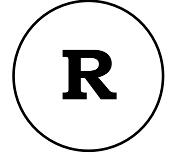
Reserved on : 14.02.2024
Pronounced on : 28.02.2024



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 28TH DAY OF FEBRUARY, 2024

BEFORE

THE HON'BLE MR. JUSTICE M. NAGAPRASANNA

WRIT PETITION No.25557 OF 2023 (GM - RES)

BETWEEN:

MR. XXXX,
S/O. XXXX,
AGED ABOUT xxxx YEARS,
xxxxxxx,
xxxxxxx,
xxxxxxx.

xxxxxxx
Xxxxxxx,
xxxxxxx,
xxxxxxx,
xxxxxxx.

... PETITIONER

(BY SMT.ABHINAYA K., ADVOCATE)

AND:

1 . THE REGISTRAR GENERAL
HIGH COURT OF KARNATAKA,
BENGALURU – 560 001.

2 . THE STATE OF KARNATAKA

BY WOMEN PS,
TUMAKURU,
REPRESENTED BY
STATE PUBLIC PROSECUTOR,
HIGH COURT BUILDING – 560 001.

3 . AUTHORIZED OFFICER
GOOGLE INDIA PVT. LTD.,
[WEB SEARCH ENGINE]
NO.3, RMZ INFINITY - TOWER E,
OLD MADRAS ROAD,
4TH AND 5TH FLOORS,
BENGALURU – 560 016.

4 . AUTHORIZED OFFICER
INDIAN KANOON.COM,
BENGALURU.

... RESPONDENTS

(BY SMT.B.V.VIDYULATHA, ADVOCATE FOR R1;
SRI KIRAN KUMAR, HCGP FOR R-2)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO DIRECT THE R1 TO REMOVE THE NAME OF THE PETITIONER, IN THE DIGITAL RECORDS MAINTAINED BY THE HONBLE HIGH COURT IN CRIMINAL PETITION NO. 8172/2021, AS INDICATED IN THE RANK OF PETITIONER IN ORDER DTD. 02/02/2022 PASSED BY THIS HONBLE COURT, AND FURTHER BE PLEASED TO DIRECT R3 AND 4 NOT TO REFLECT THE PETITIONER NAME IN RELATION TO CRIMINAL PETITION NO. 8172/2021, AS INDICATED IN THE RANK OF PETITIONER IN ORDER DTD 02/02/2022 PASSED BY THIS HONBLE COURT ANNEXED AT ANNX-C, E AND F RESPECTIVELY.

THIS WRIT PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 14.02.2024, COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT MADE THE FOLLOWING:-

ORDER

The petitioner is before this Court seeking a direction to the Registry of this Court to remove the name of the petitioner from the digital records maintained in Criminal Petition No.8172 of 2021 and not to reflect the name of the petitioner in relation to Criminal Petition No.8172 of 2021.

2. Heard Smt. Abhinaya K, learned counsel appearing for the petitioner, Smt. B.V. Vidyulatha, learned counsel appearing for respondent No.1 and Sri. Kiran Kumar, learned High Court Government Pleader appearing for respondent No.2.

3. *Sans* details, facts in brief, are as follows:-

On 28-09-2021, one Sri. xxxx registers a complaint before the Station House Officer of S.S. Puram Police Station, Tumkur alleging, that when his daughter xxxxxx xxxxxxxx, aged about 16 years was attending online classes from home, the petitioner, a

Page No.3 is retyped and replaced vide Chamber order dated 12.03.2024.

tenant in the house of one Gangadaraiah abutting the house of the complainant, had developed contact with his daughter which he had noticed from the room of his house. It is alleged that he had noticed that the petitioner began to make gestures from his window, to the window of the daughter of the complainant, when she was attending online classes. It is the complaint averment that the father checks the mobile phone of his daughter without her knowledge and discovered that the petitioner was sending messages on whats app which were sexually intimidating and which were in the nature of trying to force her to have sexual intercourse with him. Plethora of texts had been exchanged between his daughter and the petitioner. This complaint becomes a crime in Crime No.105 of 2021 for offences punishable under Sections 354A and 354B of the IPC and Section 12 of the POCSO Act. Investigation commenced against the petitioner after registration of crime.

4. The Police conduct a detailed investigation and file a 'B' report observing that it was a false case registered against the petitioner. By then, the petitioner had filed Criminal Petition No.8172 of 2021 before this Court. In view of filing of the 'B'

report, this Court disposed the petition in terms of its order dated 02-02-2022. After the said order being passed by this Court, the concerned Court, after hearing the parties, accepted the 'B' report and discharged the accused i.e., the petitioner.

5. The issue in the *lis* does not concern merit of the crime. The petitioner is knocking at the doors of this Court, on the ground that when the name of the petitioner is clicked on any search engine, it reveals him to be an accused in the aforesaid crime and petitioner in Criminal Petition No.8172 of 2021. It is, therefore, the petitioner seeks masking of his name in the digital records of this Court.

6. The learned counsel appearing for the petitioner would vehemently contend that the 'B' report depicts that it was a false case, as the daughter of the complainant and the petitioner were close friends and they had exchanged several messages. It was not one sided, but the daughter had also exchanged messages. Therefore, the Police after investigation filed a 'B' report, stating it to be a false case and the complainant did not contest the 'B'

report. Thereafter, the concerned Court also closes the case accepting the 'B' report and discharges the petitioner. She would submit that the digital records still show him as an accused. On account of the name being displayed in the website of the High Court, he is not getting any job and his brothers also are not getting any job, as the moment search is done, it would show that the petitioner was an accused. Explanation that he is discharged comes about later. But, by then all his job offers vanish. She would contend, that if the charge sheet had been filed or there was conviction, it would have been a different circumstance. The petitioner is now left without any blame. The digital records depict him to be an accused, which has placed him worse than being an accused. She would submit that every human being is entitled to live with dignity. Therefore, she seeks that the name of the petitioner should be masked in the records of this Court.

7. The learned counsel representing the High Court would vehemently refute the submissions to contend that masking of the name is permissible only of the victim and not the accused. Merely because he is discharged on accepting the 'B' report or an accused

gets acquitted, would not mean that his name should not figure as an accused. It is her submission that the deeds committed by the accused will always follow him. Therefore, the request of the petitioner should not be acceded to and merely because his name figures it cannot be said that the petitioner is put to any prejudice. She would seek dismissal of the petition.

8. I have given my anxious consideration to the submissions made by the respective learned counsel and have perused the material on record.

9. The afore-narrated facts are not in dispute. The petitioner is alleged of exchanging lewd messages with the daughter of the complainant. Therefore, the crime comes to be registered in Crime No.105 of 2021. The police conduct investigation and in the detailed final report would opine that it was a false case and, therefore, 'B' report is filed. The concerned Court accepts the 'B' report and closes the proceedings against the petitioner by discharging him of the allegations. The situation is that the petitioner who was once an accused becomes blame free today. The charge sheet itself was

not filed against him, as the investigation led to filing of 'B' report. The 'B' report, even after it being notified to the complainant was not contested and, therefore, the petitioner was discharged on acceptance of 'B' report resulting in closure of the case. In those circumstances, the name of the petitioner being dubbed as an accused even after the aforesaid circumstance, undoubtedly leads to grave prejudice to the petitioner. He is on a higher pedestal than any of the accused who would get acquitted after a full blown trial. The petitioner, at the threshold itself, is declared to be innocent. The issue is whether the name of the petitioner-accused should be masked in the digital records of this Court. She would submit that the other respondents have already yielded to the request of the petitioner and have masked the name of the petitioner in their records. What remains is only the masking of the name in the digital records of this Court.

10. The law in this regard cannot be termed to be static, but dynamic. Dynamic, I deem it necessary to observe, as it should evolve like evolution of the Constitution of India, which is a dynamic document. A facet of Article 21 of the Constitution of India is that

every citizen in the country should have a life with dignity; the dignity does get trampled on account of various acts of a citizen. Those acts are punishable after a due process of law. If the result of due process of law is absolving of any person of alleged guilt, those persons become the ones who would get a right to live with dignity, having no blame against them.

11. This Court, in plethora of cases, comes about issues where crimes are registered without any rhyme or reason and lead to quashment of those proceedings in exercise of its jurisdiction under Section 482 of the Cr.P.C., sometimes on the sole score that it was frivolous or an act of wreaking vengeance, *inter alia*. It is therefore, after the accused gets blame-free by a process of law, he cannot be seen to be carrying the sword of him being accused on his head, for all his life. Right to oblivion; right to be forgotten are the principles evolved by the democratic nations, as one being a facet of right to informational privacy. Countries like France and Italy, had by themselves evolved the concept of right to oblivion, which dates back to 19th century. Europe, in the European Union has, over privacy and personal data, evolved the principle of right

to be forgotten, as a right to be a part of ones right to personality, which encompasses dignity, honour and right to a private life. The aforesaid principles evolved from time to time, can be paraphrased into what could become right to life under Article 21 of the Constitution of India. It becomes apposite to refer to the judgment of the Apex Court in the case of ***JUSTICE K.S. PUTTASWAMY(RETD) v. UNION OF INDIA***[1]. The Apex Court considers various facets of privacy; one such privacy is informational privacy. On informational privacy, the Apex Court observes as follows:

> ***"Informational privacy***
>
> ***629.*** *The right of an individual to exercise control over his personal data and to be able to control his/her own life would also encompass his right to control his existence on the internet. Needless to say that this would not be an absolute right. The existence of such a right does not imply that a criminal can obliterate his past, but that there are variant degrees of mistakes, small and big, and it cannot be said that a person should be profiled to the nth extent for all and sundry to know.*
>
> ***630.*** *A high school teacher was fired after posting on her Facebook page that she was "so not looking forward to another [school] year" since the school district's residents were "arrogant and snobby". A flight attendant was fired for posting suggestive photos of herself in the company's uniform. [Patricia Sánchez Abril, "Blurred Boundaries: Social Media Privacy and the Twenty-First-Century Employee", 49 Am Bus LJ 63 at p. 69*

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[1] *(2017) 10 SCC 1*

(2012).] In the pre-digital era, such incidents would have never occurred. People could then make mistakes and embarrass themselves, with the comfort that the information will be typically forgotten over time.

631.** **The impact of the digital age results in information on the internet being permanent. Humans forget, but the internet does not forget and does not let humans forget. Any endeavour to remove information from the internet does not result in its absolute obliteration. The footprints remain. It is thus, said that in the digital world preservation is the norm and forgetting a struggle [Ravi Antani, "the resistance of memory : could the European union's right to be forgotten exist in the united states?", 30 Berkeley Tech LJ 1173 (2015).] .

632.** **The technology results almost in a sort of a permanent storage in some way or the other making it difficult to begin life again giving up past mistakes. People are not static, they change and grow through their lives. They evolve. They make mistakes. But they are entitled to re-invent themselves and reform and correct their mistakes. It is privacy which nurtures this ability and removes the shackles of unadvisable things which may have been done in the past.

633.** **Children around the world create perpetual digital footprints on social network websites on a 24/7 basis as they learn their "ABCs" : Apple, Bluetooth and chat followed by download, e-mail, Facebook, Google, Hotmail and Instagram. [Michael L. Rustad, Sanna Kulevska, "Reconceptualizing the right to be forgotten to enable transatlantic data flow", (2015) 28 Harv JL & Tech 349.] They should not be subjected to the consequences of their childish mistakes and naivety, their entire life. Privacy of children will require special protection not just in the context of the virtual world, but also the real world.

634.** **People change and an individual should be able to determine the path of his life and not be stuck only on a path of which he/she treaded initially. An individual should have the capacity to change his/her

beliefs and evolve as a person. Individuals should not live in fear that the views they expressed will forever be associated with them and thus refrain from expressing themselves.

635. Whereas this right to control dissemination of personal information in the physical and virtual space should not amount to a right of total eraser of history, this right, as a part of the larger right to privacy, has to be balanced against other fundamental rights like the freedom of expression, or freedom of media, fundamental to a democratic society.

636. Thus, the European Union Regulation of 2016 [Regulation No. (EU) 2016/679 of the European Parliament and of the Council of 27-4-2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive No. 95/46/EC (General Data Protection Regulation).] has recognised what has been termed as "the right to be forgotten". This does not mean that all aspects of earlier existence are to be obliterated, as some may have a social ramification. If we were to recognise a similar right, it would only mean that an individual who is no longer desirous of his personal data to be processed or stored, should be able to remove it from the system where the personal data/information is no longer necessary, relevant, or is incorrect and serves no legitimate interest. Such a right cannot be exercised where the information/data is necessary, for exercising the right of freedom of expression and information, for compliance with legal obligations, for the performance of a task carried out in public interest, on the grounds of public interest in the area of public health, for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes, or for the establishment, exercise or defence of legal claims. Such justifications would be valid in all cases of breach of privacy, including breaches of data privacy."

(Emphasis supplied)

The Apex Court considers the entire spectrum the right to privacy and the 'right to be forgotten' evolved in the European Union Regulation of 2016, by the European Parliament. The Apex Court recognizes the right to be forgotten to be a basic right under the right to informational privacy. It has observed the right of an individual to exercise control over his personal data and, to be able to control his or her own life would encompass his right to control over its existence on the internet. The Apex Court observes that the impact of digital age results in information on the internet being permanent. Humans forget, but the internet does not forget and does not let humans forget. Therefore, the soul of the judgment of the Apex Court quoted *supra* is that the footprints in certain circumstances should not be permitted to remain, as it is an anti-thesis to right to be forgotten.

12. The Apex Court, again in a case concerning squabble between husband and wife, wherein this Court had rejected the plea of the parties therein to mask the names, directed this Court to evolve a methodology of masking the names of both the accused

and the victim. The order passed by the Apex Court in ***XXXX v. YYYY***[2] reads as follows:

"***ORDER***

IA No. 68521/2022-CLARIFICATION/DIRECTION

1. *Learned counsel for respondent No. 1 has entered appearance and joins in the request made by the petitioner.*

2. *The petitioner submits that the display of her name in the public domain with respect to offences committed on the modesty of woman and Sexually Transmitted Disease (STD) has caused immense loss by way of social stigma and infringement of her personal privacy. Even if the name of the respondent No. 1 appears, it causes the same result.* ***The petitioner pleads the 'right to be forgotten' and 'right of eraser' being rights of privacy, the name of the petitioner as well as the respondent be removed/masked along with the address, identification details and case numbers to the extent that the same are not visible for search engines****.*

3. We thus, call upon the Registry of the Supreme Court to examine the issue and to work out how the name of both the petitioner and respondent No. 1 along with address details can be masked so that they do not appear visible for any search engine*.*

4. *The IA and the Miscellaneous Application accordingly stand disposed of.*

5. *The needful be done within three weeks from today by the Registry."*

(Emphasis supplied)

[2] *2022 SCC OnLine SC 1123*

13. The High Court of Delhi in the case of ***SJ v. UNION OF INDIA***[3], has held as follows:

> ***"3.*** *The petitioner is a 33-year-old XXXXX graduate who unfortunately got embroiled in a criminal case in relation to which XXXXX was registered under Section 384 of the Penal Code, 1860, Sections 66-A and 67-A of the Information Technology Act, 2000. The said FIR resulted in a settlement and the same was quashed in Criminal Miscellaneous Petition No. 1207 of 2022 vide order dated 2-6-2022. The said order records that the petitioner and Respondent 2 therein, had friendly relations for the last 18 years and due to an immature prank of the petitioner, the FIR got to be registered. The relevant portion of the order quashing the FIR is set out below :*
>
>> *"6. This petition is filed for quashing of FIR No. 293 of 2021 under Section 384IPC registered at PS Chittranjan Park, Delhi and the proceedings emanating therefrom. Although, the FIR was initially registered under Section 384IPC but later on Sections 66-C and 67-A of the Information and Technology Act were also invoked while filing the charge-sheet.*
>>
>> *7. The brief facts of the case are that the petitioner and Respondent 2 are childhood friends and have good/friendly relations since 18 years, however an immature prank went out of hand and led to filing of the present FIR on 23-9-2021. The complainant and the present petitioner have settled the dispute vide settlement dated 29-9-2021. The petitioner has remained in custody for about a week before he was bailed out on the strength of the said settlement. The petitioner undertakes not to repeat the act in future. The affidavit of the complainant is also on record, which stands verified.*
>>
>> *8. The complainant/Respondent 2 is present through videoconferencing and has been duly*

[3] *2023 SCC OnLine Del.3309*

identified by the investigating officer, who states the matter has been settled with the petitioner and she has no objection if the FIR is quashed against the petitioner. The learned APP for the State has also no objection, if this petition is allowed.

9. Considering the above settlement between the parties and chances of conviction of the petitioner are bleak, there is no use to continue with the proceedings of the present FIR as complainant has settled all the disputes and has received the settled amount from the petitioners.

10. Accordingly, the petition is allowed. Consequently, XXXXX under Section 384IPC registered at XXXXX Delhi and the proceedings emanating therefrom are quashed, subject to payment of cost of Rs 10,000 in lawyers' welfare fund, XXXXX or association and the receipt be handed over to the IO within one week from today. Pending application(s), if any, also stands disposed of."

... ...

***6.** This Court, in a matter relating to removal of a court order from the internet, observed as under :*

"8. The question as to whether a court order can be removed from online platforms is an issue which requires examination of both the right to privacy of the petitioner on the one hand, and the right to information of the public and maintenance of transparency in judicial records on the other hand. The said legal issues would have to be adjudicated by this Court.

9. The right to privacy is well recognised by the Supreme Court in the Constitution Bench judgment in K.S. Puttaswamy v. Union of India [K.S.Puttaswamy v. Union of India, (2017) 10 SCC 1]. In Zulfiqar Ahman Khan v. Quintillion Business Media (P) Ltd. [Zulfiqar Ahman Khan v. Quintillion

Businessman Media (P) Ltd., 2019 SCC OnLine Del 8494] this Court had examined this issue and while granting an interim order, this Court had held as under :

'8. In fact, it is the submission of learned counsel for the plaintiff that the plaintiff's personal and professional life has been hampered irreparably and further damage is likely to be caused if appropriate relief is not granted against the republication of these two articles. The original publisher having already agreed to pull down the same, this Court having directed that the same ought not to be republished, the plaintiff, thus, has a right to ensure that the articles are not published on multiple electronic/digital platforms as that would create a permanent atmosphere of suspicion and animosity towards the plaintiff and also severely prejudice his personal and professional life. The printouts of the articles from www.newsdogapp.com, which have been shown to the court, leave no doubt in the mind of the court that these are identical to the articles published on www.thequint.com, which have already been pulled down.

9. Accordingly, recognising the plaintiff's right to privacy, of which the "right to be forgotten" and the "right to be left alone" are inherent aspects, it is directed that any republication of the content of the originally impugned articles dated 12-10-2018 and 31-10-2018, or any extracts/or excerpts thereof, as also modified versions thereof, on any print or digital/electronic platform shall stand restrained during the pendency of the present suit.

10. The plaintiff is permitted to communicate this order to any print or electronic platform including various search engines in order to ensure that the articles or any excerpts/search results thereof are not republished in any manner whatsoever. The plaintiff is permitted to approach the grievance officers of the

electronic platforms and portals to ensure immediate compliance of this order.'

10. Recently, the Orissa High Court in Subhranshu Rout v. State of Odisha [Subhranshu Rout v. State of Odisha, 2020 SCC OnLine Ori 878] , decided on 23-11-2020, has also examined the aspect and applicability of the 'right to be forgotten' qua right to privacy, in a detailed manner including the international law on the subject.

11. It is the admitted position that the petitioner was ultimately acquitted of the said charges in the case levelled against him. Owing to the irreparable prejudice which may be caused to the petitioner, his social life and his career prospects, in spite of the petitioner having ultimately been acquitted in the said case via the said judgment, prima facie this Court is of the opinion that the petitioner is entitled to some interim protection, while the legal issues are pending adjudication by this Court.

12. Accordingly, Respondents 2 and 3 are directed to remove the said judgment dated 29-1-2013 in Custom v. Jorawar Singh Mundy [Custom v. Jorawar Singh Mundy, 2013 SCC OnLine Del 359] from their search results. Respondent 4 Indian Kanoon is directed to block the said judgment from being accessed by using search engines such as Google/Yahoo, etc. till the next date of hearing. Respondent 1 to ensure compliance of this order."

7. In the opinion of the court, the fact that the entire career of the petitioner, who is a young executive, is likely to be jeopardised due to the continued presence of the impugned articles on the internet would weigh in favour of directing the removal of these publications. Moreover, the court has to draw a balance between the right to access information, in general on the one hand and the petitioner's well-being, mental health, career prospects and prospects in life and family on the other hand. The fulcrum of any society following the rule of law would be to reform a person and not condemn a person

permanently. While bearing these factors in mind and considering the order extracted above, it is deemed appropriate to direct all the publishers i.e. Respondents 3 to 10 to remove the articles which have been collectively attached to the petition as Annexure P-1.

8. *In addition, access to the said articles shall also be blocked by Respondent 2/Google LLC.*

9. *MeitY shall also issue directions for blocking of any articles relating to the petitioner and the FIR which has been quashed, within 48 hours. The present order shall be communicated by Mr Rakesh Kumar learned CGSC, to MeitY for necessary compliance.*

10. *Learned counsel for the petitioner shall provide learned counsel for the respondents all the specific URLs of the articles of which removal is sought. The list shall be communicated by the end of day to the respondents.*

11. *The said URLs shall be removed within 48 hours and the access to the same shall be blocked by the respondents.*

12. *Insofar as the Indian Express is concerned, one week's time is granted to the said respondent to remove the articles."*

(Emphasis supplied)

The High Court of Delhi permits masking of the name of the accused in all the search engines.

14. Evolving this concept of a right to be forgotten or right to erasure have been the subject matter of the Personal Data Protection Bills notified from time to time. The Personal Data

Protection Bill, 2018 recognizes the right to be forgotten. Likewise, the Personal Data Protection Bill, 2018 also recognizes the right to correction and erasure. The Government of India notifies the Digital Personal Data Protection Act, 2023, on 11th August, 2023, to come into force from the date of its publication in the official gazette. The Act also recognizes the right of erasure of personal data. The aforesaid are referred only to lay emphasis, on the fact that the law in this regard is also evolving in the country.

15. It becomes germane at this juncture, to notice the judgment of the Queen's Bench of the United Kingdom rendered on 13-04-2018, which also recognizes the said principle in ***NT 1 v. GOOGLE LLC***[4] wherein the Queen's Bench has held as follows:

> ***"1. These two claims are about the "right to be forgotten" or, more accurately, the right to have personal information "delisted" or "de-indexed" by the operators of internet search engines ("ISEs").***
>
> *… … …*
>
> *38. Point 2 highlights the fact that the CJEU regarded the sensitivity of the data in question as an important element in striking the balance. Point 4 explains why it may be misleading to label the right asserted by these claimants as the "right to be forgotten". They are not asking to "be forgotten". The first aspect of their claims asserts a right not to be remembered inaccurately. Otherwise, they are asking for accurate information about them to be "forgotten" in the narrow sense of*

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[4] *[2018] EWHC 799 (QB)*

being removed from the search results returned by an ISE in response to a search on the claimant's name. No doubt a successful claim against Google would be applied to and by other ISEs. But it does not follow that the information at issue would have to be removed from the public record, or that a similar request would have to be complied with by a media publisher on whose website the same information appeared. In these proceedings the claimants are not asking for any such remedy. It is also worth noting here a point that I shall come back to: a successful delisting request or order in respect of a specified URL will not prevent Google returning search results containing that URL; it only means that the URL must not be returned in response to a search on the claimant's name.

… … …

101. In my judgment, both versions of the argument would fail on the alternative ground that the processing involved when Google Search makes available third party content that happens to be of a journalistic nature is not properly regarded as processing undertaken "solely" or "only" for journalistic purposes, as required by Article 9 and s 32. In Google Spain, the Grand Chamber indicated at [85] that it did not consider an ISE would process solely for journalistic purposes, and although that was not an integral part of the Court's reasoning I consider it is true. I also accept the argument of Ms Proops, for the ICO that Google's approach to the journalism exemption is to be resisted because it would have consequences that cannot have been intended by the legislators. The argument, shortly stated, is that the effect of ss 3, 45 and 46 of the DPA is to impose severe constraints on the ICO's powers of enforcement where data are processed for the special purposes. If Google's activities fall within that description, it would be able to operate the "right to be forgotten regime" without regulatory oversight and control. I consider my conclusions to be consistent with the stricture contained in Article 9 of the DP Directive, that Member States may provide for journalistic exemptions "only if they are necessary to reconcile … privacy with … freedom of expression" (emphasis added).

… … …

165. Behind these competing submissions lie some obvious difficulties. It is not a simple matter of applying s 4 of the 1974 Act, without regard to other factor or considerations. Such a hard-edged approach would be incompatible with human

rights jurisprudence, and the fact-sensitive approach that is required. The argument for the ICO, and the argument with which Mr Tomlinson ended up, acknowledge as much. The Court's task is to interpret and apply the will of Parliament as expressed in a statute passed some 25 years before the advent of the internet, to a set of facts of a kind that Parliament cannot then have foreseen; to do so consistently with the will of Parliament as expressed via the HRA in 1998; and to do so in the light of the fact that it was not until 2004 that the Courts identified the existence of the common law tort of misuse of private information. The conclusions arrived at then have to be fitted into the scheme of the "right to be forgotten", first authoritatively recognised in a CJEU judgment of 2014 by which this Court is bound, by reason of the 1972 Act.

… … …

230. My conclusions are:-

(1) The delisting claim is not an abuse of the court's process, as alleged by Google.

(2) The inaccuracy complaint is upheld, and an appropriate delisting order will be made, its terms to be the subject of argument.

(3) The remainder of the delisting claim also succeeds. An appropriate order will be made, in terms to be the subject of argument.

(4) The claim for misuse of private information succeeds.

(5) But Google took reasonable care, and the claimant is not entitled to compensation or damages."

(Emphasis supplied)

16. The Queen’s Bench declines to accept the contentions of Google for delisting the name of the accused therein. The claim of the appellant before the Queen’s Bench, on an allegation of misuse of private information succeeded. The **distilled essence** of the judgments rendered by the **Apex Court** and the judgment of the **Delhi High Court**, as also that of the judgment of **Queen’s Bench** all quoted *supra* would mean that, even an accused who has been discharged or acquitted honourably by a competent Court of law has a right to live with dignity.

17. Article 21 of the Constitution of India mandates that no person shall be deprived of his life or liberty except in accordance with law. The expression ‘life’ cannot be seem to connote a mere animal existence, it has a much wider meaning. It takes within its sweep right to live with dignity. In the crime, once the accused gets acquitted - honourably, discharged by a competent Court of law, or this Court would quash those crimes in exercise of its jurisdiction under Section 482 of the Cr.P.C. and those orders become final, the shadow of crime, if permitted to continue in place of shadow of dignity, on any citizen, it would be travesty of the

concept of life under Article 21 of the Constitution of India. Every citizen born in this nation, governed by the Constitution, has a right to live with dignity. What is being sought for, is masking of the name of the petitioner in the cause title of the case found in the records of this Court.

18. In the peculiar facts of the case, no fault can be found with such a demand. I deem it appropriate to observe that when identical demands are made by those accused or victims, as the case would be, accused who come within the circumstances narrated hereinbefore, the **Fourth Estate** should also consider masking, delisting and deleting their names from their respective digital records and not drive them to this Court seeking such deletion. However, it is made clear that mere erasure of the name of the petitioner in the cause title, does not mean that he is entitled to seek such erasure from the police records. **The direction would be only to enable the internet forget, like the humans forget. If it is allowed to stay on record, the internet will never permit the humans to forget.**

19. For the aforesaid reasons, I pass the following:

O R D E R

(i) Writ Petition is allowed.

(ii) The Registrar General of the High Court of Karnataka is directed to mask the name of the petitioner in its digital records pertaining to Criminal Petition No.8172 of 2021 forthwith.

Sd/-
JUDGE

bkp
CT:MJ