

Supreme Court - Daily Orders

Nipun Saxena vs Union Of India Ministry Of Home ... on 11 December, 2018

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ITEM NO.1501

COURT NO.2

SECTION PIL-W

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

Writ Petition(s) (Civil) No(s) .565/2012

NIPUN SAXENA & ANR.

Petitioner(s)

VERSUS

UNION OF INDIA MINISTRY OF HOME AFFAIRS & ORS.

Respondent(s)

WITH W.P.(Crl.) No. 1/2013 (PIL-W) W.P.(C) No. 22/2013 (PIL-W) W.P.(C) No. 148/2013 (PIL-W) SLP(Crl.)...CRLMP No. 16041/2014 (II-A) W.P.(C) No. 568/2012 (PIL-W) Date : 11-12-2018 These petitions were called on for pronouncement of judgment today. Ms. Indira Jaising, Sr. Adv. (A.C.) Ms. Ajita Sharma, Adv.

Ms. Aanchal Singh, Adv.

Ms. Sangeeta Madan, Adv.

Mr. P.S. Tripathi, AOR Mr. Ravi Chandra Prakash, Adv. Mr. Mukesh Kumar Singh, Adv. Mr. Mohit Kaushik, Adv.

Ms. Vani Vyas, Adv.

Mr. Narendra Kumar Goyal, Adv. Mr. Purushottam Sharma, Adv. For Petitioner(s) Mr. Nipun Saxena, Petitioner-in-person Ms. Ankita Chaudhary, Adv. Mr. Namit Saxena, Adv.

Mr. Aditya P. Arora, Adv.

Mr. Devanshu Sajlan, Adv.

Mr. Prashant Chaudhary, AOR Signature Not Verified Mr. R. P. Gupta, AOR Digitally signed by DEEPAK GUGLANI Date: 2018.12.11 16:45:38 IST Reason:

Mr. E.C. Agrawala, AOR Mr. Ardhendumauli Kumar Prasad, Adv. Ms. Taruna Ardhendumauli Prasad, Adv.

Mr. Namit Saxena, Adv. Mr. Amritesh Raj, Adv. Mr. piyush Singh, Adv. Mr. Nitesh Ranjan, Adv. Mr. Vaibhav Shrivastava, Adv. Mr. Sashank Saxena, Adv.

For Respondent(s) Ms. Pinky Anand, ASG Mr. A.K. Panda, Sr. Adv.

Ms. Bhakti Pasrija Sethi, Adv. Mr. M.P. Gupta, Adv.

Ms. Saudamini Sharma, Adv. Mr. B.V. Balaram Das, Adv.

Ms. Sunita Sharma, Adv.

Ms. Rashmi Malhotra, Adv.

Mr. Shailender Saini, Adv. Mr. R.K. Rathore, Adv.

Ms. Kirti Dua, Adv.

Ms. Shipra Roy, Adv.

Mr. Chakitan Vikram Shekhar Papta, Adv. Mr. Raj Bahadur Yadav, Adv. Mrs. Anil Katiyar, Adv.

Mr. G.S. Makker, Adv.

Ms. Snidha Mehra, Adv.

Ms. Kirti Dua, Adv.

Mr. S. Wasim A. Qadri, Adv.

Mr. Jubair Ahmad Khan, Adv. Mr. Tamim Qadri, Adv.

Mr. Zaid Ali Subzposh, Adv. Mr. Saeed Qadri, Adv.

NALSA Ms. Anitha Shenoy, Adv.

For States of

Assam

Ms. Diksha Rai, Adv.

Mr. Palak Mahajan, Adv.

Andhra Pradesh

Mr. Guntur Prabhakar, Adv.

Ms. Prerna Singh, Adv.

Arunachal Pradesh Mr. Anil Shrivastav, Adv.

Mr. Rituraj Biswas, Adv.

Mr. Satyendra Kumar Srivastav, Adv. Bihar Ms. Abha R. Sharma, Adv.

Mr. D.S. Parmar, Adv.

Ms. Sujeeta Srivastava, Adv. Mr. Mahender Singh, Adv.

Chhattisgarh Mr. A.P. Mayee, Adv.

Mr. Chirag Jain, Adv.

Mr. A. Selvin Raja, Adv.

Goa Mr. A.N.S. Nadkarni, ASG Ms. Ruchira Gupta, Adv.

Mr. Salvatore Rebello, Adv. Gujarat Ms. Hemantika Wahi, AOR Ms. Jesal Wahi, Adv.

Ms. Vishakha, Adv.

Ms. Parul Luthra, Adv.

Haryana Mr. Ajay Bansal, AAG Mr. Gaurav Yadava, Adv.

Ms. Veena Bansal, Adv.

Mr. Sanjay Kumar Visen, Adv. H.P. Mr. Vikas Mahajan, AAG Mr. Vinod Sharma, Adv.

Jharkhand Mr. Tapesk Kumar Singh, Adv.

Mr. Aditya Pratap Singh, Adv.

J&K Mr. M. Shoeb Alam, Adv.

Mr. Ujjwal Singh, Adv.

Mr. Mojahid Karim Khan, Adv. Karnataka Mr. V.N. Raghupathy, Adv.

Mr. Lagnesh Mishra, Adv.

Mr. Parikshit P. Angadi, Adv.

Kerala Mr. C.K. Sasi, Adv.

Mr. Nayantara Roy, Adv.

M.P. Mr. Sunny Choudhary, Adv.

Mr. Abhilash Attri, Adv.

Maharashtra Ms. Deepa M. Kulkarni, Adv.

Mr. Nishant Ramakantrao Katneshwarkar, AOR Manipur Mr. Leishangthem Roshmani, Adv.

Ms. Maibam Babina, Adv.

Ms. Anupama Ngangom, Adv.

Meghalaya Mr. Ranjan Mukherjee, Adv.

Mr. K.V. Kharlyngdoh, Adv. Mr. Daniel Stone Lyngdoh, adv. Mizoram Mr. Pragyan Sharma, Adv.

Mr. Mudit Makhijani, Adv.

Mr. Shikhar Garg, Adv.

Nagaland Ms. K. Enatoli Sema, AOR Mr. Amit Kumar Singh, Adv.

Odisha Mr. Surya Prasad Misra, Adv.

Mr. Shibashish Misra, Adv. Mr. Chandan Kumar Mandal, Adv Mr. Ashish Kumar Sinha, Adv.  
Punjab Mr. Karan Bharihoke, Adv.

Mr. Kaushal Narayan Mishra, Adv. Ms. Navkiran Bolay, Adv.

Rajasthan Mr. Nalin Kohli, Adv.

Mr. Ankit Roy, Adv.

Mr. Milind Kumar, Adv.

Sikkim Ms. Aruna Mathur, Adv.

Mr. Avneesh Arputham, Adv. Ms. Anuradha Arputham, Adv. Ms. Geetanjali, Adv.

for M/s Arputham Aruna & Co. Tamil Nadu Mr. M. Yogesh Kanna, Adv.

Mr. S. Partha Sarathi, Adv. Mr. S. Raja Rajeshwaran, Adv. Telangana Mr. S. Udaya Kumar Sagar,  
AOR Mr. Mrityunjai Singh, Adv. Tripura Mr. Shuvodeep Roy, Adv.

Mr. Somnath Banerjee, Adv. Mr. Rituraj Biswas, Adv.

Uttar Pradesh Ms. Garima Prasad, AOR Ms. Poonam Anand, Adv.

Uttarakhand Ms. Rachana Srivastva, Adv.

Ms. Monika, Adv.

Mr. Aviral Saxena, Adv.

West Bengal Mr. Suhaan Mukerji, Adv.

Mr. Vishal Anand, Adv.

Mr. Amit Verma, Adv.

Ms. Dimple Nagpal, Adv.

For PLR Chambers & Co.

A&N Islands Mr. K.V. Jagdishvaran, Adv.

Mrs. G. Indira, AOR Chandigarh Ms. Kamakshi S. Mehlwal, Adv.

Mr. Sanveer Mehlwal, Adv.

Mr. Raju Sonkar, Adv.

NCT of Delhi Mr. Chirag M. Shroff, AOR Puducherry Mr. V.G. Pragasam, Adv.

Mr. Prabu Ramasubramanian, Adv. Ms. Aditi Gupta, Adv.

Mr. Satya Mitra, Adv.

Mr. T.N. Rama Roy, Adv.

Mr. Hitesh Kumar Sharma, Adv. Mr. T. Veera Reddy, Adv.

Honble Mr. Justice Deepak Gupta pronounced the judgment of the Bench comprising Honble Mr. Justice Madan B. Lokur and His Lordship on the issue of interpretation of Section 23 of the POCSO Act, Section 3 of the Contempt of Courts Act and Section 228 A of IPC.

Delay condoned in SLP.

In terms of the signed reportable judgment, the following directions have been issued: 1. No person can print or publish in print, electronic, social media, etc. the name of the victim or even in a remote

manner disclose any facts which can lead to the victim being identified and which should make her identity known to the public at large.

2. In cases where the victim is dead or of unsound mind the name of the victim or her identity should not be disclosed even under the authorization of the next of the kin, unless circumstances justifying the disclosure of her identity exist, which shall be decided by the competent authority, which at present is the Sessions Judge.

3. FIRs relating to offences under Sections 376, 376A, 376AB, 376B, 376C, 376D, 376DA, 376DB or 376E of IPC and offences under POCSO shall not be put in the public domain.

4. In case a victim files an appeal under Section 372 CrPC, it is not necessary for the victim to disclose his/her identity and the appeal shall be dealt with in the manner laid down by law.

5. The police officials should keep all the documents in which the name of the victim is disclosed, as far as possible, in a sealed cover and replace these documents by identical documents in which the name of the victim is removed in all records which may be scrutinised in the public domain.

6. All the authorities to which the name of the victim is disclosed by the investigating agency or the court are also duty bound to keep the name and identity of the victim secret and not disclose it in any manner except in the report which should only be sent in a sealed cover to the investigating agency or the court.

7. An application by the next of kin to authorise disclosure of identity of a dead victim or of a victim of unsound mind under Section 228A(2)(c) of IPC should be made only to the Sessions Judge concerned until the Government acts under Section 228A(1)(c) and lays down a criteria as per our directions for identifying such social welfare institutions or organisations.

8. In case of minor victims under POCSO, disclosure of their identity can only be permitted by the Special Court, if such disclosure is in the interest of the child.

9. All the States/Union Territories are requested to set up at least one one stop centre in every district within one year from today.

44. A copy of this judgment be sent to the Registrar General of all the High Courts so that the same can be placed before the Chairpersons of the Juvenile Justice Committee of all the High Courts for issuance of appropriate orders and directions and also to ensure that sincere efforts are made to set up one stop centres in every district.

45. In view of the above, we dispose of these petitions as far as issues dealt with hereinabove are concerned. (SANJAY KUMAR-I) (KAILASH CHANDER) AR-CUM-PS ASSISTANT REGISTRAR (Signed reportable judgment is placed on the file)