



TECHNOLOGY LAW

# The Right to Be Forgotten in Indian Law: A Landmark Framework

Delhi High Court Delivers Comprehensive Judgment on De-Indexing, Masking, and the Constitutional Limits of Digital Memory High Court of Delhi | W.P.(C) 1021/2016 & Connected Matters | 29 May 2026 | Justice Sachin Datta In a judgment of considerable constitutional and practical significance, the High Court of Delhi has, for the first time, articulated a [...]

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In a judgment of considerable constitutional and practical significance, the High Court of Delhi has, for the first time, articulated a comprehensive legal framework for the right to be forgotten in India. Delivered by Justice Sachin Datta on 29 May 2026 in a consolidated batch of over thirty writ petitions, the decision in *W.P.(C) 1021/2016 & Connected Matters* resolves a question that has grown increasingly urgent in the digital era: whether an individual whose name appears in publicly accessible judicial records may invoke the constitutional right to informational privacy under Article 21 to seek de-indexing of those records from name-based search results and masking of personal identifiers from their publicly accessible digital versions.

The judgment is not merely a disposition of individual grievances. It is a structured, doctrinal exposition that sets out the constitutional basis of the right, identifies the modalities of relief, formulates multi-factor tests for each, establishes absolute bars to the exercise of that right, and issues binding operational directions to Google LLC, Indian Kanoon (iKanoon Software Development Private Limited), and other search engine operators and intermediary platforms. It represents the most detailed judicial treatment of the right to be forgotten in Indian jurisprudence to date.

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## Background and Context

The petitioners before the Court formed a diverse group united by a common grievance: the permanent and indiscriminate digital searchability of judicial records bearing their names. They included persons acquitted of criminal charges, parties to resolved matrimonial disputes, individuals whose names appeared incidentally in proceedings to which they were not parties, and persons whose cases had been quashed or compounded. In each instance, a search of the petitioner's name on commercial search engines or on Indian Kanoon surfaced those judicial records prominently, with adverse and continuing consequences for reputation, employment, and personal dignity.

The respondents were correspondingly diverse, encompassing the Union of India through the Ministry of Electronics and Information Technology (MEITY), Google LLC and its Indian entities, iKanoon Software Development Private Limited, media houses, and platform operators including X Corp (formerly Twitter). The case was therefore simultaneously a proceeding in constitutional law, a dispute about the duties of private intermediaries under the Information Technology Act 2000 and the IT Rules 2021, and an examination of the relationship between the principle of open justice and the realities of the algorithmic

internet.

Several prior Indian judicial decisions had touched upon the right to be forgotten, including the Kerala High Court in *Vysakh K.G. v. Union of India* (2022 SCC OnLine Ker 7337) and the Karnataka High Court in *XXXX v. High Court of Karnataka* (2024 SCC OnLine Kar 18). The Supreme Court had acknowledged the conceptual basis of the right in *Justice K.S. Puttaswamy (Retd.) v. Union of India* ((2017) 10 SCC 1), particularly in the concurring opinion of Justice Sanjay Kishan Kaul. No High Court, however, had previously attempted to synthesise these threads into a comprehensive operational framework. The Delhi judgment fills that gap.

## The Court's Reasoning

### Constitutional Foundation: Article 21 and Informational Privacy

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The judgment proceeds from the proposition that informational privacy, meaning an individual's right to control the dissemination of personal information about herself, is a constitutionally protected right under Article 21, firmly established by the nine-judge Constitution Bench in *K.S. Puttaswamy*. From this foundation, the Court holds that the right to be forgotten flows naturally and necessarily as a further dimension of that right. The Court accepts Justice Kaul's reasoning in *K.S. Puttaswamy* that the internet's permanence has created a qualitative problem: humans forget, but the internet does not forget and does not let humans forget. An individual is entitled to control her existence in the digital domain and is not obliged to remain perpetually defined by past events, particularly where those events have been formally resolved in her favour by a court of law.

The Court identifies the right to be forgotten not as a freestanding entitlement to erase history, but as a proportionality-based claim to moderate the digital amplification of historical records where that amplification is disproportionate to any legitimate public interest. The right is explicitly acknowledged to be non-absolute and subject to competing constitutional values.

### The Conflict Between Privacy and Open Justice

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A central analytical contribution of the judgment is the distinction it draws between open justice and unlimited digital searchability. The Court reasons that the principle of open justice, which requires that judicial records exist, be maintained, and be accessible to those with a legitimate purpose, is fully satisfied by the maintenance of searchable court records accessible by case number, citation, court, or date. What open justice does not require, and cannot be extended to mandate, is that a private individual's name functions as a permanent and unlimited retrieval key through a commercial search engine, enabling any casual internet user to instantly surface the entirety of a person's judicial history.

*"Open justice does not require, and cannot be extended to mandate, that a private individual's name functions as a permanent and unlimited retrieval key, through a commercial search engine, enabling any casual internet user to instantly access the entirety of an individual's judicial history."*

This analytical move is significant. It reframes the conflict: the Court is not choosing between privacy and transparency; it is distinguishing between purposeful access to public records (which open justice demands and which is unaffected by de-indexing) and algorithmic amplification by commercial platforms (which has no necessary connection to open justice and which may be moderated). The Court observes that search engine rankings are driven by engagement rather than accuracy, and that the algorithm optimising for what is most clicked, most shared, and most sensational is a commercial tool, not a guardian of judicial transparency.

### Maintainability Against Private Respondents

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A preliminary objection raised by Google, Indian Kanoon, and media respondents was that writ jurisdiction under Article 226 does not ordinarily lie against private entities that do not perform a public function. The Court addresses this with reference to *Kaushal Kishore v. State of Uttar Pradesh & Ors.* ((2023) 4 SCC 1) and the broader jurisprudence on the horizontal application of fundamental rights, holding that where fundamental rights are engaged and no effective alternative remedy is available, the court retains jurisdiction. The Union of India, as the entity with statutory authority over intermediary regulation under the IT Act and IT Rules, is in any event a proper respondent, and the ultimate directions to Google and Indian Kanoon are framed as directions under Rule 3(1)(d) of the IT Rules 2021, which intermediaries are obliged to comply with upon receipt of a court order.

# The Legal Framework: Key Principles and Tests

## De-Indexing: The Seven-Factor Test

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The Court articulates a seven-factor contextual framework for the grant of de-indexing relief. These factors are:

- 1. The nature of the information**, being whether it pertains to intimate private life, professional conduct, or public record.
- 2. The passage of time** and the continuing relevance of continued disclosure.
- 3. The public role of the individual**, with heightened transparency expectations attaching to those who hold or exercise public office or influence.
- 4. The accuracy and completeness of the material**, with outdated, misleading, or partial information presenting a weaker case for continued accessibility.
- 5. The impact on dignity and autonomy**, including reputational harm and stigma, weighed against the public welfare served by disclosure.
- 6. The degree of digital accessibility**, recognising the algorithmic amplification specific to online platforms.
- 7. The effect on freedom of expression and the integrity of public records.**

These factors are not a checklist; they are to be weighed contextually. The Court then identifies specific outcome-based tests. Most significantly, it holds that where proceedings have resulted in acquittal, discharge, or quashing, the presumption of innocence requires that the judicial determination of non-guilt be given practical effect in the digital domain. An acquittal effective in law but negated by the permanent digital searchability of the accusation produces a constitutional incongruity. Similarly, for settled or compounded matters, the consensual extinguishment of the claim removes the public interest basis for continued searchability; and for matrimonial and purely private civil proceedings, the intimate nature of the subject matter places them at the core of the protected zone of privacy.

## Masking: The Parameters

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The Court recognises masking, meaning the replacement of a party's name with a neutral reference in the publicly accessible digital version of a judgment, as a complementary relief that operates at the level of the court record itself rather than at the search engine. Masking is directed to the originating court or its registry. The Court establishes that only names and personal identifiers are masked, not the substance, reasoning, or findings of the judgment. The complete, un-redacted version is preserved in the court's internal records and remains accessible to parties, counsel, and authorities with a legitimate legal purpose. Masking operates both retrospectively and prospectively. A masking order is itself a court order for the purposes of Rule 3(1)(d) of the IT Rules 2021, obliging search engines to de-index and Indian Kanoon to disable name-based search functionality in respect of the masked record.

## Absolute Bars to Relief

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The Court is careful to identify the categories in which relief will not be available, and these must be understood at two distinct levels: the formal categorical bars set out in the general framework, and the outcome of specific petitions where the proportionality analysis produced the same result for case-specific reasons.

**At the level of the general framework**, paragraph 206 of the judgment identifies two categories in which neither de-indexing nor masking will be apposite, regardless of other circumstances:

**First, cases involving a conviction for offences against women or children.** Where a person stands convicted of such an offence, there subsists a continuing public interest in the accessibility of that information, for the protection of potential victims and those responsible for their safety, that does not attenuate with the passage of time.

**Second, cases involving a conviction for offences involving breach of public trust**, including offences by public servants, elected representatives, and persons in positions of fiduciary responsibility. The principle of democratic accountability demands that the public retain access to information about the abuse of public trust.

These two bars are stated in absolute terms. They operate independently of the proportionality analysis applied to all other cases.

**At the level of the proportionality framework**, the judgment identifies the public role of the individual as a significant and potentially decisive factor. Where proceedings relate directly to the manner in which a public figure has exercised their public role, the public interest in continued accessibility carries constitutional weight sufficient to defeat a claim for relief. This is not, however, a categorical exclusion from the right to be forgotten. The judgment expressly confines the public figure principle to conduct in the public capacity: a public figure's matrimonial dispute, or conduct entirely unrelated to their public role, does not become a matter of public interest merely by reason of the petitioner's public status.

The application of these principles in the present batch of petitions produced two further dismissals. The petition of a public figure seeking erasure of content relating to well-documented conduct in the public domain, specifically posts, videos, and articles depicting incidents of drunken behaviour, was dismissed on the ground that the petitioner had voluntarily assumed a public identity and the mere passage of time does not extinguish public interest in such conduct. Separately, the petition of a public figure whose FIR for sexual offences had been quashed on the basis of a private settlement was refused: the Court held that settlement-based quashing of serious allegations against a public figure does not extinguish the continuing public interest in the accessibility of those proceedings in the way that an acquittal or a judicially driven quashing would.

Neither of these outcomes reflects a categorical rule of general application. They are the product of the proportionality analysis applied to the specific combination of factors in each case, and should be read as such.

## Operational Directions and Compliance Framework

The judgment's operational directions are precise and time-bound. Google LLC, Google Inc., Google India Private Ltd., and all other search engine operators are directed to de-index the relevant content from name-based search results within two weeks of the date of the judgment. Indian Kanoon is directed to restrict name-based search functionality within its platform in respect of the identified records, while preserving access by case number, citation, court, and date. MEITY is directed to communicate these directions to all relevant search engine operators and intermediary platforms and to file a compliance affidavit within four weeks.

The Court characterises compliance with these directions as equivalent to compliance with a direction under Rule 3(1)(d) of the IT Rules 2021, resolving what had previously been a practical obstacle: intermediaries such as Google had argued that absent a judicial order addressed to them, they had no legal obligation to act on de-indexing requests. The judgment removes that ambiguity. It also expressly preserves the architecture of Indian Kanoon by limiting the direction to name-based search restriction rather than removal of the records themselves.

Indian Kanoon is separately directed to implement appropriate systems at the point of upload to prevent future disclosure of the identities of victims of sexual offences, addressing a structural gap in the platform's current practices.

## Practical Implications for Stakeholders

### Individuals and Litigants

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For individuals who have been acquitted, discharged, had proceedings quashed, or who are parties to concluded matrimonial or private civil matters, this judgment creates an actionable legal basis for seeking relief that did not previously exist in consolidated form. The outcome of proceedings is the single most important factor: those who have been formally exonerated by a court of law are, in principle, entitled to have that exoneration reflected in their digital persona. The judgment also specifically recognises the particular stigma associated with accusations of sexual offences, holding that acquitted persons in such cases are entitled to relief almost as a matter of course.

A practical point worth noting: where this Court has granted de-indexing, petitioners are also at liberty to seek masking from the originating court. These are complementary reliefs and there is no reason not to pursue both. Applications for masking should be moved expeditiously given the Court's recognition of the continuing nature of the harm caused by the availability of personal identifiers in the public digital domain.

### Technology and Platform Operators

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For search engine operators and legal database platforms, the judgment clarifies and operationalises the compliance obligation. Directions of the kind issued in this case are to be treated as court orders under Rule 3(1)(d) of the IT Rules 2021, imposing a

mandatory compliance obligation. The scope of de-indexing is specific: it operates at the level of named URLs and name-based search results; it does not require platforms to modify their underlying architecture. Indian Kanoon's model of access by citation or case number is expressly preserved.

Platforms should also note the prospective dimension of masking orders: where a court issues a masking direction in respect of one of its records, future digitisation or uploading of that record must also comply. Operational procedures for receiving and acting on masking orders should accordingly be reviewed.

## Media Houses and Publishers

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The Court declines to issue directions of complete takedown against media houses in these proceedings, while preserving the petitioners' liberty to pursue appropriate remedies, including defamation claims, through separate proceedings. The judgment's de-indexing directions are addressed to search engine operators rather than original publishers, meaning that where content remains on the publisher's website, only its discoverability through name-based search is moderated rather than its existence.

Media organisations should, however, note the Court's observation that digital publishers, where identical demands are made by acquitted persons or victims, ought to consider masking, delisting, and deleting names from their digital records as a matter of responsible editorial practice rather than waiting for litigation. This is a judicial observation rather than a binding direction, but it signals the direction of travel.

## MEITY and Regulatory Bodies

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The direction to MEITY to ensure compliance and file a compliance affidavit introduces an institutional accountability mechanism that did not exist in prior decisions on this subject. Regulatory bodies will need to build a workflow for communicating such court directions to intermediaries at scale, particularly as further decisions from other High Courts applying this framework can be expected to follow.

# Situating the Decision Within the Existing Legal Framework

Several features of the judgment repay particular attention in terms of how it interacts with existing law and anticipated developments.

First, the Court addresses directly the absence of comprehensive statutory backing for the right to be forgotten in India. It holds that the absence of specific legislation does not preclude Constitutional Courts from recognising and enforcing the right, drawing on the Supreme Court's approach in *Vishaka v. State of Rajasthan* ((1997) 6 SCC 241). This is a considered and defensible position within established constitutional doctrine, but it also means that the framework established in this judgment may be subject to revision or codification as Parliament's attention turns to this area. The Digital Personal Data Protection Act 2023 is noted in the judgment as recognising a right of erasure, but its relationship to the right to be forgotten in the judicial records context is not definitively resolved.

Second, the judgment carefully engages with comparative jurisprudence, including the Court of Justice of the European Union in *Google Spain SL, Google Inc. v. Mario Costeja Gonzalez* (C-131/12), the European Court of Human Rights Grand Chamber in *Hurbain v. Belgium* (Application No. 57292/16), and the Queen's Bench Division in *NT1 and NT2 v. Google LLC* ([2018] EWHC 799 (QB)). The Court does not import these frameworks wholesale, recognising that the GDPR and related European instruments have no direct Indian equivalent. It draws on them, instead, as comparative markers for the proportionality analysis it constructs on constitutional grounds.

Third, the distinction between de-indexing and erasure is jurisprudentially important. The Court is explicit that neither de-indexing nor masking amounts to the deletion of judicial records. Records continue to exist, remain accessible by purposeful identifier, and retain their institutional, precedential, and accountability functions. What changes is only their discoverability through name-based commercial search. This is not a trivial distinction: it is precisely this framing that enables the Court to hold that de-indexing is consistent with, rather than in tension with, the principle of open justice.

## Concluding Observations

The Delhi High Court's judgment in W.P.(C) 1021/2016 and connected matters is a landmark contribution to Indian privacy law and to the emerging global jurisprudence on the right to be forgotten. It supplies what had been missing: a structured, principled, and judicially workable framework for balancing the individual's right to informational privacy against the constitutional importance of open justice, freedom of expression, and the public interest in transparency and accountability.

The framework is calibrated with care. It is generous to acquitted persons, the discharged, and those whose matters have been consensually resolved, recognising that the law's determination in their favour should carry practical consequences in the digital domain. It is restrained in relation to public figures, those with subsisting convictions, and those who invoke the right to suppress rather than moderate. And it is operationally complete, addressing not only the constitutional basis of the right but the mechanism of enforcement, the duties of intermediaries, the role of MEITY, and the relationship between de-indexing and masking as complementary rather than alternative reliefs.

Questions will inevitably arise in subsequent litigation. How the framework applies where petitioners are quasi-public figures, where convictions are spent, or where foreign convictions are involved will require further judicial development. The relationship between this judgment and the Digital Personal Data Protection Act 2023 as its provisions come into force will also require attention. But as a foundational statement of principle and practice, this judgment merits close reading by all those whose clients operate in the intersection of privacy, technology, and the law.

**Source Reference:** [W.P.\(C\) 1021/2016 & Connected Matters, High Court of Delhi, 29 May 2026](#)

## Related Practice Areas

Cybersecurity and Incident Response

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