

IN THE HIGH COURT OF DELHI AT NEW DELHI
EXTRAORDINARY ORIGINAL JURISDICTION
WRIT PETITION [C] NO. 284 OF 2015

IN THE MATTER OF

RIT Foundation

...Petitioner

Versus

Union of India

...Respondent

FURTHER AFFIDAVIT ON BEHALF OF THE RESPONDENT

I, Shri Prakash, S/o Shri Late Brahma Shankar, aged about 57 years, working as Joint Secretary in Ministry of Home Affairs do hereby solemnly affirm and state as follows-

1. That I am the Authorized Signatory of the Respondent / Union of India in the present case, am conversant with the facts of the case and I am competent to affirm this Affidavit.
2. In continuation of the earlier Affidavit filed on behalf of the Central Government, I place the following facts for kind consideration of this Hon'ble Court.
3. I submit that as narrated in the earlier Affidavit, it was and it is a considered stand of the Central Government that the stand to be taken before this Hon'ble Court by the Central Government can only be after consultation with all the State Governments and other stake holders. This is more so since the issues involved has a direct bearing on the society in general and is a

part of Concurrent List of the Seventh Schedule to the Constitution of India.

4. The Central Government has, therefore, sent a communication dated 10.02.2022 to the Chief Secretaries of all the State Governments / Union Territory Administrations as well as to the National Commission for Women. A copy of the said communication is annexed herewith. The Central Government is awaiting the response from all of them. It is only thereafter that the Central Government will be in a position to take a stand before this Hon'ble Court on thereafter.

5. The Central Government respectfully reiterates its commitment to protect the liberty, dignity and rights of every woman. It is, therefore, desirable that the final adjudication by this Hon'ble Court in the present batch of petition be deferred till the view of the stake holders is received by the Central Government.

Shri Prakash

(श्री प्रकाश)

DEPONENT

(SHRI PRAKASH)

संयुक्त सचिव / Joint Secretary

गृह मंत्रालय

Ministry of Home Affairs

भारत सरकार / Govt. of India

VERIFICATION

Verified at New Delhi on the 21st day of February, 2022, that the contents of my above said Affidavit are true and correct as per records and believed to be true.

No part of it is false and nothing material has been concealed therefrom

Shri Prakash

DEPONENT

(श्री प्रकाश)

(SHRI PRAKASH)

संयुक्त सचिव / Joint Secretary

गृह मंत्रालय

Ministry of Home Affairs

भारत सरकार / Govt. of India

Most Immediate/Time Bound/Court Case

No. 10/17/2015-Judl. Cell-I (Pt.I)
Government of India
Ministry of Home Affairs

North Block, New Delhi
Dated 10th February, 2022

To

The Chief Secretaries of all State Governments/UT Administrations.

Subject: WP(C) No. 284/2015 RIT Foundation v/s. UOI in the Hon'ble High Court of Delhi.

Sir/Madam,

I am directed to say that RIT Foundation has filed WP(C) 284/2015 in the Hon'ble High Court of Delhi and challenged the validity of *Exception 2* of section 375 of Indian Penal Code (IPC). It has been prayed in the above said Writ Petition that *Exception 2* of section 375 of the Indian Penal Code may be struck down as it is violative of article 14 and 21 of the Constitution. *Exception 2* of section 375 of IPC is reproduced below for reference:

"Sexual intercourse or sexual acts by a man with his own wife, the wife not being under fifteen years of age is not rape" (*in 2017 Supreme Court in Writ Petition (Civil) No. 382 of 2013 increased the age to eighteen years*).

2. The Government is committed to protect the liberty, dignity and rights of every woman. However, the question involved in the petition is not merely a question concerning constitutional validity of the above said statutory provision, as the subject matter has and will have far reaching socio-legal implications in the country. The Department Related Standing Committee on Home Affairs in its 167th Report in para 5.9.1 observed that in case marital rape is brought under law, the entire family system will be under great stress and it has potential of destroying the institution of marriage.

3. The subject of 'Criminal law' is in the concurrent list of the Seventh Schedule to the Constitution of India and the criminal laws are enforced by the States/Union Territories. Considering the far reaching consequences, it is desirable that the stand of the Central Government be decided after consultation with stake holders. You are therefore, requested to examine issue and immediately send your views/comments on the same after keeping all relevant issues in mind and after having such consultations at your level as you deem necessary.

Contd....2/-

4. As it is a Court matter and the hearing is fixed on 25th February, 2022, top most priority may please be accorded to this.

Yours faithfully,

Shri Prakash

(Shri Prakash)

Joint Secretary to the Government of India

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