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ITEM NO.12 COURT NO.5 SECTION PIL(W)
S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS
SMW (Crl.) No(s).3/2015
IN RE: PRAJWALA LETTER DATED 18.2.2015
VIDEOS OF SEXUAL VIOLENCE AND RECOMMENDATIONS
(With appln.(s) for impleadment)
Date : 01/02/2017 This petition was called on for hearing today.
CORAM :
HON'BLE MR. JUSTICE MADAN B. LOKUR
HON'BLE MR. JUSTICE UDAY UMESH LALIT
Ms. N.S. Nappinai, Adv. (A.C.)
For Petitioner(s) Ms. Aparna Bhat, AOR
Mr. Pukhrambam Ramesh Kumar, Adv.

For Respondent(s)
For CBI/MHA/Delhi Mr. Maninder Singh, ASG
Mr. R. Balasubramanian, Adv.
Ms. Gunwant Dara, Adv.
Mr. S.A. Haseeb, Adv.
Mr. P.K. Dey, Adv.
Ms. Rashmi Malhotra, Adv.
Mr. T.A. Khan, Adv.
Mr. Prabhas Bajaj, Adv.
Mr. Ananya Mishra, Adv.
Ms. Sushma Suri, AOR
Mr. B. Krishna Prasad, Adv.
Mr. Mukesh Kumar Maroria, AOR
Uttar Pradesh Mr. Vijay Bahadur Singh, Adv. Gen.
Mr. Vijay K. Shukla, AAG
Mr. Ravi Prakash Mehrotra, AOR
Mr. Vibhu Tiwari, Adv.
West Bengal Ms. Reshmi Rea Sinha, Adv.
Mr. Rudra Dutta, Adv.
Mr. Parijat Sinha, AOR
Odisha Mr. Ashish Kumar Sinha, Adv.

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Mr. Sankara Kaushik, Adv.
Mr. Shibashish Mishra, AOR
Jharkhand Mr. Jayesh Gaurav, Adv.
Mr. Gopal Prasad, AOR
Yahoo Mr. Huzefa Ahmadi, Sr. Adv.
Mr. Arvind Verma, Sr. Adv.
Mr. Sanjay Singh, Adv.
Mr. Sohan, Adv.
Mr. S. Alam, Adv.
Mr. Samir Ali Khan, AOR
Facebook Mr. Sidharth Luthra, Sr. Adv.
Mr. Akhil Anand, Adv.
Richa Srivastava, Adv.
Mr. Arpit Gupta, Adv.
Mr. S. S. Shroff, AOR
Google Ms. Ruby Singh Ahuja, Adv.
Mr. Vishal Gehrana, Adv.
Ms. Tahira Karanjawala, Adv.
Mr. Arvind Chari, Adv.
Mrs. Manik Karanjawala, Adv.
for M/s. Karanjawala & Co.
Microsoft Mr. Amar Gupta, Adv.
Mr. Divyam Agarwal, Adv.
UPON hearing the counsel the Court made the following
O R D E R
We have heard learned counsel for the parties. We have also heard Ms. N.S. Nappinai, learned counsel and we request her to assist us in the matter on subsequent hearings.
Two suggestions have been placed for consideration.

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The first suggestion made by learned counsel for the petitioner is that some sort of Central Institution Mechanism should be established by the Government of India.

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This suggestion seems to have the approval of the Ministry of Home Affairs, Government of India as well as the Central Bureau of Investigation (CBI). It appears that the Government of India has given in principle approval to a body called the Cyber Crime Prevention Against Women and Children (CCPWC) and the budget for the CCPWC has been approved by the Standing Finance Committee (SFC) for implementation at a cost of Rs.195.83 crores during the next three financial years.

The constitution of the CCPWC, its duties and responsibilities have not been mentioned in the affidavit filed on behalf of the Ministry of Home Affairs nor are the details of this body available in the affidavit filed by the CBI. Learned counsel for the petitioner has suggested that this body which may also be described as a Central Institution Mechanism may address cases relating to preparation, transmission and circulation of videos depicting rape/gang rape as also videos of sexual violence of unknown women and children in the electronic media.

The further submission made by learned counsel for the petitioner is that the Central Institution Mechanism may function out of a Central Cell within the CBI and may be headed by an officer not lower than the rank of the Inspector General of Police. Necessary infrastructure

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should also be provided to this Central Institution Mechanism. We have already referred to the Budget that is proposed to be made available to the Central Institution Mechanism. Learned counsel for the petitioner also says that the Central Institution Mechanism may take cognizance of cases suo moto or on the basis of a complaint made by an aggrieved person.

Learned Additional Solicitor General says that he will take instructions and get back to us with regard to the constitution, duties and responsibilities of the Central Institution Mechanism or CCPWC including whether it should be established in the Ministry of Home Affairs or in the office of the CBI and with regard to the necessary infrastructure, personnel and manpower for the Central Institution Mechanism or CCPWC. The needful be done within two weeks.

Ms. Nappinai has indicated and submitted that in some western countries instead of blocking objectionable videos, uploading of videos is blocked at the first instance and thereafter the person who wants to upload the video informs the service provider that the video is copyrightable or he holds a copyright on the video and then the service provider uploads that video. This eliminates the uploading of objectionable videos. She submits that a similar sort

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of mechanism can be adopted for the purposes of blocking explicit videos and photographs and contents (textual contents) of objectionable material.

It is submitted by learned counsel appearing for Facebook Ireland that there is already a mechanism in operation through which it is possible to scan objectionable photographs and to block them and to stop them from being uploading. He, however, points out that there is a possibility of masking of photographs and that may result in some objectionable photographs being uploaded. He says that he is not aware whether any such technology exists with regard to videos and he would like

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to take instructions in this regard.

Learned counsel appearing for Yahoo India, Google India and Microsoft India also say that they would like to take instructions in this regard and get back on the technological aspect and the feasibility of adopting or adapting the suggestions given by Ms. Nappinai.

On the request of learned counsel for Google India, Google Inc., 1600, Amphitheatre Parkway, Mountain View, CA 94043, USA (email: Support-in@google.com) is impleaded as respondent and formal notice may be issued to it.

Learned counsel for the petitioner says that she will serve Google Inc. by email.

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Any affidavit that may be filed by any of the parties should be filed within two weeks from today.

List the matter on 21 st February, 2017 at 3.00 p.m.

(SANJAY KUMAR-I)
AR-CUM-PS

(JASWINDER KAUR)
COURT MASTER

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