

W.P.(MD).No.12015 of 2021

N.ANAND VENKATESH,J.

Mr.K.Samidurai, learned counsel takes notice for the respondents 1 to 3.

2. The petitioner faced criminal proceedings for an offence under Sections 417 and 376 of I.P.C., and he was convicted and sentenced by the Trial Court by Judgment dated 29.09.2011. The petitioner took this Judgment on appeal before this Court and this Court after dealing with the merits of the case and exhaustively dealing with the law governing the case, acquitted the petitioner from all charges in a Judgment made in CrI.A.(MD).No.321 of 2011, dated 30.04.2014. By virtue of this Judgment, the petitioner has been acquitted from all charges and the petitioner can no more be identified as an accused in the eye of law.

3. Today, the world is literally under the grips of social media. The background of a person is assessed by everyone by entering into the Google search and collecting the information. There is no assurance that

the information that is secured from the Google is authentic. However, it creates the first impression and depending upon the data that is provided, it will make or mar the characteristics of a person in the eyes of the Society. Therefore, in today's world everyone is trying to portray himself or herself in the best possible way, when it comes to social media. This is a new challenge faced by the World and already everyone is grappling to deal with this harbinger of further complexities awaiting mankind.

4. The petitioner is now facing a very peculiar problem. Even though the petitioner had been acquitted from all the charges, his name gets reflected in the Judgment rendered by this Court and unfortunately, whoever types the name of the petitioner in Google search is able to access the Judgment of this Court. In the entire Judgment, the petitioner is identified as an accused even though he has been ultimately acquitted from all charges. According to the petitioner, this causes a serious impact on the

reputation of the petitioner in the eyes of the Society and therefore, the petitioner wants his name to be redacted from the Judgment of this Court.

5. It is brought to the notice of this Court that the Central Government is in the process of finalising the Data Protection Bill 2019 and it is yet to come into effect. This Act when brought into force will effectively protect the data and privacy of a person.

6. Till now, the Legislature has enacted laws protecting the identity of victims, who are women and children and their names are not reflected in any order passed by a Court. Therefore, automatically their names get redacted in the order and no one will be able to identify the person, who is a victim in a given case. This sufficiently protects the person and privacy of the person. This right has not been extended to an accused person, who ultimately is acquitted from all charges. In spite of an order of acquittal, the name of the accused person gets reflected in the order.

Therefore, for the first time, a person, who was acquitted of all charges has approached this Court and sought for redacting his name from the Judgment passed by this Court.

7. For the present, this Court can act upon the request made by the petitioner only by placing reliance upon Article 21 of the Constitution of India. After the historic Judgment of the Hon'ble Supreme Court in ***Puttasamy Vs. Union of India***, the Right of Privacy has now been held to be a fundamental right, which is traceable to Article 21 of the Constitution of India. If the essence of this Judgment is applied to the case on hand, obviously even a person, who was accused of committing an offence and who has been subsequently acquitted from all charges will be entitled for redacting his name from the order passed by the Court in order to protect his Right of Privacy. This Court finds that there is a *prima facie* case made out by the petitioner and he is entitled for redacting his name from the Judgment passed by this Court in Crl.A. (MD).No.321 of 2011. However,

since the issue has come up for the first time before this Court, this Court wants to hear the learned counsel appearing on behalf of the respondents 1 to 3 and also the Members of the Bar and understand the various ramifications before writing a detailed Judgment on this issue.

8. It is also brought to the notice of this Court that when a similar issue came up before the Delhi High Court recently, interim orders were passed directing the concerned websites to redact the name of the petitioner therein. It is also informed to this Court that a new Right called as Right to be Forgotten is sought to be included in the list of Rights that are already available under Article 21 of the Constitution of India.

9. The learned counsel for the respondents 1 to 3 shall take necessary instructions and file written submissions after serving a copy to the learned counsel appearing for the petitioner.

10. Registry is directed to post this case for final arguments on 28.07.2021 at 2.15 P.M.. Registry is further directed to publish this order in the Advocate Associations and Bar Associations both in the Principal Bench and Madurai Bench. The members of the Bar are requested to assist this Court in this issue.

16.07.2021

NOTE: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

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