

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION (CRIMINAL)**

PIL NO. /2020

**IN THE MATTER OF ART 226
OF THE CONSTITUTION OF
INDIA.**

AND

IN THE MATTER OF ART 21
OF THE CONSTITUTION OF
INDIA.

AND

IN THE MATTER OF INDIAN
PENAL CODE, 1860

AND

IN THE MATTER OF
CRIMINAL PROCEDURE
CODE, 1973

AND

IN THE MATTER OF
CRIMINAL LAW
(AMENDMENT) ACT, 2013
AND 2018

AND

IN THE MATTER OF
CHAPTER – II, SEC. 4, 9
READ WITH SEC. 309 OF
CRIMINAL PROCEDURE
CODE, 1973

1. **Priyanka Deore, D/o Vishwas Nimba Deore,**

Aged: 28 years

R/o:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

2. **Dr. Noel Mathew Kuriakose, S/o Mathew Kuriakose,**

Aged: 28 years,

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

...Petitioner/s

Versus

1. **State of Maharashtra**

Through its
Government Pleader, Original Side,
High Court, Fort, Mumbai, 400023

2. UNION OF INDIA

Through the Secretary,
Ministry of Information and Broadcasting
Government of India
Shri Amit Khare
Add: Room No 655, A Wing Shastri Bhawan
New Delhi-110001

3. Ministry of Electronics and Information Technology

Government of India
Add: Electronics Niketan, 6, CGO Complex,
Lodhi Road, New Delhi – 110003

4. Ministry Of Law And Justice

Government of India
Add: 4th Floor, A-Wing, Shastri Bhawan
New Delhi-110 001

5. Ministry of Women and Child Development

Government of India

Add: Shastri Bhawan, New Delhi

6. Twitter Communications India Private Limited

Add: C-20, G Block, Near MCA Bandra Kurla Complex,
Bandra (E) Mumbai Mumbai City MH 400051

7. Facebook India Online Services Private Limited

Add: Unit Nos. 1203 and 1204, Level 12, Building No.20,
Raheja Mindspace, Cyberabad, Madhapur, Hitech City
Hyderabad Hyderabad TG 500081

8. Google India Pvt Ltd

Add: No 3, RMZ Infinity - Tower E,
Old Madras Road, 4th & 5th Floors,
Bangalore Bangalore KA 560016 IN

9. Sakal Papers Private Limited

Add: 595, Budhwar Peth, Pune: 411002

10. Prabodhan Prakashan Private Limited

Add: Sadguru Darshannagu Sayagiwadi
Dainik Saamana Road, Prabhadevi,
Mumbai : 400025

... Respondents

CRIMINAL WRIT PETITION (PIL) UNDER ARTICLE 226 OF

THE CONSTITUTION OF INDIA

TO,

THE HON'BLE CHIEF JUSTICE

AND HIS COMPANION JUSTICES

OF THE HON'BLE OF BOMBAY HIGH COURT

THE HUMBL PETITION

OF THE PETITIONER/S

HEREIN

MOST RESPECTFULLY SHOWETH:

Particulars of the cause against which the Petition is made:-

(1) Subject matter in brief as follows:

1. That this Writ Petition is filed in public interest under Article 226 of the Constitution of India in furtherance of the rights of Rape Victims / Survivors in country as well as their fundamental right of right to get speedy and expeditious trial under Article 21 of the

Indian Constitution. The Petitioners by this petition seeks directions for implementation of guidelines expounded by Hon'ble Apex Court and amended laws from year 2013 to 2018 by Parliament of India which deals with their right to speedy and expeditious trial in all the courts of the country and their protection of identity as rape victims and survivors.

(2) Particulars of the Petitioner(s):-

2. The Petitioner/s is/are Citizen/s of India. The Petitioner No. 1 is a student and living in City of Pune. She is searching for a job and travelling regularly for the study and work purpose. The Petitioner No. 1 is having similar first name of late Rape Victim of Hyderabad and due to which she is having empathy for her. The Petitioner No. 1 is having feeling of unsafe atmosphere for working women in Country and as for herself too. The Petitioner No. 1 is a victim of sexual offences committed by her husband for which Criminal Sessions Trial and other necessary proceedings are pending in Courts. Because Petitioner No. 1 have been through sexual harassments, she is having deep concern for rape victims and therefore, decided to approach this Hon'ble Court for implementation of laws related Rape and other offences against women which will lead to speedy justice. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]. The copy of ID proof is

filed. The Petitioner No. 2 is Doctor by profession who is protesting and working for the Rights and Protection of Rape Victims in many cities of Country. He also believed in his Concept of Anti Rape Squad to prevent the Crime against women. The complete postal address of Petitioner is: [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] The copy of ID proof is filed.

3. (3) Declaration and understanding of the Petitioner(s):-

4. The Petitioners have absolutely no connection with any type of social activity for gaining publicity. The Petitioner/s has / have no any personal interest in it. The Petitioners are from different career and background but due to painful incidence of Hyderabad

Gang Rape Case and other recent cases after Hyderabad Gang Rape Case happened in Uttar Pradesh against one Law Student who due to non-registration of FIR, committed suicide which is reported on 9th January 2020 and in Medusa, Gujarat, a 19 year old Dalit woman was found gang raped and murdered by hanging her to tree because her missing complaint was not entertained by the Police which is reported on 10th January 2020. Due to these incidences Petitioners are shaken from inside and as a duty of law abiding citizen of this Country decided to file this Petition in the interest of women's safety in Country's all urban and rural areas.

5. That the entire litigation costs, including the advocate's fee and other charges are being borne by the Petitioners. The Petitioners have themselves spent money from their pocket for filing this PIL Petition. [REDACTED]

[REDACTED]

[REDACTED]

6. That a thorough research has been conducted in the matter for contentions rose through the Petition. All the relevant material in respect of such research is annexed with the petition.

7. That to the best of the Petitioner(s) knowledge and research, the issue raised was not dealt with or decided and that a similar or identical Petition was not filed earlier by him/her (Only Hon'ble Delhi Court has issued notice on PIL filed in Delhi High Court

about disclosure of identity of Rape Victim in recent Hyderabad Rape Case in which only prayers are made in reference to Nipun's Case by Mr. Yashdeep Chahal.

8. That the Petitioner/Petitioners has/have understood that in the course of hearing of this Petition, the Court may require any security to be furnished towards costs or any other charges and the Petitioner/Petitioners shall have to comply with such requirements.

5. FACTS THAT CONSTITUTE CAUSE OF ACTION:

- i. The Petitioner/s submits that the matter in this writ petition is an extraordinary case and it stands apart from many regular cases that have been resolved by this Hon'ble Court, in its long journey in striving to dispense justice with constitutional vision. The adjudication in this Petition is concerned with rights of Rape Victims / Survivors in country as well as their fundamental rights of right to get speedy and expeditious trial and their protection of identity. This is a public interest petition seeking directions for implementation of guidelines expounded by Hon'ble Apex Court and amended substantive and procedural criminal laws from year 2013 to 2018 by Parliament of India which deals with right to speedy and expeditious trial in all the

courts of the country and protection of identity of rape victims and survivors.

RIGHT TO SPEEDY AND EXPEDITIOUS TRIAL IN ALL THE COURTS OF THE COUNTRY UNDER ART. 21 OF THE CONSTITUTION OF INDIA:

- ii. The Petitioner/s says that he /she is also urging through this Public interest Petition to this Hon'ble Court that there is strong necessity to give recommendations and suggestions to the Respondent No. 1 and 2 to either amend the procedural laws or implement the present laws to expedite the trials of Rape Victims in State of Maharashtra and in other states as like the step taken by Uttar Pradesh Government by introducing 218 fast track Courts in its cabinet decision reported on 9th December 2019 as 144 fast track courts to hear rape cases and 74 POCSO courts for matters related to crimes against children. The Petitioners states that the Special Court are not conducting the matters in a time bound period despite having provision in procedural law to expedite and finish the rape case trial in a time bound period like cases under Protection of Children from Sexual Offences (**POCSO**) Act, 2012 (hereinafter referred as POCSO). The Speed justice is only possible if

there will be an accountability of the judicial officers and Session Judges about the disposal of cases but not without appointing adequate number of judges and staff. The fast track Courts aren't functioning as claimed but they can function only through fast track procedures by implementing and amending the laws at state and central level. There is also suggestion reported as Central Government is considering that the conviction in Rape cases by trial courts may be challenged only in the Supreme Court. The Petitioners by considering the above aspects have decided to file and present this Public Interest Petition for directions to all Respondents to follow and abide by the well settled law expounded under Art. 142 of the Constitution of India by Hon'ble Apex Court. Hereto annexed and marked as **Exhibit – A and B are Copies of Criminal Amendment Act, 2018 and News item of National Service Division, All India Radio, dated 9th December 2019.**

- iii. The Petitioner/s along with this above aspect is/are submitting their views for the experiences in recent years about change in conditions for implementation of law and prevention of crime of rape in Country. The Petitioner/s submits that they have experienced sharp rise in rape cases even against minors. According to 2016 Crime statistics

report of **National Crime Records Bureau**, Total Reported rape cases are 38,947 out of which juveniles in conflict with were found in 1,903 reported cases. The involvement of young or juvenile offenders and crime of rape ranging from minors to tender age enhanced after the amendments in law.

The issue of rape had been discussed in many judgments delivered by different Courts including Hon'ble Apex Court by issuing time to time directions for implementation of law.

(Nipun Saxena Vs Union of India, 2018 Page No. 38)

Hereto annexed and marked as **Exhibit – C is Copy of judgement of Nipun's case**. Since no change in conditions for implementation of law occurred throughout the Country but Crime of rape has changed its face and modus operandi. The crime of rape has developed more and led to killing of victim in pitiless way with an intention to destroy main complainant or victim of crime.

- iv. The Petitioner/s is / are saying that the Rape Cases since last many decades are pending and victims are no more but accused are surviving in jails due to non-expeditious trials in Courts. This is also overburdening the judicial work and pendency as well as work for police officials to maintain the records, follow up of cases pending in Courts. This ultimately not affecting the Accused, who have committed

heinous crime, found guilty, waiting to meet the gallows has made the condition worst of justice delivery system. This has also shaken up faith of the people in Judiciary in cases of Rape trials for punishment to accused. The time which is consumed for punishing accused of the Rape is a time in which many heinous crime of rape is committed by other accused in recent years. The famous rape cases which are pending either for trial, proceedings or for punishment to accused Viz.

- A. Jyoti Kumari Gang Rape and Murder Case 2007, (Pune)
- B. Nayana Pujari Gang Rape and Murder Case 2009, (Pune)
- C. Nirbhaya Gang Rape and Murder Case, 2012, (Delhi)
- D. Unnao Gang Rape and Murder case 2017 - 2019, (Uttar Pradesh)
- E. Hyderabad Gang Rape and Murder Case 2019. (Hyderabad, Telangana) (in which illegally suspect or accused are eliminated)

These are some of the examples of heinous rape cases in which both Victim/Survivor and Accused are facing the trials either or waiting for punishment. This entire process is violating right of victim or survivor of the right to speedy and expeditious trial during the course of rape trial for punishment to accused. The recent 23 year old Unnao rape

survivor dies after being burnt alive by her accused only who got out of the bail. She died and reason of death was cardiac arrest. She would have survived, if her accused wouldn't have never released on bail. Hereto annexed and marked as **Exhibit - D a Copy of News item of Economic Times dated 7th December 2019.** In rape cases, either victim or survivor has to suffer a lot by facing the trial, protecting her identity, protecting her including her family members from any aggression from her Accused, disgraceful treatment to her by society etc. She has to hide herself and restrict her from getting exposed to public in general by stopping living normal life which adds more complications to her life. This is taking away her right to live normal life due to inordinately delayed rape trial. If the rape trial is decided within time bound period it can allow the victim/survivor to live her previous life before crime committed against her. The victim or survivor's family are also not protected under law and under constant threat to protect the victim or survivor.

- v. “A law is valuable not because it is law, but because there is right in it.” – *Henry Ward Beecher*. When law changes the society it is the sign of beginning of the development of the society. When society changes law it is the sign of maturity

of the society. Unfortunately, our laws aren't changing the society. The Petitioner/s is/are feared of continuous heinous crime of Rape in Country. The Country has been identified by other countries as capital of crime of Rape, where people from other countries are scared of visiting even for vacations at tourist places. The Petitioner/s is/are in utter shock of these heinous and repetitive incidences of Rape which resulted in death, killing of victims and by killing of Accused by police. The Hon'ble Delhi Court once expressed in the year 2013 that "Something somewhere wrong in Society", which has not been rectified or taken care of through legislators, executives working in Country till today's date. The framers of the Constitution of India also were unaware of such sleazy acts of Criminals against the Women in Country. Hereto annexed and marked as **Exhibit - E. a Copy of News item from Business standard dated 25th April 2013.**

- vi. All Hyderabad gang Rape Accused got killed in an encounter by police. This is also taking away the right of Victim to fair and reasonable trial against the Accused which led to constitutional breakdown or failure to protect the rights of the parties by State. The Victim or Survivor have full and undisputed right to speedy and expeditious

trial against the Accused in a time bound period framed under law which is presently available for Rape Victims and Survivors.

- vii. Rape is the most morally and physically reprehensible crime in a society, as it is an assault on the body, mind and privacy of the victim. While a murderer destroys the physical frame of the victim, a rapist degrades and defiles the soul of a helpless female. Rape reduces a woman to an animal, as it shakes the very core of her life. By no means can a rape victim be called an accomplice. Rape leaves a permanent scar on the life of the victim, and therefore a rape victim is placed on a higher pedestal than an injured witness. Rape is a crime against the entire society and violates the human rights of the victim. Being the most hated crime, rape tantamount to a serious blow to the supreme honour of a woman, and offends both, her esteem and dignity. It causes psychological and physical harm to the victim, leaving upon her indelible marks. Hereto annexed and marked as **Exhibit – F. a copy of judgement in Deepak Gulati vs State of Haryana 2013 (7) SCC 675**
- viii. The Petitioner/s state that the laws related rape cases were time to time amended and in recent years we have witnessed the strict changes in law. But the very fact is; we haven't

experienced the implementation of available and amended laws by the legislature. This non implementation of laws led to miscarriage of justice for Rape victims and survivors. They have been deprived of not meeting with ends of justice within time bound period as available in law. They are compelled to run and wait for justice to be delivered to them with inordinate delays. This is a gross violation of their Right to Speedy Justice followed with expeditious trial against the accused.

- ix.** Rape is defined in Section 375. Sections 375 and 376 have been substantially changed by Criminal Law (Amendment) Act, 1983, and several new sections were introduced by the new Act, i.e. 376-A, 376-B, 376-C and 376-D. The fact that sweeping changes were introduced reflects the legislative intent to curb with iron hand, the offence of rape which affects the dignity of a woman. The offence of rape in its simplest term is 'the ravishment of a woman, without her consent, by force, fear or fraud', or as 'the carnal knowledge of a woman by force against her will'. 'Rape' or 'Raptus' is when a man hath carnal knowledge of a woman by force and against her will (Co. Litt. 123-b); or as expressed more fully,' rape is the carnal knowledge of any woman, above the age of particular years, against her will; or of a woman child, under that age, with or against her will' (Hale PC

628). The essential words in an indictment for rape are rapuit and carnaliter cognovit; but carnaliter cognovit, nor any other circumlocution without the word rapuit, are not sufficient in a legal sense to express rape; 1 Hon.6, 1a, 9 Edw. 4, 26 a (Hale PC 628). In the crime of rape, 'carnal knowledge' means the penetration to any the slightest degree of the organ alleged to have been carnally known by the male organ of generation (Stephen's "Criminal Law" 9th Ed. p.262). In 'Encyclopaedia of Crime and Justice' (Volume 4, page 1356) it is stated ".....even slight penetration is sufficient and emission is unnecessary". In Halsbury's Statutes of England and Wales (Fourth Edition) Volume 12, it is stated that even the slightest degree of penetration is sufficient to prove sexual intercourse. It is violation with violence of the private person of a woman-an-outrage by all means. By the very nature of the offence it is an obnoxious act of the highest order. Hereto annexed and marked as **Exhibit – G. a Copy of judgement in State of MP Vs Munna Choubey 2005 (2) SCC 710**

- x. As the Petitioner/s mentioned above that the laws related to rape were amended but not implemented by the Courts to conclude trials of rape cases within time bound period mentioned under law. Justice Verma Committee submitted

its report on January 23, 2013 which was constituted to recommend amendments to the Criminal Law so as to provide for quicker trial and enhanced punishment for criminals, accused of committing sexual assault against women. Since the submission of report and amendments introduced in criminal laws and in subsequent years till 2018, none of the trials except few trials in the entire country have been decided within time bound period as per law. In the State of Uttar Pradesh, trial Court in POCSO case Convicts Accused within 9 Days of Filing of Charge sheet which was reported on 30th August 2019. The Hon'ble Supreme Court has directed on 25th July 2019, for Setting up of Exclusive Court to deal with POCSO cases in each district within 60 Days. The ratio of conviction is low and disposal of cases are not within time bound period. This is occurring since last seven years in row without any change at ground level in trial Courts. There are various reasons for pendency of such cases despite directions to be decided within time bound period. The same is also affecting the other cases of litigants who also wait for justice in their cases. The entire Criminal Justice System has been down with rebukes from the Victims and Survivors. The Hon'ble Supreme Court in 2014 expressed as "We had noted that the Fast Tract Courts no doubt are being constituted for

expeditious disposal of cases involving the charge of rape at the trial stage, but we are perturbed and anguished to notice that although there are Fast Tract Courts for disposal of such cases, we do not yet have a fast track procedure for dealing with cases of rape and gang rape lodged under Section 376 IPC with the result that such heinous offences are repeated incessantly". Hereto annexed and marked as **Exhibit – H. a Copy of judgement in State of Karnataka VS Shivanna @ Tarkari Shivanna 2014 (8) SCC, 913**

- xi. The Petitioner/s state that the right of Speedy Trial is under Art. 21 of the Constitution of India which is essential part of right to live life with dignity. This right should be protected and already guaranteed under the supreme law. The State cannot avoid its constitutional obligation to provide speedy trial to the accused by pleading financial or administrative inability. The State is under a constitutional mandate to ensure speedy trial and whatever is necessary for this purpose has to be done by the State. It is also the constitutional obligation of this Court, as the guardian of the fundamental rights of the people as a sentinel on the qui-vive, to enforce the fundamental right of the accused to speedy trial by issuing the necessary directions to the State which may include taking of positive action, such as

augmenting and strengthening the investigative machinery, setting up new courts, building new court houses, providing more staff and equipment to the courts, appointment of additional judges and other measures calculated to ensure speedy trial, this was expressed in the year 1979 by the Hon'ble Supreme Court in **Hussainara Khatoon & Ors vs Home Secretary, State Of Bihar, 1979 SCR (3) 532**. The higher Courts have time to time expressed its anguish about their directions to the State. The impediments are so many in Criminal Justice System for not getting the justice within time bound period and since this above view expressed in the form of directions, the same has not been taken care for several decades and today also we are not having a system which can ensure the Speedy Justice through fair and reasonable trial, time bound trial against the Accused in Rape Cases. Though we have set up of all Criminal Special Courts to deal with Rape Cases but the Walls of the Courts cannot conduct the impartial trial against the Accused because there is lack of number of judges, staff and infrastructure to deal with Rape cases which can be done on daily basis with the Accountability of Judicial officers and Sessions Judges. The right to Speedy trial has been explained and interpreted by Hon'ble Supreme Court in many cases after *Hussainara Khatoon's* case.

**RIGHT TO PROTECTION OF IDENTITY AS RAPE
VICTIM OR SURVIVOR DURING THE COURSE OF
TRIAL IN ALL THE COURTS OF THE COUNTRY
UNDER ART. 21 OF THE CONSTITUTION OF
INDIA:**

- xii. The People in Country have turned insensitive towards the Victims of Rape and survivors. There is no single incidence in which people have not circulated material related to rape victims and survivors through social media platforms. The obnoxious narrations, eagerness of knowing the factual stories of Rape Victims have enhanced the interest of people in Country to stronger protest through Social Media platforms but by forgetting the name and identity in any form of Rape Victim or Survivor. Even in Court's judgements of sexual offences, the Courts are terming it as 'prosecutrix or victim or survivor' which people in general without any single thought of consequences for spreading the information related to Rape Victims or Survivors through Social media platforms when there is specific law amended for protecting the identity of the Rape Victim and Survivors.

- xiii. The Petitioners are worrying about the consequences of available explicit material in the form of porn films which can cause impact on young generation and urge to go against the nature and order to experience the agog. The Hon'ble Apex Court in 2016 expressed to find ways to block porn sites. The Sexual offences are influenced due to pornographic content available on internet.
- xiv. The Petitioners have come across the content posted on Social Media and by Media Houses who have not removed the content by ignoring the law related to victim's identity. Hereto annexed and marked as **Exhibit – I are Copies of media reports and news articles containing names and photo of rape victim**. That the material posted about rape victim of Hyderabad and Rape Victim of Tamil Nadu with their names and burnt, disfigured photographs from mortuary through Facebook, Twitter accounts by celebrities and ministers. The shocking material has discovered by Petitioners about search of Rape Video of Hyderabad Rape Victim on www.xvideos.com and the same was searched by near about eighty lakh sick minds on internet. The print media and online newspapers also posted the names and photographs of burnt body lying at crime spot of Victim by describing the looks of victim and disturbing photographs of

her. Hereto annexed and marked as **Exhibit – J are Copies of Screen Shots of the Social Media posts containing the photos and names of Victims.**

- xv. The Petitioners says that even after continuous directions by Hon'ble Apex Court the law isn't followed by Social Media websites and Media Houses. The Speedy Justice for Rape Victim is difficult if such insensitivity is portrayed by people and especially people who holds responsible position in Society. The necessity is protection of identity of rape victims and their right to speedy and expeditious trial in all the courts of the country. This is overlooked by the Respondents despite legal obligation established under law. The Respondents should be made accountable about violation of laws and such contemptuous behaviour in reference to directions lay down by Apex Court. The urgent steps should be taken by Respondents by removing content from all the Social media and internet platforms to prevent further violation of law and for again reminding the obligation of law over the Respondents and people in this Country. No legal action has been taken till date by the Respondent No. 1 to 4 against remaining Respondents to remove the content on internet posted since last one week. This Hon'ble Court should immediately give directions to

Respondent No. 5 to 7 to remove the content within 36 hours being intermediary under the law.

GROUND AND SUGGESTIONS:

1. The right to life is sacrosanct right guaranteed under Article 21 of the Constitution of India and this Hon'ble Supreme Court in catena of judgments has discussed and accepted it in the light of Speedy Trial as highest in all fundamental rights which not only includes right of mere existence but the right to live a safe, secure and dignified life thus right to safety of life and right to dignity after death of any Rape Victim. Likewise, law of Defamation deals with Social image and Right to Reputation after death of any person. The Citizens of this Country are again brooding over the heinous Crime happened in Nirbhaya's Case due to recent Hyderabad Rape Case. In such atmosphere, Petitioner/s isn't feeling safe for themselves and for their female belongings. The Respondent No. 1 and 2 are responsible for implementation of laws for convicting the Accused in such notorious cases. But the Respondents are continuing with act of negligence by spreading Photographs of burnt Body of Rape Victim and by not implementing laws for it. Also, since Nirbhaya's case, the Respondent No. 2 to

4 have been inactive for introducing the necessary amendments in procedural law and appointing sufficient judges and staff to expedite the cases of rape trials to accelerate the justice for victims. It is obligatory on the Respondent No. 1 to 4 to ensure the fundamental right to Speedy Justice for Rape Victims and Right to Reputation even after death guaranteed under Article 21 of the Constitution of India.

2. The Fast track Courts aren't functioning in Country as per Sec. 309 of CrPC. The Hon'ble Supreme Court in **State of UP vs Shambhu Nath Singh 2001(4) SCC 667** held that The Code of Criminal Procedure is comprehensive enough to enable the Magistrate to close the prosecution if the prosecution is unable to produce its witnesses in spite of repeated opportunities. Section 309(1) Cr.P.C. supports the above view as it enjoins expeditious holding of the proceedings and continuous examination of witnesses from day to day. The section also provides for recording reasons for adjourning the case beyond the following day. In Rajdeo Sharma (II) vs. State of Bihar {1999 (7) SCC 604} this Court pointed out that the trial court cannot be permitted to flout the mandate of Parliament unless the court has very cogent and strong reasons and no court has permission to

adjourn examination of witnesses who are in attendance beyond the next working day. A request has been made by this Court to all the High Courts to remind all the trial judges of the need to comply with Section 309 of the Code. Hereto annexed and marked as **Exhibit – K a copy of judgement in State of UP vs Shambhu Nath Singh 2001(4) SCC 667.** There is also no any other strict procedure mentioned or introduced under CrPC to finish the trial in a stipulated period of time to ensure the Speedy Justice. Today also, the Rape Cases of serious offences are pending for years and many victims are waiting justice. The time period and laws have become the most responsible factor to be misused by the Accused in Rape Cases. The Petitioners are saying that there should be either direct appeal in Supreme Court against the Conviction or Appeal from Special Court or Accused persons should be deprived of filing mercy petitions, which can reduce the time and increase the conviction rate to create deterrence of punishment. The Petitioners states that Courts are having three layer systems to evaluate the Rape cases and pass the judgement for which the Accused are getting ample opportunities to defend their case. Why should Victims be kept waiting to get justice when the Crime is committed against them for which they aren't responsible and innocent? The Accused are using the dilatory tactics and

due to non-availability of time bound procedural law, they are living their life inside the jail. Victims / Survivors lose their confidence and life and it becomes difficult for them to live in Society. In such Condition, the paramount interest of the Victims for speedy trial should be given much importance.

3. The Petitioners are saying that there should be **Anti Rape Squad** in Country for the purpose of prevention of Crime. The State Government of Maharashtra had introduced **Damini Squad** which has been proven ineffective. There should be at every Five Km distance one anti rape squad be appointed directly under the supervision and control of SP / ACP and Commissioner of Police. The Anti Rape Squad will help the patrolling in isolated areas where the anti-social elements are active. This may help the victims to even drop at their door steps who are working outside their hometown. Nagpur Police have started this initiative to drop the Females who are working late night. There should be Awareness programmes of Sexual Education at School Levels and training programme for the police reforms to understand the depth of implementation of law related rape cases or sexual offences.

4. The Victims of Rape aren't getting equal protection as the victims under the cases of Protection of Children from Sexual Offences (POCSO) Act, 2012. There is discrimination pertaining to the time bound trial for the victims of POCSO and Victim of Rape Trial who aren't minor. Rape Victims also deserve the Right to time bound trial viz. Speedy Trial. An inference by the Petitioners is this unequal protection of law is violating to Art. 14, 19 and 21 of the Victims of Rape. This Hon'ble Court needs to interfere for correct interpretation of the equal law if applies to the Rape Victims and Survivors also through fast track Court's trial.

5. The Petitioner/s says that only media reported cases or cases which get attention in media are more highlighted for getting speedy justice which invites discrimination for those victims of Rape whose cases are genuine but couldn't get reported in media. All the victims irrespective of their cases reported in media aren't getting speedy trial and justice. For their Speedy trials, the consolidated funds like Nirbhaya Fund in respective states should be utilised. These funds weren't utilized by the Respondent No. 1 to 4 for which they should be made accountable for not ensuring the speedy trials of Special Court for Rape Cases by providing

infrastructure, appointment of Judges, Staff, Legal Aid Facility, Financial help to victims as Compensation etc.

6. The Petitioners says that the law under Sec. 228A of IPC is violated and Respondents have not taken any steps to curb the spreading of Pics of Rape Victims on Social Media and by Media Houses. The Law expounded by Hon'ble Apex Court by giving nine directions in *Nipun's case* wasn't followed and implemented by the Respondents. Moreover, many lawmakers have been found posting the pics of Rape Victim. The Respondent No. 5, 6 and 7 being 'intermediary' as per Sec. 2 (1) (w) of Information technology Act, 2000 and Amendment Act, 2008 didn't remove the content which used for unlawful act under obligation of Sec. 79 (1) (b) of Information technology Act, 2000 and Amendment Act, 2008.

7. The Media Houses i.e. Respondent No. 8 and 9 have been also found along with other media portals to post the photos of Rape Victims. Today also the content is available on their respective online E – News Paper. This is gross violation and contemptuous act of these Respondents in reference to directions of Apex Court when the family of Rape Victims have not voluntarily through the order of

either Judicial Magistrate Court or Sessions Court revealed the identity of victim.

The Petitioners are by relying upon above grounds and suggestions praying to issue time bound guidelines/ directions for implementation of laws amended which can pave the way for expeditious and speedy trial in rape cases for victims and for the protection of identity of Rape Victim or Survivor. Hence this Humble Public Interest Petition.

6. Source of Information:

All the contentions/ pleading taken by the Petitioner/s is based on the verified information available on internet and based on following sources:

- Constitution of India
- Criminal Procedure Code, 1973
- Indian Penal Code, 1860
- Website of Apex Court <https://main.sci.gov.in/judgments>
- Website of Government <https://data.gov.in/> Report of Crime in India 2016
- Website of Maharashtra Government <https://mha.gov.in>
Copy of THE CRIMINAL LAW (AMENDMENT) ACT, 2018

- Website and link: https://www.business-standard.com/article/news-ians/two-minor-sisters-raped-court-says-something-somewhere-is-wrong-intro-roundup-113042500844_1.html
- Website and Link: <https://economictimes.indiatimes.com/news/politics-and-nation/day-after-being-set-afire-unnao-rape-victim-dies-at-safdarjung-hospital/articleshow/72409604.cms>
- Website and Link: <http://newsonair.com/Main-News-Details.aspx?id=375853>
- Website: https://www.google.com/?gws_rd=ssl#spf=1575997665332
- Website : <https://twitter.com>
- Website : <https://www.facebook.com/>

(7). Nature and extent of injury caused/apprehended:

The Petitioners have apprehension for females in Country who are working and feeling unsafe while travelling. The Petitioner is having feeling of unsafe atmosphere in country for females around him.

(8) Any representation etc. made:-

That the Petitioners have not approached the Respondents with respect to the subject matter of the present writ petition as the matter pertains to wide public interest which requires the immediate intervention of this Hon'ble Court.

(9) Delay, if any, in filing the petition and explanation therefore:-

There are no laches or delay in filing this Petition.

(10) Documents relied upon:

Mentioned at Para 6.

(11) PRAYERS:

Under these circumstances, the Petitioners respectfully pray that this Hon'ble Court may be pleased to:

A) Issue notice to the Respondent No. 1 to 9 for making them accountable about their contemptuous acts and non-implementation of laws related to Rape Cases and for failing to protect the identity of Rape Victims in Country. For the same purpose the Hon'ble Court may please give directions either to amend the procedural laws or implement the present laws to expedite the trials of Rape Victims in the Courts of State of Maharashtra and in other states as like the step taken by Uttar Pradesh Government as per Sec. 309 of CrPC by constituting

Fast Track Courts specially constituted for conducting only Rape Trials pending since many years;

B) Issue specific and uniform guidelines for Speedy Trials by effectuating the Amendments in procedural laws to be mandatorily implemented or the available amended laws to be to be mandatorily implemented as per Sec. 309 of CrPC within two months from the date of filing of the charge sheet in the country for rape trials in all Courts;

C) Issue Directions to remove the Content related to posts of revealing the identity of Rape Victims in Hyderabad and Tamil Nadu Case to the Respondent No. 5,6,7,8 and 9 within 36 hours and the same should be monitored by the Respondent No. 1 to 4 with immediate effect to ensure the implementation of law and guidelines of Apex Court.

D) Prayer clause C) please be allowed as Interim Relief.

E) Any other order/directions concerned with the present issue may kindly be passed.

**AND FOR THIS ACT OF KINDNESS THE PETITIONERS
SHALL IN DUTY BOUND EVER PRAY.**

FILED ON : ____.01.2020

DRAWN & FILED

BOMBAY

Adv Harshad Garud

Adv Kirti Ahuja

PRIYANKA VISHWAS DEORE

Petitioner No. 1

DR. NOEL MATHEW KURIAKOSE

Petitioner No. 2

AS PETITIONERS

AFFIDAVIT

I, **Miss. PRIYANKA VISHWAS DEORE** , **Age:** 28 Years,
Occ: Student, **Add:** 1) At Post Umarna, (Parsul Nagar), Tal-
Devala Dist. Nashik- 423110, 2) Temporary Residential:
C/o: Barate Namdev Dyanoba, Flat No. 6, 2nd Floor, 'Mauli
Krupa' S.N:55, Opp Shalini Cornal, Karve Nagar, Pune –
411052 do hereby state on solemn affirmation that, whatever
stated in paragraph no. 1 to 11 are true and correct to the best
of knowledge which is based on documents, evidence on
record and all legal submissions made in grounds of challenge
from paragraphs no. 1 to 7 is true and correct to the best of
knowledge and belief which is based on legal advice obtained
by us and documents on record.

Solemnly affirmed on this day of 2020 at Pune.

I know the affiant

Adv. Harshad Garud

Affiant

Priyanka Vishwas Deore