

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

Suo Motu Writ Petition (C) No(s). 3/2023

IN RE: RIGHT TO PRIVACY OF ADOLESCENTS

WITH Cr1.A. No. 1451/2024

(IA No.267602/2023-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

Date : 20-08-2024 These matters were called on for pronouncement of judgment today.

Ms. Madhavi Divan, Sr. Adv. (Amicus Curiae)
Ms. Liz Mathew, Sr. Adv. (Amicus Curiae)
Ms. Nidhi Khanna, AOR
Mr. Sameer Choudhary, Adv.
Ms. Aishani Narain, Adv.
Ms. Aandrita Deb, Adv.
Ms. Bagavathy Vennimalai, Adv.
Ms. Mallika Agarwal, Adv.

For Petitioner(s)

Mr. Huzefa Ahmadi, Sr. Adv.
Ms. Astha Sharma, AOR
Mr. Sanjeev Kaushik, Adv.
Mr. Shreyas Awasthi, Adv.
Ms. Rashmi Singh, Adv.
Ms. Lihzu Shiney Konyak, Adv.

For Respondent(s)

Mr. Abhijit Sengupta, AOR

Mr. Huzefa Ahmadi, Sr. Adv.
Ms. Astha Sharma, AOR
Mr. Sanjeev Kaushik, Adv.
Mr. Shreyas Awasthi, Adv.
Ms. Rashmi Singh, Adv.
Ms. Lihzu Shiney Konyak, Adv.

Hon'ble Mr. Justice Abhay S.Oka pronounced the Reportable judgment of the Bench comprising His Lordship and Hon'ble Mr. Justice Ujjal Bhuyan.

The operative portion of the reportable judgment reads thus:

"44. Hence, we pass the following order:

(a) The impugned judgment of the High Court is set aside and the judgment of the Special Court is restored to the extent of the conviction of the accused for the offences punishable under sub-sections (2)(n) and (3) of Section 376 of the IPC and Section 6 of the POCSO Act. Accordingly, the accused stands convicted. The acquittal of the accused for the offences punishable under Sections 363 and 366 of the IPC is confirmed. The appeal is partly allowed. The issue regarding sentencing will be considered after receiving the report of the committee in terms of clause (h) below.

(b) We direct the Government of West Bengal to constitute a committee of three experts, including a clinical psychologist and a social scientist. The State Government may take the assistance of NIMHANS or TISS for constituting the committee. A child welfare officer shall be appointed to assist the committee as its coordinator and secretary;

(c) The committee shall be formed within three weeks from today;

(d) Within one week from the date of formation of the committee, the State Government shall provide all the material particulars/details of the benefits which it is willing to extend to the victim as stated in paragraph 5 of the note submitted on 9th May 2024 by the learned senior counsel appearing for the State;

(e) Thereafter, the committee shall meet the victim of the offences at such a place as it desires to communicate what the State Government is offering to her. The Committee must also inform the victim about the availability of the benefits of the scheme of the Government of India. The duty of the committee shall be to help the victim to make an informed choice whether she wants to continue to remain in the company of the accused and his family or wants to avail of the benefits offered by the State Government. This exercise will naturally require meetings with the victim on multiple occasions. In what manner this task should be performed is left to the committee to decide;

(f) The committee members must perform their duties very carefully and sensitively while ensuring that the victim does not develop a feeling of insecurity. While doing the exercise, the committee will endeavour to carefully ascertain the kind of support, if any, the victim and her child are getting from the accused and his family members;

(g) The State Government and its officials shall render all possible facilities and help to the committee members;

(h) The coordinator of the committee shall submit a report in a sealed cover to this Court by 18th October 2024 through the Advocate-on-Record for the State Government. The report can be a preliminary report or a final report. The report should contain the details of the interactions with the victim and the opinion and recommendations of the committee. The committee is free to give its opinion on the action which would be in the best interest of the victim and her child; and

(i) We direct the Registry to forward copies of this judgment to the Secretaries of Law and/or Justice Departments of all the States and Union Territories. The Secretaries shall convene meetings of the Secretaries of the concerned departments and other senior officials. The object of holding such meetings is to ensure that appropriate directions are issued to all concerned to strictly implement the provisions of Section 19(6) of the POCSO Act and the relevant provisions of the JJ Act, which we have elaborated above. The State/Union Territories must create machinery to do so. The State/Union Territories shall also assist the victims in getting the benefits under the scheme of the Government of India and the scheme of NALSA, which we have referred to above. In the meetings, the issue of framing Rules by the States to give effect to the provisions of Section 46 of the JJ Act, shall also be considered. The Secretaries shall forward the compliance reports to the Secretary of the Ministry of Women and Child Development, Government of India, within a period of two months from today. The Secretary of the Ministry of Women and Child Development shall compile the reports and submit an exhaustive report before this Court within three months from today. A copy of this judgment shall also be forwarded to the Secretary to the Ministry of Women and Child Development, Government of India.

45. To consider the report submitted by the expert committee and for considering the sentencing, list this petition/appeal on 21st October 2024 at 03:00 p.m. before this Bench."

(Anita Malhotra)

AR-CUM-PS

(Signed Reportable judgment is placed on the file.)

(AVGV RAMU)

Court Master