



drishti

Case Study – 7 : Right to be Forgotten

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Ramesh, once a struggling theatre artist was accused and later freed from rape charges, which the jury found out to be ill conceived and wrongly targeted. Not able to handle the situation, he changed profession and moved on. Many years later, while his closest friends know about the incident, his co-workers do not. One day, out of curiosity, he surfs his personal records on the internet, and to his surprise, finds that the results reflect an old report in a local newspaper about the rape charges he faced.

Ramesh is upset; after all these years, he would like to be able to disclose the event only to whomever he wants. He has been informed about the decision of the European Court of Justice, which allows individuals to submit requests to a search engine to remove certain results from searches on their names, and citing the same, requests the search engine and media outlet to remove the results.

Valid arguments can be advanced for making the 'Right to be Forgotten' a fundamental right? What those arguments could be? What limitations, if any, can it be subjected to? Should there be any obligations on the search engines regarding cases, which are no longer relevant, as the one mentioned above?

Solution

The issues involved in the above case are:

The right to a life with dignity of an individual who has been absolved of all the charges in the past.

The responsibility of INTERNET search engines to present unbiased information even of past events while not infringing the right to privacy of an individual.

Fear of Ramesh to be dragged into his past on disclosure of facts through INTERNET and his right to be forgotten.

The application of extra-territorial laws in India.

The tendency in Indian society to stereotype individuals based on distorted facts or through misinterpretation of facts.

Based on the above mentioned issues, arguments can be presented to make Right to be forgotten a fundamental right. However, infringement of fundamentals right rests on actions by individuals or by the state. Thus, no action can be taken for stereotyping, hatred or biasness. Also for legal recording and for administrative purposes in future, records of settled cases must remain in the public domain. Further people under Right to Information can easily extract such information when they require to do so. Thus internet can't be barred from providing information. However, in settled cases, they can add this information along with related data so that anyone who surfs for the information must have full information on any incident. But in his private capacity Ramesh can apply to the government for making the above changes with respect to page authors or search engines.