



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Criminal Writ Petition No. 1152/2026

Mohan Ram S/o Harji Ram, Aged About 43 Years,

----Petitioner

Versus

1. State Of Rajasthan, Through The Secretary, Department Of Home Affairs, Government Of Rajasthan Secretariat, Jaipur
2. The Commissioner Of Police, Jodhpur City, Rajasthan.
3. The Station House Officer Sho, Police Station
4. Meta Platforms, Inc (Instagram), Through Its Resident Grievance Officer/nodal Officer In India, Address 216, Okhla Industrial Estate, Phase Iii, New Delhi - 110020.

----Respondents

For Petitioner(s) : Mr. Rajak Khan
For Respondent(s) : Mr. TC Sharma for UOI, Central
Government

HON'BLE MR. JUSTICE FARJAND ALI

Order

REPORTABLE

19/03/2026

INTRODUCTION

1. By way of the instant Criminal Writ Petition preferred under Article 226 of the Constitution of India (hereinafter referred to as the "COI"), the Petitioner seeks issuance of appropriate directions for the protection and enforcement of the fundamental rights guaranteed under Article 21 of the COI, inter alia, for removal of



the objectionable and obscene content and for deactivation of the offending social media account(s).

1.1 This Court on the previous occasion has supplied the copy of the writ petition to learned counsel Mr. B.P. Bohra who usually appears on behalf of the Union of India.

RELEVANT FACTS OF THE CASE

2. Briefly stating the facts of the case are that the petitioner, father of the victim, has approached this Court aggrieved by the malicious circulation of obscene and private images of his son on a social media platform, with the intent to tarnish the dignity and reputation of the family. Despite a prompt complaint lodged before the jurisdictional police seeking registration of an FIR, no effective action has ensued and the objectionable content continues to remain in circulation. In such compelling circumstances, the petitioner has invoked the extraordinary jurisdiction of this Court seeking immediate intervention.

OBSERVATION OF THIS COURT

3. I have heard the learned counsel appearing on behalf of the petitioner and learned counsel Mr. T.C. Sharma who has appeared before this Court on behalf of the UOI.

(a) Right to Privacy: A Fundamental Right

4. This Court is conscious of the fact that the dissemination of such private and intimate images strikes at the very core of a constitutionally protected guarantee, namely, the right to privacy. This right inheres in every individual as a natural and inalienable facet of life and personal liberty, encompassing the entitlement "to





be let alone” and to exercise dominion over one’s personal sphere, including bodily integrity, informational self-determination, and decisional autonomy, free from any unwarranted intrusion either by private actors or by the State.

4.1 It would be apposite to start with the judgment passed by Hon’ble the Supreme Court in the case of **Justice K.S. Puttaswamy (Retd.) v. Union of India** (Writ Petition (Civil) No. 494 of 2012), decided on 24.08.2017, in which it has been unequivocally held that the right to privacy is an intrinsic and inseparable part of Article 21 of the COI. The said pronouncement lucidly expounds that the right to life is not confined to mere animal existence, but embraces within its fold the right to live with dignity, autonomy, and the freedom to make intimate personal choices. Privacy, therefore, constitutes the very foundation upon which the edifice of dignity stands. The aforesaid enunciation leaves no manner of doubt that any unauthorized dissemination of intimate content not only violates the sanctity of the individual’s private sphere but also results in a continuing and aggravated infraction of the fundamental right guaranteed under Article 21 of COI.

4.2 From a bare perusal of the material available on record, it is evident that the impugned acts are prima facie invasive, unlawful, and have the effect of causing irreparable injury to the dignity, reputation, and mental well-being of the aggrieved individual. Such acts cannot be countenanced in a constitutional democracy governed by the rule of law.



**(b) Statutory Application: IT vis-à-vis Right to Privacy**

5. At this stage, it is necessary to advert to the statutory obligations cast upon intermediaries under Rule 3(2) of the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 (hereinafter to be referred as "IT Rules 2021"). For the sake of clarity, the said provision is reproduced hereinbelow: -

3. (1) Due diligence by an intermediary: An intermediary, including [a social media intermediary, a significant social media intermediary and an online gaming intermediary], shall observe the following due diligence while discharging its duties, namely: -

(b) the intermediary shall inform its rules and regulations, privacy policy and user agreement to the user in English or any language specified in the Eighth Schedule to the Constitution in the language of his choice and shall make reasonable efforts 1[by itself, and to cause the users of its computer resource to not host], display, upload, modify, publish, transmit, store, update or share any information that, —

(i) belongs to another person and to which the user does not have any right;

(ii) is obscene, pornographic, paedophilic, invasive of another's privacy including bodily privacy, insulting or harassing on the basis of gender, racially or ethnically objectionable, relating or encouraging money laundering or gambling, [or an online game that causes user harm,] or promoting enmity between different groups on the grounds of religion or caste with the intent to incite violence;

5.1 A bare perusal of the aforesaid provision makes it abundantly clear that the law imposes a positive and continuing obligation upon intermediaries, particularly social media platforms, to act with a heightened sense of responsibility while operating in the digital domain. It is discernible that such intermediaries are required to place before their users, a language understandable to





them, the governing framework of their platform, including the conditions of use and the manner in which user data and conduct shall be regulated. This requirement is intended to ensure that the user is not left in obscurity as regards the permissible limits of engagement on such platforms.

5.2 More importantly, the rule casts a duty upon the intermediary to take all reasonable measures to prevent the misuse of its platform. The intermediary cannot remain a silent spectator but is expected to actively discourage and restrict the dissemination of content which is unlawful or injurious in nature.

5.3 The scope of such objectionable content, as can be gathered, extends to material over which the user has no lawful entitlement, content that offends decency or morality, invades the privacy of individuals, or tends to harass or demean persons on impermissible grounds. It further encompasses content which may facilitate unlawful activities or disturb societal harmony by fostering hostility between different sections of the community. Thus, what emerges is that the intermediary is placed under a statutory obligation not only to inform but also to regulate, so as to ensure that its platform does not become a vehicle for illegality, indignity, or social discord.

(c) Intermediary Liability and Safe Harbour

6. It is trite that intermediaries are afforded conditional immunity under Section 79 of the Information Technology Act, 2000 (hereinafter referred to as the "IT Act"), a principle commonly understood as the doctrine of "safe harbour". However,





such immunity is neither absolute nor unqualified; rather, it is hedged with statutory obligations requiring the intermediary to observe due diligence and to act with promptitude upon acquiring actual knowledge of unlawful content. The legislative scheme makes it abundantly clear that an intermediary cannot remain a mute spectator once illegality is brought to its notice. Any failure, delay, or lack of diligence in removing or disabling access to such content would result in the forfeiture of the statutory protection, thereby exposing the intermediary to legal consequences. In the present digital age, where social media platforms act as powerful tools for instantaneous dissemination, the unauthorized circulation of private, intimate, or obscene content assumes grave proportions. Such acts not only cause irreparable harm to the reputation and dignity of an individual but also constitute a serious invasion of privacy. The moment such unlawful content is brought to the notice of the intermediary, whether through a complaint, representation, or otherwise, it is incumbent upon the platform to act expeditiously and take all necessary measures to remove, block, or disable access to the offending material. Any inaction or delayed response on the part of the intermediary, in such sensitive matters, would amount to a failure in discharging the due diligence obligations cast upon it under the IT Act. This Court cannot be oblivious to the fact that continued availability of such private content on digital platforms perpetuates harm with every passing moment, magnifying the injury to the victim. Therefore, an intermediary, upon gaining knowledge, is duty-bound to act





swiftly and responsibly, failing which it cannot be permitted to seek refuge under the doctrine of safe harbour and must bear the legal consequences of such omission.

(d) Doctrine of Right to be Forgotten

7. Closely intertwined with the right to privacy is the doctrine of the right to be forgotten, which has been recognized as an emerging facet of informational privacy. The said doctrine enables an individual to seek erasure, removal, or delinking of personal data which is no longer necessary or which unjustifiably infringes upon one's privacy and dignity. In cases of the present nature, where intimate content is disseminated without consent, the continued availability of such material serves no legitimate public interest and, on the contrary, perpetuates harm. Thus, the invocation of the right to be forgotten becomes not only justified but imperative to secure the ends of justice.

(e) Preservation of Digital Evidence

8. At the same time, this Court remains acutely conscious of the imperative need to preserve digital evidence in its pristine form. In the contemporary digital ecosystem, where incriminating material may be altered, deleted, or rendered inaccessible with remarkable ease, the preservation of electronic records assumes paramount significance for the purposes of investigation and trial. Therefore, while issuing directions for removal, takedown, or disabling access to the offending content, this Court deems it equally necessary to ensure that the underlying data, including metadata, access logs, registration details, IP records, and all





other relevant electronic footprints, are securely preserved by the concerned intermediaries. It is apposite to note that electronic records are recognized as admissible evidence under the provisions of the Indian Evidence Act, 1872, particularly Sections 65A and 65B, which lay down the manner in which such electronic evidence is to be proved. Any failure to preserve such data at the relevant stage may irreversibly prejudice the course of justice by rendering crucial evidence unavailable or unreliable. Furthermore, the evidentiary value of such material is intrinsically linked with its integrity and authenticity, which can only be ensured through timely and secure preservation. This Court also takes cognizance of the statutory obligations cast upon intermediaries under the IT Act and the rules framed thereunder, which mandate due diligence and cooperation with law enforcement agencies. Preservation of data, even after disabling public access, forms an integral part of such due diligence and is indispensable for enabling investigating authorities to trace the origin, dissemination, and intent behind the offending content. Accordingly, any direction for removal or blocking of such content must necessarily be coupled with a corresponding obligation upon the intermediaries to retain and preserve the said data for a reasonable period, or till the culmination of investigation and trial, whichever is later. This dual approach ensures that while the fundamental rights of the aggrieved individual, including the right to privacy and dignity, are adequately protected, the larger interest of criminal justice administration is not compromised. Such a calibrated balance





between immediate remedial action and evidentiary preservation is not only desirable but essential to uphold the rule of law in an increasingly digital society.

(f) Enduring Digital Scars and the Multifold Civil Consequences of Non-Consensual Dissemination

9. This Court cannot remain oblivious to the grave and far-reaching consequences that ensue from the unauthorized dissemination of private and intimate images or videos. The injury occasioned by such acts is not transient; rather, it leaves behind what may aptly be described as an enduring digital scar, a permanent imprint upon the life, dignity, and identity of the victim, which continues to resurface with every access, share, or circulation of such content. Looking into the attendant circumstances and the nature of digital dissemination, it is evident that the harm is not confined to the moment of initial publication. The digital ecosystem ensures that such content, once released, acquires a life of its own, rendering its complete erasure exceedingly difficult, if not impossible. The consequences, therefore, are continuous, compounding, and deeply invasive.

9.1 Firstly, the psychological and emotional toll upon the victim is profound. The individual is often subjected to severe mental trauma, anxiety, depression, and a persistent sense of fear and helplessness. The violation of privacy, particularly of an intimate nature, strikes at the core of one's self-worth and dignity, often resulting in long-lasting psychological scars.





9.2 Secondly, the social ramifications are equally devastating. In a society where perceptions and reputations continue to hold significant weight, the circulation of such material frequently leads to stigma, ostracization, and loss of social standing. The victim may be subjected to unwarranted judgment, ridicule, and moral policing, thereby eroding their standing within the community. It is also a matter of common knowledge, and this Court takes judicial notice of the same, that in many instances, the impact disproportionately affects women. The dissemination of such content often has a direct bearing upon their dignity, societal respect, and future prospects, including matrimonial alliances. The societal mindset, unfortunately, continues to attach stigma to the victim rather than the perpetrator, thereby compounding the injustice. At the same time, it would be fallacious to assume that such consequences are confined to one gender alone. The deleterious effects of such dissemination extend to any individual, irrespective of gender, affecting their personal relationships, professional opportunities, and overall standing in society. The erosion of trust, damage to reputation, and the constant apprehension of re-circulation of such material create an environment of perpetual distress.

9.3 Thirdly, the professional and economic consequences cannot be understated. The victim may suffer loss of employment opportunities, damage to career prospects, and professional alienation, particularly in an age where digital footprints are frequently scrutinized.





9.4 Fourthly, the concept of a "digital scar" assumes even greater significance in the context of the right to be forgotten. The inability to fully erase such content results in a continuing violation, where the victim is repeatedly subjected to the same harm, thereby converting a singular act into a perpetual wrong.

9.5 Lastly, such acts have a chilling effect on the exercise of fundamental freedoms. The fear of misuse of personal data and intimate content may deter individuals from freely expressing themselves or engaging in digital spaces, thereby undermining the very fabric of a free and open society.

CONCLUSION

10. In view of the aforesaid, this Court is of the considered opinion that the dissemination of private and intimate content without consent is not merely a legal wrong but a profound invasion of dignity with cascading and irreversible consequences. The law, therefore, must respond with sensitivity, urgency, and firmness so as to adequately protect the individual from such enduring harm and to uphold the constitutional promise of a dignified existence.

VERDICT AND DIRECTIONS

11. In view of the discussion made hereinabove, and having regard to the nature and gravity of the violation of the fundamental right to privacy, this Court deems it appropriate to issue certain directions in the interest of justice:-

(a) The Union of India shall forthwith take cognizance of the present matter and ensure immediate and effective coordination with the concerned intermediary, namely Meta Platforms,



particularly its platform Instagram, for the purpose of permanent removal of all obscene and private photographs and videos pertaining to the petitioner's son, which have been unlawfully circulated on the said platform.

(b) It is further directed that, upon due verification, if the offending account bearing handle "@suresh_bishnoi_688" is found to be responsible for dissemination of such unlawful content, the intermediary shall take immediate steps to deactivate and permanently suspend the said account, in accordance with law.

(c) Liberty is granted to the petitioner to approach this Court again in case of any non-compliance.

11.1 The aforesaid directions are issued to ensure prompt redressal of the grievance and to safeguard the dignity, privacy, and fundamental rights of the victim, while also maintaining the sanctity of the digital space.

12. Accordingly, the present writ petition is disposed of.

13. Stay petition and all pending applications also stand disposed of.

(FARJAND ALI),J

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