

Laksh Vir Singh Yadav v. Union of India & Ors

Case Summary by Krishna Doda

Court: High Court of Delhi at New Delhi

Coram: Sachin Datta, J.

Decision Date: 29 May 2026

Case Nos.: W.P.(C) 1021/2016 and approximately 20 connected writ petitions

1) Facts of the Case

This was a batch of over twenty connected writ petitions filed before the Delhi High Court between 2016 and 2025, each invoking the “right to be forgotten” under Article 21 of the Constitution. The petitioners were a varied group of private individuals (and, in some cases, public figures) seeking to prevent search engines (principally Google), the legal database Indian Kanoon, and in some cases media houses, from continuing to make court orders, judgments, FIRs, or news reports about them searchable by name. The underlying factual situations differed across petitions but fell into recurring patterns:

- **Acquittals and discharges:** Several petitioners had been acquitted of criminal charges (including NDPS offences, blackmail/fraud allegations from a UK conviction, abetment of suicide and cruelty, and rape and criminal intimidation) or had proceedings against them quashed, yet judgments and orders recording the original allegations continued to surface prominently in name-based searches years or decades later.
- **Settled or compounded matters:** Petitions arose from matters that had been resolved through a Memorandum of Understanding or compounding/settlement between parties, with the underlying FIR subsequently quashed.
- **Abated proceedings:** In one matter, the accused (the petitioner’s son-in-law) had died while on bail, causing the criminal trial to abate without any final adjudication on guilt; the surviving family sought de-indexing to protect themselves and the deceased’s kids from continuing stigma.
- **Sexual offence acquittals:** A subset of petitioners had been acquitted of sexual offence charges and argued that such accusations’ stigma is uniquely persistent and disproportionate.
- **Public figures:** At least two petitioners were public figures (a television personality and an individual already convicted abroad) seeking removal of unflattering but factually accurate content; the Court treated these differently from the private-individual cases.
- **A POCSO-related matter:** One case involved disclosure of the identity of a victim of sexual offences in violation of Section 228A of the IPC, which the Court treated as a distinct statutory violation rather than purely a right-to-be-forgotten claim.

The respondents included the Union of India, the Ministry of Electronics and Information Technology (MEITY), Google LLC/Google India, Indian Kanoon, and certain media houses. The respondents raised a preliminary objection that writ jurisdiction under Article 226 could not be invoked against private commercial entities such as search engines and legal databases, since fundamental rights are conventionally enforceable only against the State. On merits, they argued that India has no statutory “right to be forgotten,” that any such right is statute-based and heavily qualified, that intermediaries are protected by safe-harbour provisions under the IT Act, and that judicial records are public records integral to the principle of open justice and judicial accountability.

2) Issues for Consideration

1. **Maintainability:** Whether a writ petition under Article 226 can be maintained against private entities (search engines, legal database operators, media houses) for enforcement of a fundamental right, given that such entities are not “State” within the meaning of Article 12.

2. **Constitutional basis:** Whether, and to what extent, the “right to be forgotten” finds recognition within India’s constitutional and legal framework, particularly as a facet of the right to privacy/informational privacy under Article 21, in the absence of any specific statute.
3. **Balance:** How the individual’s right to informational privacy is to be balanced against the public’s right to know, the principle of open justice, freedom of the press, and the integrity of public judicial records.
4. **Legal parameters:** What specific tests or factors should govern whether “de-indexing” (or “masking”) ought to be directed in a given case, and what categories of cases should be excluded from such relief.
5. **Nature and scope of remedies:** What is the legal and conceptual distinction between “de-indexing” and “masking,” and what directions are appropriate against intermediaries such as Google and Indian Kanoon, including the territorial scope of any de-indexing order (i.e., whether it should be confined to India-specific domains or apply globally).
6. **Application to abated proceedings:** Whether de-indexing can be granted where proceedings have abated by the death of the accused without any adjudication on merits.
7. **Application to public figures and serious offences:** Whether relief should extend to public figures seeking removal of accurate but unflattering content about their public conduct, and to persons convicted (rather than acquitted) of serious offences.

3) Held / Decision of the Court

On maintainability: The Court rejected the preliminary objection. Relying on the Supreme Court's nine-judge decision in *K.S. Puttaswamy (Privacy-9J.) v. Union of India*, (2017) 10 SCC 1 - which held that informational privacy is a facet of the right to privacy and that threats to privacy in the digital age arise from non-State actors as much as from the State - and on *Kaushal Kishor v. State of U.P.*, (2023) 4 SCC 1, which held that fundamental rights under Articles 19 and 21 can be enforced even against persons other than the State, the Court held that its writ jurisdiction under Article 226 cannot be ousted merely because the entity causing the privacy violation is a private commercial actor. To hold otherwise, the Court reasoned, would render the right to informational privacy illusory precisely in the digital domain where it is most acutely threatened. The Court found an independent statutory basis for its directions in Rule 3(1)(d) of the IT (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, which obliges intermediaries to act upon a competent court’s order.

On the constitutional recognition of the right to be forgotten: Tracing the jurisprudential lineage from *R. Rajagopal v. State of Tamil Nadu* (1994) (the “Auto Shankar” case) through *PUCL v. Union of India* (1997) to *Puttaswamy* (2017), the Court held that the right to be forgotten is embedded within the right to informational privacy guaranteed under Article 21. It noted that India presently lacks a comprehensive statute on the subject, but held that the absence of legislation does not preclude constitutional courts from recognising and enforcing the right, invoking the precedent of *Vishaka v. State of Rajasthan* for the proposition that courts may fill a legislative vacuum to protect fundamental rights.

On balancing privacy against open justice: The Court acknowledged the importance of open justice and the public's right to know, and clarified that the relief contemplated was not a blanket restraint on publication or press freedom, but a narrowly tailored remedy targeted at disproportionate and constitutionally unjustifiable digital searchability in specific circumstances.

On the legal parameters for de-indexing: The Court laid down a broad set of contextual factors (not to be applied as a rigid checklist) - including the nature of the information, time elapsed, the individual’s public role, accuracy and continuing relevance, impact on dignity, degree of digital accessibility, and effect on free expression. Within this framework it distilled three specific tests:

- **Test 1:** Character of the information and outcome of proceedings. Acquittal, discharge, quashing of proceedings, or settlement/compounding generally entitles the individual to relief, since the presumption of

innocence (or the consensual extinguishment of the dispute) must be given full effect in the digital domain; continued unlimited searchability in such cases fails the proportionality test.

- **Test 2:** Public role of the individual: Public officials and public figures have a diminished privacy interest only in respect of their conduct in their public capacity; this does not extend to unrelated private or intimate matters.
- **Test 3:** Accuracy and continuing relevance: Drawing on the CJEU's Google Spain ("Costeja") judgment, even lawfully processed and accurate data can lose its justification for continued processing with the passage of time; demonstrably false information has an even weaker claim to continued searchability.

On categories where de-indexing is inappropriate: The Court held that de-indexing should not ordinarily be granted in two categories: (i) convictions for offences against women or children, where continuing public interest in protecting potential victims does not diminish with time; and (ii) convictions involving breach of public trust by public servants, elected representatives, or fiduciaries, where public accountability demands continued accessibility.

On de-indexing and masking as distinct remedies: The Court clarified the conceptual difference between the two remedies: de-indexing prevents a record from being retrieved through name-based search while leaving the underlying record (and its accessibility by case number, citation, or direct means) untouched; masking involves replacing a party's name with a neutral identifier in the publicly displayed version of a judgment while preserving the complete, unredacted record in the court's internal files. The Court characterised masking as a "precisely calibrated intervention" that gives effect to informational privacy without amounting to censorship or suppression of judicial records.

On territorial scope: The Court held that de-indexing confined to a country-specific domain would be of negligible practical value given that the global domain remains freely accessible from India. It accordingly directed that de-indexing operate globally, across all domains and versions of the relevant search engine - a position that departs from the CJEU's own later ruling in *Google v. CNIL* (2019), which had limited the EU's de-referencing obligation to within the EU.

On abated proceedings: Where proceedings abate by the death of the accused without any merits-based determination, the right to be forgotten does not arise in its primary form (since there is no vindication of innocence). However, de-indexing may still be warranted on grounds of proportionality where continued digital accessibility causes disproportionate harm to surviving family members, particularly children, who had no involvement in the proceedings. This relief was granted in the case of the deceased son-in-law.

On public figures and serious/recent convictions: Relief was declined for: (i) a public figure (television personality) seeking removal of content about his own public conduct, since the right to be forgotten protects private individuals against disproportionate perpetuation of information whose legal/social foundation has been extinguished, not selective erasure of past conduct by those who have voluntarily assumed a public identity; and (ii) a petitioner convicted abroad of blackmail and fraud, since the conviction was of relatively recent vintage for an offence whose relevance does not diminish with the mere passage of time and was not so old as to qualify under the English NT1/NT2 v. Google analogy.

On the POCSO-identity matter: The Court treated the disclosure of a sexual-offence victim's identity as a distinct statutory violation under Section 228A IPC read with Article 21 - not merely a discretionary right-to-be-forgotten claim - directing immediate compliance and expressing concern that the victim had to approach the Court at all to enforce what was already a clear statutory protection. Indian Kanoon was separately directed to implement upload-stage safeguards to prevent future disclosure of such identities.