
SILENCED NAMES, SPEAKING LAWS: A VICTIMOLOGICAL STUDY OF IDENTITY PROTECTION AND MEDIA COMPLIANCE IN INDIA.

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“When victims are exposed to public scrutiny, the harm of violence is multiplied rather than remedied”— UN Special Rapporteur on Violence Against Women

ABSTRACT

For many victims, crime does not end with the act itself. It continues through the complex physical, psychological, social, and emotional harm which is often worsened by the responses that follow it. When a victim's identity is revealed—whether through official processes or media coverage—the veil of privacy is lifted and thereby the private suffering of an individual is exposed to public scrutiny. Moreover, in today's digital world, such exposure is no longer temporary. Though, for many people “a single click” serves as a means for instantly locking the moments of elation of their lives, but for many others it proves to be catastrophic. The reason being that when this click is uploaded online, it adopts its own life which is non-erasable; uncontrollable; and; capable of infinite replication, archiving, and redistribution. Further this digital permanence can cause instant, widespread, and irreversible distribution, exposing mental trauma in public domain and thereby increasing secondary victimization at the hands of both citizens as well as netizens. Moreover, in Indian society where transgender and transfeminine persons still struggle for social acceptance, it would be unrealistic to expect that public disclosure of victims of sexual offences would be spared from harassment and stigma. Against this backdrop, this article focuses on an important safeguard of Indian victim-centered criminal justice system i.e., the non-disclosure of victim identity. The study examines victim vulnerability from a victimological perspective and reviews the legal framework that governs their non-disclosure. It pays special attention to the Supreme Court's ruling in *Nipun Saxena v. Union of India*.¹ It evaluates recent cases, including the *RG Kar rape case*², *Hyderabad Rape case*³ and

¹ (2018) 14 S.C.R. 755

² SMW (CrI) No. 2 of 2024

³ W.P.(C) 12787/2019

Others to check compliance with judicial standards and legal protections. It also critiques the role of media and state authorities in a digital information environment. Additionally, it compares identity-protection laws in the United States, the United Kingdom, and Australia. The article wraps up by suggesting legal and institutional reforms to prevent re-victimization and improve the protection of victim dignity and privacy in the digital age.

Keywords: Victim, Victimology, Non-Disclosure of Victim Identity, Media, Digital Era, Sexual offences.

INTRODUCTION

In the contemporary digital age where identity can be exposed globally within seconds, the protection of personal dignity has become a paramount concern. For victims, crime is not merely a violation of the word of law, but it also leads to the rupturing of their lives. Whenever a crime is committed in society, its impact is suffered in three distinct forms, namely, primary victimization wherein the victims are subjected to primary harm of the offence itself, further followed by secondary and tertiary victimization, which consists of institutional and societal responses to the offences. Thus, for the victim, crime is not a momentary episode but a continuing encounter of trauma. This persistent trauma/harm evinces in multiple forms - physical, social, financial emotional injury or harm which requires prompt redressal, viz., by providing them easy and early access to justice.

However, the intensity, duration and side effects of such harm vary across different stages. While victims of relatively minor or less stigmatized offences may not undergo continuous public repercussions upon disclosure of their identity, the situation is evidently different in cases concerning heinous and socially sensitive crimes. For instance, in cases of heinous crimes such as sexual offences, sexual exploitation, or acid attacks, such identity disclosure often leads to severe and everlasting reputational impairment. Reputation, which is closely associated with dignity and social identity, plays an essential role in a person's personal and professional life. Its destruction may result into social ostracization/isolation, decline of marriage prospects, loss of job opportunities, strained family relationships, and undying psychological distress. Victims may be viewed through the lens of stigma instead of empathy, unfairly carrying the weight of societal ideas of "honour" and "shame." The gravity of reputational harm is even highlighted by the Indian verses; one such verse is from the Bhagavad Gita⁴, which provides that "*Akirtinchapi bhutani kathaishyanti te-a-vyayam, Sambha-vitasya*

⁴ Chapter 2, Verse 34, <https://www.holy-bhagavad-gita.org/chapter/2/verse/34/>

Chakirtir maranadatirichyate”⁵. The irony lies in the fact that though the victim of such crimes should be provided with societal support is rather forced into societal condemnation.

Traditionally, social memory worked on the principle of “out of sight, out of mind.” But in today’s virtual world, this principle has faded as everything today once exposed remains perpetual. Information about sexual offenses has spread with unprecedented rapidity and permanence across the internet, transcending territorial and temporal constraints. Once disseminated, such information becomes hard to withdraw, and may even act as a deterrent to victims to come forward and register complaints against sexual offenses, fearing that the aftereffects of disclosure would last longer than the crime itself. Thereby, confirming the belief that “Shame may feel worse than death.”

The situation is further intensified by media sensationalism and ongoing media trials in public, wherein the line between public interest and intrusion stands blurred. Instead of receiving sympathy and mental support, victims bare public judgment and humiliation. Even though various statutory laws provide victim compensation schemes as a measure of restorative justice, however this monetary respite alone cannot prove to be a remedy to the indefinable yet unfathomable harm caused by social stigma and reputational damage. Though such financial assistance in form of compensation may alleviate instant economic hardships, but it cannot reinstate dignity, mend fractured social relationships, or obliterate the social condemnation that shades victim’s life long after the crime has been committed and even after the justice has been served i.e., after the trial is concluded. In context of same, various empirical research⁶ conducted in past further validates that the fact that costs of such abuses extend far beyond the immediate happening of the crime. For instance, several systematic reviews have summarized findings from studies on sexual abuse. These review report link between sexual abuse and depression, posttraumatic stress disorder (PTSD)⁷, eating disorders, and suicide attempts⁸.

⁵ This means that for someone who has been respected, shame may feel worse than death. This observation highlights the lasting social and emotional effects of public disgrace. In the case of crime victims—especially in sexual offence situations—the revelation of their identity does not just reveal personal information. It also threatens to cause lasting damage to their reputation, which can outweigh even financial loss.

⁶ Rose DS (1986) Worse than Death: Psychodynamics of Rape Victims and the Need for Psychotherapy. *Am J Psychiatry* 43(7): 817-824.

⁷ Post-traumatic stress disorder (PTSD) is a mental health condition caused by an extremely stressful or terrifying event, either by experiencing it or witnessing it. Symptoms can include flashbacks, nightmares, severe anxiety, and uncontrollable thoughts about the event.

⁸ There are many incidents reported in India related to this issue. Recently, in January 2026, a minor rape survivor in Meerut attempted suicide because she could not handle the humiliation and the threats she faced after the incident. Retrieved from: <https://www.hindustantimes.com/cities/lucknow-news/meerut-minor-rape-survivor-attempts-suicide-over-threats-accused-held-101769784428768.html>

However, the inclusion of cross-sectional studies limits the conclusions.⁹ These findings fortify the argument that while legal acknowledgment and financial support are important, yet they are not enough to address the deeper psychological and social wounds experienced by victims.

This concern assumes greater urgency when reckoned against the backdrop of rising crime statistics. Evidently, the data from NCRB¹⁰ reflects a consistent surge of crimes day by day and consequently also the number of victims. The escalating number of victims underlines the persistent need for robust legal mechanisms which are aimed at safeguarding their dignity, privacy and identity.

Thereby, a separate branch of victimology was formed in the mid-twentieth century. In contrast to the traditional offender centric approaches, this branch shifts its prime focus from offenders to understanding how and why individuals fall victim to offenses¹¹ and to examine ways to assist them in accessing justice and protecting themselves against abuse of power.

Using victimology, global criminal jurisprudence has highlighted that justice is incomplete unless victims' rights are recognized, restored, and protected. In this setting, victim restitution has emerged as a critical component of any modern legal system, and victims, particularly those of sexual offenses, must be treated with dignity, sensitivity, and compassion. Thereby, the General Assembly of the United Nations (hereinafter as UN) made a declaration for Victims of crime that highlighted basic principles for Victims, viz., access to justice and fair treatment, restitution, compensation and, assistance.¹²

During the initial years of independence of India, victims' rights were also not considered as a cardinal component of criminal justice system. But eventually, with extensive global as well as national development, it was realized that the prevailing criminal justice system was still offender-centric and required a reversal of trend by putting the victim at its centre.¹³ Consequently, the Code of Criminal Procedure (Amendment) Act, 2008 was enforced from 31st

⁹ Suprakash C, Ajay K B, P S Murthy, Biswajit J. Psychological Aspects of Rape and Its Consequences. *Psychol Behav Sci Int J.* 2017; 2(3): 555586. DOI:10.19080/PBSIJ.2017.02.555586

¹⁰ As per the latest data of National Crime Records Bureau (NCRB), a total of 62,41,569 cognizable crimes were registered across India in 2023. Evidently, the number of cases registered in 2023 increased by 7.2% as compared to 2022.

¹¹ Rachel Mattison: *Criminal Victimization the World Society of Victimology* (No. 30 of 2009)

¹² UN General Assembly Resolution 40/34, adopted 29 November 1985, officially titled the "Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power," found in document A/RES/40/34.

¹³ Malimath Committee Report (2003) emphasized the need for support and assistance to victims of crime and for protection of their rights.

December 2009 to provide relief and compensation to victims who are worst sufferers in a crime.

Further, The Indian Legislature as well as the judiciary also recognises various victim rights. Some of these rights are : Victim's right to take part in criminal proceedings¹⁴; Victim's right to Dignity, Privacy and Personal Liberty¹⁵; Victim's assistance and support to cope with the aftermath of victimization; Monetary Assistance and Medical reimbursement¹⁶; Victim's Claims in Plea Bargaining¹⁷ not to be ignored; Victim's right of compensations¹⁸; Protection of Victim's Constitutional Right of Privacy¹⁹; Compensation under various enactments such as The Probation of Offenders Act, 1958, The Motor Vehicles Act, 2019, The Public Liability Insurance Act, 1991; and many more.

This article highlights the right of identity protection for victims, as mandated by the legislature, and its compliance, particularly among media houses.

IDENTITY PROTECTION OF VICTIMS

Human lives are formed not only by the liberties individuals boast in public spaces but also by the boundaries using which humans preserve their private sphere. The capability of a human to be in control of his/her personal information, shield intimate encounters from public gaze, and live a life which is free from undue intrusion is fundamental to human dignity. This fundamental idea is provided in law in terms of "right to privacy"²⁰. Every person has an inherent right to privacy. The same is followed even to a person who is a victim of a "*heinous crime*" such as rape. Moreover, this right is so vital that if the same is violated, then the victims of such crimes often prefer not to turn up to an authority for redressal as they fear that their identity will be revealed, which would consequently amplify the distress and agony that they are already been witnessing. Therefore, to provide such victims access to redressal, the Indian Legislature has enacted various rules under different statutes to secure the information and at the same time protect the identity of the victim from being exploited (also includes exploitation by the

¹⁴ Justice V.S. Malimath Committee Report of Criminal Justice System (2003) pp. 270-72.

¹⁵ *State of Gujarat vs. Hon'ble High Court of Gujarat*, AIR 1998 SC 3164

¹⁶ *Jacob Mathew vs State of Punjab & Ors.* (2005) 6 SCC

¹⁷ Section 290 BNSS

¹⁸ Section 395 and 396 of BNSS

¹⁹ *State of Punjab vs. Gurmeet Singh*, AIR 1996 SC 1393

²⁰ Article 21 of the Constitution of India

authority the victim is referring).

Below is a list of various enactments showing the intent of legislature in this context:

Section 72 BNS (erstwhile Section 228A of IPC)	Provides for the Anonymity of Victim.
Section 73 BNS	All Court Proceedings to be done in secrecy and no order/judgement to be uploaded for public view. Except in HC, SC
Section 266 (2) and (3) of BNSS (erstwhile Section 327 (2) and (3) of CrPC)	To hold the Court proceedings in camera.
Section 22 HMA	To hold the Court proceedings in camera. All Court Proceedings to be done in secrecy and no order/judgement to be uploaded for public view. Except in HC, SC
Section 153B of CPC	To hold the Court proceedings in camera.
Section 99 of JJ Act	To erase all the information regarding a case or litigant, when the case has already been decided and disposed off.
Section 74 of JJ Act	To erase all the information regarding a case or litigant, when the case has already been decided and disposed off.
Section 36 and 37 of POCSO Act	All Court Proceedings to be done in secrecy and no order/judgement to be uploaded for public view. Except in HC, SC
Section 33 of Special Marriage Act	To hold the Court proceedings in camera. All Court Proceedings to be done in secrecy and no order/judgement to be uploaded for public view. Except in HC, SC
Section 15A of SC ST Act	Anonymity of Victim and Witness Protection.
Section 44 of UAPA	To hold the Court proceedings in camera. and witness protection
Section 17 of NIA	To hold the Court proceedings in camera and witness protection

Various heinous crimes are committed against the socially vulnerable groups, such as women, children, persons with disabilities, etc. Crimes like rapes and acid attacks are recognised as the

highest level of torture which are perpetrated against womanhood, motherhood and childhood. Though traditionally, Indian culture has casted women as embodiments of power and virtue, and equating them to divine celestials. Yet, notwithstanding this cultural reverence, women—predominantly those belonging to the rural areas and destitute social groups—witness prejudice, defencelessness, and widespread disregard. Consequently, sexual violence is not merely a terrible act against the specific woman but an attack on the community at large. The suffering caused by these offences is often worsened by society's inclination to blame the victim, ostracization, and the lack of understanding shown during police inquiries and judicial processes.

Moreover, crime against women increased from 445,256 in 2022 to 448,211 in 2023, with a crime rate against women 66.2% and charge-sheeting rate of 77.6% in 2023.²¹

For the purpose of analysis, I denotes the number of incidences or cases reported, V refers to the number of female victims, and R represents the women crime rate per lakh population. According to the data, the total number of rape cases recorded was 29,670 (I), involving 29,909 victims (V), with a crime rate (R) of 4.4. Of these, cases involving women aged 18 years and above accounted for 28,821 incidences (I) and 29,057 victims (V), with a crime rate of 4.3. In contrast, cases involving girls below 18 years comprised 849 incidences (I) and 852 victims (V), with a crime rate of 0.1. The extent of these figures emphasizes the vulnerability of victims and highlights the critical importance of strict adherence to legal safeguards on non-disclosure of victim identity, as any breach of anonymity risks compounding the trauma faced by survivors and discouraging reporting of such offences.

Recognising the multifaceted challenges, the Indian legislature has introduced various provisions, as cited in the above table, to protect the victims of such crimes. Moreover, the Indian Judiciary, through various precedents such as *State of Punjab v. Gurmit Singh*²² and *Aju Varghese v. State of Kerala*²³, among others, has reaffirmed that preserving a victim's anonymity is indispensable to protect their dignity and to enable them to pursue justice.

One of the landmark cases in context of non-disclosure of victim identity is of **Nipun Saxena v. Union of India**²⁴. Under this case, the Hon'ble Apex Court issued comprehensive guidelines

²¹ <https://www.ncrb.gov.in/uploads/files/1CrimeinIndia2023PartI1.pdf>

²² (1996) 2 SCC 384

²³ 2018 (4) KLT 477

²⁴ AIR ONLINE 2018 SC 826

that encouraged complete anonymity of rape victims, mandating child-friendly procedures, and encouraging the establishment of one-stop centers for victim support. Following are the guidelines:

1. *No one may broadcast the victim's name in print, electronic, or social media, or even in a distant way divulge any details* that might lead to the victim's identification and should make her identity known to the general public.
2. *In cases where the victim is deceased or mentally ill, the victim's name or identity should not be revealed*, even with the consent of the next of kin, unless circumstances justifying the disclosure of her identity exist, which must be decided by the competent authority, which in the present case is the Sessions Judge.
3. *FIRs for offences under Sections 376, 376-A, 376-AB, 376-B, 376-C, 376-D, 376-DA, 376-DB, or 376-E of the IPC, as well as violations under POCSO, are not to be made public.*
4. *If a victim files an appeal under Section 372 CrPC, the victim is not required to reveal his or her identity*, and the appeal will be handled according to the law.
5. *All papers in which the victim's identity is exposed should be kept in a sealed cover as much as possible, and these documents should be replaced with similar documents in which the victim's name is deleted from all records* that may be scrutinized in the public domain.
6. *All authorities to whom the victim's name is provided by the investigating agency or the Court are likewise obligated to keep the victim's name and identity secret and not to disclose the same in any way except in the report*, which should be delivered to the investigating agency or the Court in a sealed envelope.
7. *An application by the next of kin to authorize the disclosure of the identity of a dead victim or of a victim of unsound mind under Section 228-A(2)(c) IPC should be made only to the Sessions Judge concerned until the Government acts under Section 228-A(1)(c) lays down criteria as per our directions for identifying such social welfare institutions or organizations.*
8. *In the case of juvenile victims under the POCSO Act, 2012, the Special Court can only allow their identity to be revealed if it is in the child's best interests.*

9. *All the States and Union Territories are requested to set up at least one 'One-Stop Centre' in every district within one year from the date of the judgment of the present case.*

However, despite these advancements, challenges in implementation still persist. Media houses often sensationalize cases or indirectly reveal victims' identities, and regulatory bodies have struggled to enforce accountability. Instances such as the Bihar Shelter Home Rape Case reveal the urgent need for stronger compliance measures. Thus, Section 228-A IPC, the Nipun Saxena ruling, and related victim-protection mechanisms are not mere statutory formalities but vital safeguards for upholding the dignity, privacy, and rights of survivors.

Role of Media

The Role of the media plays a vital role in reporting of such crimes as often such cases are reported in a sensational manner to produce a bigger audience, which further results into the violation of the interests and the rights of the victims. Though the media has a freedom of speech and expression under Article 19 of the constitution of India. But such a right is not an absolute right, and therefore media houses always pose an obligation towards the victim whose diegesis they are broadcasting, to not disclose his/her identity. Further, the Apex Court in Nipun Saxena Judgement highlighted that *"media reporting should be responsible and not sensationalized. While the media has the right and duty to report crimes, it must do so without compromising the privacy, dignity, or well-being of minor victims. Sensational reporting, the Court observes, may boost television ratings (TRPs) but undermines the credibility of the media and harms the very individuals it seeks to protect."*

Despite the above-mentioned clear directives, the same is time and again violated by various media houses. Moreover, this media disclosure has worsened with the evolution of online media and social media handles.²⁵

Instances where the same was violated:

1. Hyderabad Rape Case

Herein, a 26-year-old doctor was gang raped and murdered by four men in Shamshabad, Telangana on the night of 27 November, 2019. However, after the incident took place various

²⁵ <https://timesofindia.indiatimes.com/india/plea-in-hc-seeks-action-against-media-houses-for-revealing-identity-of-hyderabad-rape-victim/articleshow/72370499.cms>

media platforms blatantly exposed the victim's identity. Thereby, a Delhi based lawyer filed a PIL in Delhi High Court to take action against the media revealing the identity of the victim and the four accused of the Hyderabad Rape case. Social Media platforms like Facebook, twitter were also made respondents in this case. Basically, this plea argued that the landmark ruling of Nipun Saxena was blatantly violated in this case. Thereby, the Delhi High Court issues notice to various media houses for violating victim's right to privacy.

Despite legal action taken afterwards, digital traces of the incident, including reports that reveal identifying details, are still available online. This highlights the lasting and often permanent nature of information shared online.



2. RG Kar Medical College Rape- Murder Case



In this case, a 31-year-old postgraduate doctor at a Medical College and Hospital was raped and murdered. The case was sub judice under the Supreme Court of India. The same was being repeatedly broadcasted on different news channels as well as several social media accounts

²⁶Source: <https://newschecker.in/fact-check/viral/internet-trends-around-rg-kar-rape-murder-case-underscore-disturbing-truths>

which clearly revealed the victim's face as well as her identity. The examples of specific news headlines and social media handles are attached herewith. However, on August 20, the Apex Court took note of this issue and thereby ordered to remove all the details regarding the victim's identity from all platforms. The court remarked, "Images and video clips depicting the deceased's body are being shared on social media. We mandate that all photographs and video clips featuring the deceased's name be taken down from every social media platform immediately. The Chief Justice DY Chandrachud, JB Pardiwal, and Manoj Misra emphasized that revealing the person's identity goes against the Supreme Court's previous ruling in the *Nipun Saxena case (supra)*.²⁷

3. Jalandhar minor rape case

Recently, in Jalandhar, Punjab, a 13-year-old minor girl was raped by a 50-year-old neighbour. Despite the absolute ban on disclosure of victim identity under POCSO, JJ Act and BNS, the victim's face was depicted on various media channels as well as interviews with minor victim's parents were broadcasted through their channels. The Apex Court in *Nipun Saxena* had significantly noted that that even minor details, like the name of a village, can concomitantly disclose a child's identity, especially in smaller communities. Further, Section 23 of POCSO clearly prohibits the disclosure of child's identity- *including name, address, photograph, family, school, neighborhood, or any particulars that could lead to identification—unless expressly permitted by the Special Court in the child's interest*. Herein, the Court also rejected the argument that the identity of deceased child victims should be disclosed to generate public sentiment for justice, observing that the dignity of the dead must also be respected. Further, the Court also referred to Section 74 of the Juvenile Justice (Care and Protection of Children) Act, 2015, which strictly prohibits the disclosure of a child's identity who are part of legal proceedings. This provision bars reporting in newspapers, magazines, audiovisual media, or any other form of communication that might reveal the name, address, school, or other particulars leading to the identification of a child in conflict with the law, a child in need of care and protection, or a child victim or witness of a crime. The publication of a child's photograph is similarly prohibited.

This incident reflects the persistent gap between the victim identity protection given in BNS and POCSO and their societal practice. The specific news coverings and social media posts are

²⁷ AIR ONLINE 2018 SC 826

attached herewith.



Role of Authorities

The authorities that should concern itself with non-disclosure of victim identity include Police officials, Advocates/Public Prosecutors, Judges, Judicial Officers, Health care Professionals, Non-governmental Organizations. All of the them are the Frontline professionals which have a duty of non-disclosure towards the victims.

Moreover, the Apex Court in the landmark ruling of Nipun Saxena noted that despite being innocent, victims who are subjected to various sexual crimes are stigmatized and ostracized. Even after filing an FIR, victims encounter intimidating and accusatory inquisitorial by the police officials, and also in court, they undergo harsh cross-examinations which are direct attack on their character and morals. Though, the defence counsel has the right to cross-examine, but the same must be exercised with decency and respect. Despite efforts to sensitize courts since 1996²⁸, victims' identities are still sometimes revealed, compounding their trauma.

The Apex Court highlighted that Police and investigative authorities may record the victim's identity in FIRs or investigation files, but the same should not be made public. Instead, Pseudonyms can be used where possible, and all sensitive documents must be maintained in

²⁸ *State of Punjab v. Gurmit Singh*, (1996) 2 SCC 384

sealed covers, replacing public-facing records with anonymized copies. Disclosure of identity should be strictly limited to circumstances necessary for investigation, such as medical examination, DNA profiling, or verifying age, and even then, recipients are bound to maintain confidentiality. Such documents, when submitted to courts under Section 173 CrPC, should remain sealed to prevent inadvertent disclosure. The disclosure is only possible if the adult victim himself certifies so in writing or by the authorization of the next kin (authorization to be certified by the Session Judge). However, the same direction has been violated even today.

Recently, the Bombay High Court in the case of *Sajjan s/o Hirchand Gusinge vs. State of Maharashtra*²⁹ directed the Police to not to disclose the victim's identity in chargesheets. A Division Bench of Justice Vibha Kankanwadi and Justice Abhay S. Waghware took note of the chargesheet filed by the Police which contained certain photos of the victim at the spot of the incident. The Court stated the such disclosure cannot be made openly. And such photographs should be dealt only in sealed envelope covers ensuring the non-disclosure.

Also, in the case of *State of Punjab v. Gurmit Singh*,³⁰ the Court had raised serious concerns about the lack of sensitivity towards victims of sexual crimes during investigation and trial. Such victims often encountered secondary victimization, by being interrogated repeatedly about the traumatic incident in a humiliating manner. However, the Victims should not feel to be themselves at fault or coerced while such interrogation. The Court highlighted that in camera trials should be the rule for rape cases, and open trials should be conducted in such cases only as an exception³¹. It also stressed that courts should avoid revealing the victim's name in judgments to prevent social ostracism and embarrassment.

However, the implementation of the same is facing challenges even today. For instance, recently the Apex Court in the case of *Utpal Mandal vs. State of West Bengal and Anr.*³² expressed concern over the disclosure of the identity of victim of POCSO Act. The Court specifically remarked that an exercise of sensitization of judicial officers as well as Police officers is required to be undertaken in the State of West Bengal so as to ensure the compliance of non-disclosure provision.

²⁹ Criminal Appeal No. 869 of 2022

³⁰ (1996) 2 SCC 384

³¹ In line with Section 327(2) of CrPC.

³² 2024 Livelaw (SC) 282

Likewise, in *Bhupinder Sharma v. State of Himachal Pradesh*³³, the Supreme Court explicitly referred to Section 228A IPC, holding that the identity of victims of sexual offences must not be disclosed in court orders or judgments. Even though Section 228A does not restrict the publication of High Court or Supreme Court judgments, the Court remarked that judges should avoid mentioning the victim's name to prevent social victimization. Therefore, victims are often referred only as "victim" in judgments, thereby respecting their privacy and dignity.

Similarly, the Kerala High Court in *Aju Varghese v. State of Kerala*³⁴ emphasized that the prohibition under Section 228A IPC serves a vital social purpose: protecting the victim from psychological and sociological harm, preventing public shaming, and enabling reintegration into normal life. The Court clarified that the provision is absolute, and whether a disclosure is intentional, bonafide, or accidental does not diminish its legal consequence. Victims retain their fundamental right to privacy, and society has a duty to uphold it.

The Court also addressed *a scenario not explicitly covered by the lawmakers*. Section 228A IPC clearly bars the disclosure of a victim's name or identity. But questions arise *when the accused is acquitted and the victim seeks to file an appeal under Section 372 CrPC*. The Court clarified that such a victim may request permission to file the appeal using a pseudonymous name, such as 'X' or 'Y', ensuring that her identity remains confidential and no third party is inadvertently affected.

While certain official documents—like affidavits or power of attorney—may necessarily record her real name, these should be submitted in a sealed envelope to the Court. *The Court may verify the identity privately, but the victim's name must not appear in any material placed in the public domain*. Furthermore, the Court directed that *applications for pseudonymous filing be heard in chambers, and the victim's name should not appear in the cause list until the matter is decided*. This ensures complete protection of the victim's identity even when exercising her right to appeal.

GLOBAL COMPARISON

Almost across the globe, victim disclosure is illegal. Below the legal framework of 3 countries

³³ (2003) 8 SCC 551

³⁴ CrI. MC No.5247 of 2017 decided on 27.09.2018

in context of same is highlighted.

UNITED KINGDOM

In United Kingdom, victim identity protection evolved from the Sexual Offences (Amendment) Act 1976 which introduced anonymity for both complainants and defendants in Rape cases in England and Wales. However, in 1988³⁵ the entitlement given to defendants was removed as it was observed that accused of rape crimes are same as that of other offences and they do not warrant special treatment. Further, though Open Justice Principle operates in England but there are exceptions to it. For instance, the Sexual Offences (Amendment) Act 1992 imposed a life-long ban on reporting anything likely to identify the alleged victim of a sexual offence. Further, Children and Young Persons Act 1933 prohibit the media to publish the name, address, school or any matter likely to identify a child or young person involved in the youth court proceedings whether as a victim, defendant, or witness. Further, the print media and broadcasters also operate under self-regulatory bodies, namely, Editor's Code of Practice (for print media) and Office of Communications Code and the BBC's Editorial Guidelines (for broadcasters), which provide guidance on reporting criminal cases in various codes of practice. A research study was done in 2010 by Ministry of Justice, United Kingdom which suggested that most victims and accused of rape are known to each other and some of the victims do not indulge in reporting such crimes as they fear that public disclosure will lead a bizarre to them and their family and friends.³⁶

USA

In USA, the disclosure of a victim's identity is a complex balance between the first Amendment's guarantee of free press and the individual's right of privacy, often resulting in protections that vary significantly based on the type of crime, the age of the victim and jurisdiction.³⁷ Though, US law does not provide automatic or lifelong anonymity to victims of sexual offences through a single federal statute. Rather, the privacy protections of victims arise from the blend of victim right's legislations, court interpretations, and policies.

³⁵ Under Criminal Justice Act 1988

³⁶ *Providing Anonymity to Those Accused of Rape: An Assessment of Evidence*. Ministry of Justice Research Series 20/10, Ministry of Justice, UK, Nov. 2010. gov.uk, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/193636/anonymity-rape-research-report.pdf.

³⁷ <https://www.mediacrimevictimguide.com/right.html>

Further, as per the National Women's Study report presented in Rape in America: A report to the Nation emphasized that 84% of rape victims do not report the crime to police. Almost 9 out of 10 women felt victims would be less likely to report such crimes if their identities are disclosed by the media houses.³⁸

Thereby, Criminal Justice System provides various rights to the victims. For instance, Crime Victim's Rights Act provides the rights of victims and also the mechanism to enforce these rights.³⁹

Individuals who have been victimized are entitled to safeguard their personal information, including their name or identity, address, phone number, and employment details found in criminal justice documents, compensation records, and court testimonies, as well as any contact information provided for notification purposes. This measure enhances the victim's safety, which could be compromised if their personal details are disclosed to the public. In some U.S. states, this protection is also extended to witnesses and the close relatives of the victim. Specific groups of victims, including children, those who have experienced sexual assault, domestic violence, stalking, or human trafficking, as well as the elderly and other vulnerable adults, possess extra confidentiality rights that cater to their distinct privacy needs.

AUSTRALIA

In Australia, the identity of victims of crime are safeguarded through a blend of **general privacy law and specific criminal justice-oriented disclosure prohibitions**. These rules operate at both federal and state/territory levels. This legal structure is designed not only to regulate the handling of personal information but also to safeguard the dignity, safety, and psychological well-being of victims throughout the criminal justice process.

At the federal level, privacy protection is provided under Privacy Act, 1988, which controls how government agencies and private organizations collect, use, and share personal information. Similar privacy laws exist across Australian states and territories. While these laws don't focus on specific victims, they create a general framework that limits unnecessary sharing

³⁸ Kilpatrick, D., C. Edmunds, and A. Seymour, Rape in America: A Report to the Nation, Arlington, VA: National Victim Center and the Medical University of South Carolina, National Crime Victims Research and Treatment Center, 1992.

³⁹ https://law.justia.com/codes/us/title-18/part-ii/chapter-237/sec-3771/?utm_sour

of personal data, including information about crime victims.

In addition to general privacy laws, Australian jurisdictions have put in place specific rules against publishing identifying information about victims, especially those who complain about sexual offences. For example, laws like the Judicial Proceedings Reports Act 1958 in Victoria, the Crimes Act 1900 in New South Wales, and the Criminal Law (Sexual Offences) Act 1978 in Queensland, along with similar laws in other states and territories, automatically restrict the publication of names or details that could identify victims of sexual offences, unless there is a court order or informed consent. Breaking these rules is a criminal offence, showing a move away from strict open-justice principles to prioritize victim protection.⁴⁰

SUGGESTIONS

The Nipun Saxena v. Union of India judgment marked an important step in strengthening the rights and protection of victims of sexual offences, both adults and children. The Supreme Court highlighted the non-disclosure of victim identity under Section 228A IPC and the POCSO Act. This aimed to protect victims from social shame, harassment, and emotional distress. The judgment also stressed the importance of child-friendly courts, private trials, and one-stop centres. These measures help victims engage in the legal process without fear or intimidation.

While the judgment provided clear guidelines for the media, trial courts, and the government, putting these into practice remains a challenge. Cases like *Sangita Yeshwant Tanpure v. State of Maharashtra* and the Delhi High Court's ruling on a victim's right to be heard show the ongoing difficulties in ensuring strict adherence to these protective measures.

Going forward, the success of the Nipun Saxena directives will rely on steady enforcement, awareness training for judicial officers and media, and the expansion of support systems for victims.

To ensure that judicial directives provide meaningful protection, the following measures are suggested:

⁴⁰ Nanchil, J. D., & Dhana Varsha, S. (2025). *A comparative overview on right to privacy of heinous crime victims*. International Journal for Legal Research and Analysis, 2(7), 14. <https://www.dois.org/doi/10.25824/2025-77742672/A%20COMPARATIVE%20OVERVIEW%20ON%20RIGHT%20TO%20PRIVACY%20OF%20HEINOUS%20CRIME%20VICTIMS>

1. Strengthening Enforcement and Compliance

Develop Standard Operating Procedures (SOPs) for police, prosecutors, and courts to ensure consistent enforcement of non-disclosure rules, including sealed filing of sensitive documents to restrict public access.

Create accountability mechanisms within police and courts, including penalties for unauthorized disclosure of victim identities and regular compliance audits.

2. Sensitization and Capacity Building

Trauma-informed training must be mandatory for judicial officers, law enforcement, and media personnel to improve understanding of victim psychology and rights.

Judicial and prosecutorial academies should include detailed modules on protecting victim identity, based on Nipun Saxena's directions.

3. Media Reform and Responsible Reporting

Media codes of conduct must clearly include non-disclosure obligations, highlighting that identification means names and any details that could reveal identity.

Press regulatory bodies should create ways to review violations and enforce corrective action when media reports disclose identifying information.

4. Digital Platforms and Online Harassment

Digital platforms increase the risk of identity disclosure, often through viral sharing or coordinated harassment. To address this:

Improved reporting tools on social platforms should quickly flag identity-based harassment, especially when multiple accounts are involved.

Platforms should hire local language grievance officers who can evaluate harmful content in regional contexts and take quick action.

Policies like real-name requirements should be made more flexible to protect the privacy and anonymity of victims, journalists, and whistle-blowers.

5. Legislative and Policy Enhancements

Lawmakers should think about explicit protections against digital harm, including requirements for intermediaries to quickly remove or de-index victim identity information and strong right to erasure provisions for victims.

Victim consent frameworks should be refined to ensure any decision to disclose identity (where legally allowed) is informed, voluntary, and focused on the victim.

6. Integrated Support and Monitoring

The reach of one-stop centers should be expanded with regular checks on service quality and accessibility in rural and underserved areas.

Victim compensation and rehabilitation programs should be streamlined to include psychosocial support and financial assistance for long-term recovery.

7. Role of social media platforms:

Create ways for women and minority group representatives to report harassment, especially incidents with multiple accounts or that last several days, indicating organized activity.

Facebook should review its real-name policy and make it more flexible, especially for marginalized groups, journalists, and whistle-blowers at risk. The right to privacy and anonymity are essential rights that Facebook must protect. Harassment continues despite the policy, and victims fear it can be used against them.⁴¹

By closing the gap between judicial guidance and real-world implementation, India can ensure that sexual offence victims receive not only legal protection but also social and psychological support. This approach will help foster a justice system that is empathetic and accessible.

⁴¹ Security of Women-Technological Issues - Media and social media-impact on women's security. - Security Applications - Cyber Crime and forms of violence against women V.V.L. Srinivasa Murthy, Advocate, A.P.High Court, Amaravathi.

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