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## RIGHT TO BE FORGOTTEN IS BASIC RIGHT

### **A. Introduction**

The Karnataka High Court (“**HC**”), in XXXX case,<sup>1</sup> directed the Registrar General of the HC (“**Respondent**”) to mask the name of the petitioner in its digital records pertaining to a Criminal Petition<sup>2</sup> (“**Criminal Petition**”).

### **B. Brief Facts**

1. A complaint was registered by Savant (“**Complainant**”) before the jurisdictional police alleging that his minor daughter was attending online classes from home when XXXX (“**Petitioner**”), a neighbouring resident developed contact with his daughter. He had noticed the Petitioner making gestures at his daughter. On checking her phone he found multiple messages sent by the Petitioner that were sexually intimidating (“**Complaint**”).
2. A Complaint was registered<sup>3</sup> for offences punishable under Sections 354A<sup>4</sup> and 354B<sup>5</sup> of the Indian Penal Code, 1860 and Section 12<sup>6</sup> of the Protection of Children from Sexual Offences Act, 2012.
3. The police investigated and filed closure report<sup>7</sup> (“**Closure Report**”) observing that a false case was registered against the Petitioner. However, the Petitioner had by then already filed the Criminal Petition before the HC which came to be disposed off. Subsequently, the trial court accepted the Closure Report and the Petition came to be discharged.
4. The Petitioner, invoking the writ jurisdiction<sup>8</sup> of the HC, sought directions among other reliefs to remove his name from the digital records maintained by HC in Criminal Petition.

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<sup>1</sup> XXX v. Registrar General, High Court of Karnataka, represented by State Public Prosecutor and Others, 2024 SCC OnLine Kar 18 (“**Judgment**”).

<sup>2</sup> Criminal Petition No.8172 of 2021 before the HC.

<sup>3</sup> Crime No.105 of 2021.

<sup>4</sup> Sexual harassment and punishment for sexual harassment.

<sup>5</sup> Assault or use of criminal force to woman with intent to disrobe.

<sup>6</sup> Punishment for sexual harassment.

<sup>7</sup> Form ‘B’.

<sup>8</sup> Articles 226 and 227 of the Constitution of India.

### C. Petitioner's Contentions

1. The filing of the Closure Report depicts that it was a false case.
2. Due to his name being displayed in the website of HC, the Petitioner was not getting employed nor were his brothers, since online searches showed that he was an accused.
3. No chargesheet had been filed nor was there was he convicted.
4. The digital records depict the Petitioner to be an accused, which has placed the Petitioner in a position worse than being an accused.
5. That every human being is entitled to live with dignity.

### D. Respondent's Contentions

1. Masking of the name is permissible only of the victim and not of the Petitioner who was the accused.
2. Merely because he was discharged pursuant to the Closure Report or was acquitted would not mean that the Petitioner's name should not figure as accused.

### E. HC's Judgement and Reasoning

1. The HC, relying on the *Justice K.S. Puttaswamy* case,<sup>9</sup> reiterated that the “*right to be forgotten is t a basic right under the right to informational privacy*” and that “*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. 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...*”
2. The HC, allowing the petition, ruled that “[t]he *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. ...*”<sup>10</sup>

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<sup>9</sup> *Justice K.S. Puttaswamy (Retd) V. Union Of India*, (2017) 10 SCC 1.

<sup>10</sup> See para. 19 of the Judgment.