **Because** Government respondent failed to appreciate that apart from interview of Mukesh Singh, the convict, the documentary also includes a number of other interviews, including those of the parents, ex member of the judiciary, witnesses and personal testimonials.

(xvi) **Because** the documentary includes the interview of different persons holding high positions in the society such as Smt. Leila Seth, Former Chief Justice of Himachal Pradesh and member of Verma Committee, Shri Gopal Subramaniam, Former Solicitor General of India, Smt. Shiela Dixit, Former Chief Minister of

Delhi, Many High ranking police officers and many social activists. It is submitted it appears from the interview that the purpose of including the interview with the perpetrator was to gain an insight into the mind-set of a rapist with a view to understanding the wider problem of rape.

(xvii) **Because** the documentary highlights the courage, sensitivity and liberal outlook of a family traumatised by the brutality inflicted on the daughter, the continuing shameful attitudes towards women among the convict and the educated, including lawyers, besides multiple voices in support of women's freedom and dignity.

(Xviii) **Because** the Supreme Court itself has advocated that "the broadest freedom to express even the most unacceptable of views'', and the message that emerges from the documentary is such that it would make people re examine their own attitudes and the attitudes of people around them.

(xix) **Because** respondent no 1 to 4 had not seen the documentary but decided to ban the documentary on the basis of excerpts of the interview that had been published.

(Xviii) **Because** the Supreme Court itself has advocated that "the broadest freedom to express even the most unacceptable of views'', and the message that emerges from the documentary is such that it would make people re examine their own attitudes and the attitudes of people around them.

(xix) **Because** respondent no 1 to 4 had not seen the documentary but decided to ban the documentary on the basis of excerpts of the interview that had been published.

PRAYER

In view of the above mention submission it is humbly prayed to this Hon'ble Court

A writ of Mandamus or any other Appropriate , order, writ, direction be given to respondent 1-3 to lift the ban on telecasting the documentary titled as India's Daughter connected with infamous Delhi Gang rape case 2012 and act of respondents be declared as illegal

Or any other relief may be granted which this Hon'ble may deem fit in the facts and circumstances of the case.

AND FOR THIS ACT OF KINDNESS THE PETITIONER AS DUTY BOUND SHALL EVER PRAY

Petitioner

Through

V.K.Anand

Advocate