

ITEM NO.9 Court No.1 (Video Conferencing) SECTION II-C

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Crl.) No(s). 3185/2020

(Arising out of impugned final judgment and order dated 08-07-2020 in WPCRL No. 1029/2020 passed by the High Court Of Delhi At New Delhi)

RED LYNX CONFEDERATION

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(FOR ADMISSION and I.R. and IA No.63556/2020-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.63558/2020-EXEMPTION FROM FILING AFFIDAVIT and IA No.63555/2020-PERMISSION TO APPEAR AND ARGUE IN PERSON)

Date : 11-09-2020 This petition was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE A.S. BOPANNA

HON'BLE MR. JUSTICE V. RAMASUBRAMANIAN

For Petitioner(s) Ms. Sangeeta Dogra - in person

For Respondent(s) Mr. Tushar Mehta, Ld. SG
Mr. Rajat Nair, Adv.
Ms. Swati Ghildiyal, Adv.
Mr. B V Balaram Das, AOR

UPON hearing the counsel the Court made the following
O R D E R

The petitioner seeks certain directions to ensure prevention of attempts to commit suicide by persons by throwing themselves in the animal enclosures in Zoos. This act of attempt to commit suicide is an offence punishable under section 309 of the India Penal Code (for short, the 'IPC').

However, we find that Section 115 of the Mental Healthcare Act, 2017, which creates a presumption, has an impact on section 309 IPC. Section 115 of the Mental Healthcare Act, 2017 reads as under :

"115. Presumption of severe stress in case of attempt to commit suicide.- (1) Notwithstanding anything contained in section 309 of the Indian Penal Code (45 of 1860) any person who attempts to commit suicide shall be presumed, unless proved

otherwise, to have severe stress and shall not be tried and punished under the said Code.

(2) The appropriate Government shall have a duty to provide care, treatment and rehabilitation to a person, having severe stress and who attempted to commit suicide, to reduce the risk of recurrence of attempt to commit suicide."

Issue notice to the learned Attorney General for India, calling upon the Union of India to justify the validity of section 115 of the Mental Healthcare Act, 2017 which virtually negates section 309 IPC.

Service of notice on Respondent No.1 - Union of India is waived since Mr. Tushar Mehta, learned Solicitor General, appears and accepts notice on behalf of the learned Attorney General for India.

Let notice be also issued to other respondents.

Let this matter be tagged with the Writ Petition challenging the constitutional validity of Section 309 IPC, which is pending before this Court.

At the request of Ms. Sangeeta Dogra, petitioner-in-person, we appoint Mr. ANS Nadkarni, learned Senior Counsel as Amicus Curiae, to assist the Court in the present matter.

(SANJAY KUMAR-II)
ASTT. REGISTRAR-cum-PS

(INDU KUMARI POKHRIYAL)
ASSISTANT REGISTRAR