

Supreme Court of India

Nipun Saxena vs Union Of India on 11 December, 2018

IN THE SUPREME COURT OF INDIA
CIVIL/CRIMINAL ORIGINAL JURISDICTION
WRIT PETITION (CIVIL) NO. 565 OF 2012

NIPUN SAXENA & ANR. PETITIONER(S)

Versus

UNION OF INDIA & ORS. RESPONDENT(S)

The Supreme Court of India, in the case of Nipun Saxena vs Union of India, delivered a significant judgment on December 11, 2018. This judgment addressed critical issues related to the protection of the identity of victims of sexual offenses, particularly under the Protection of Children from Sexual Offences (POCSO) Act, 2012, and Section 228A of the Indian Penal Code (IPC).

In view of the discussion, the court issued the following directions—

1. No person can print or publish in print, electronic, social media, etc. the name of the victim or even in a remote manner disclose any facts which can lead to the victim being identified and which should make her identity known to the public at large.
2. In cases where the victim is dead or of unsound mind the name of the victim or her identity should not be disclosed even under the authorization of the next of the kin, unless circumstances justifying the disclosure of her identity exist, which shall be decided by the competent authority, which at present is the Sessions Judge.
3. FIRs relating to offences under Sections 376, 376A, 376AB, 376B, 376C, 376D, 376DA, 376DB or 376E of IPC and offences under POCSO shall not be put in the public domain.
4. In case a victim files an appeal under Section 372 CrPC, it is not necessary for the victim to disclose his/her identity and the appeal shall be dealt with in the manner laid down by law.

5. The police officials should keep all the documents in which the name of the victim is disclosed, as far as possible, in a sealed cover and replace these documents by identical documents in which the name of the victim is removed in all records which may be scrutinised in the public domain.
6. All the authorities to which the name of the victim is disclosed by the investigating agency or the court are also duty bound to keep the name and identity of the victim secret and not disclose it in any manner except in the report which should only be sent in a sealed cover to the investigating agency or the court.
7. An application by the next of kin to authorise disclosure of identity of a dead victim or of a victim of unsound mind under Section 228A(2)(c) of IPC should be made only to the Sessions Judge concerned until the Government acts under Section 228A(2)(c) and lays down a criteria as per our directions for identifying such social welfare institutions or organisations.
8. In case of minor victims under POCSO, disclosure of their identity can only be permitted by the Special Court, if such disclosure is in the interest of the child.
9. All the States/Union Territories are requested to set up at least one one stop centre in every district within one year from today.