



WEB COPY



W.P.No.223 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.04.2023

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.223 of 2013

M.P.No.1 of 2013

Nirbhaya

...Petitioner

-Vs-

1. The Union of India

Rep by its
Secretary to Government,
Law Department,
New Delhi.

2. The State of Tamilnadu

Rep by its
Chief Secretary to Government,
Fort St. George,
Chennai.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Declaration propounding the 19th century feudalistic penalty prescribed by Section 376 of IPC of imprisonment of between 2 years to life imprisonment for commission of offences defined in 375 of IPC including the exception provided for marital rape, as being ultra vires Articles 21, 13 & 14 of the Constitution of India, and to fix capital punishment without sentencing discretion (including compoundability of marital rape) as being consonant with the



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requirements of Articles 21 & 14 for 376 IPC, besides providing for inheritance rights for children born out of rape in the penal law itself.

For Petitioner : No appearance

For Respondents

For R2 : Mr.V.Yamunadevi
Special Government Pleader

ORDER

This Writ Petition has been filed to declare propounding the 19th century feudalistic penalty prescribed by Section 376 of IPC of imprisonment of between 2 years to life imprisonment for commission of offences defined in 375 of IPC including the exception provided for marital rape, as being ultra vires Articles 21, 13 & 14 of the Constitution of India, and to fix capital punishment without sentencing discretion (including compoundability of marital rape) as being consonant with the requirements of Articles 21 & 14 for 376 IPC, besides providing for inheritance rights for children born out of rape in the penal law itself.

2. Today, when the matter is taken up for hearing, no one is appearing on behalf of the petitioner either in person nor through counsel.



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3. Hence, this Writ Petition is dismissed for default.

Consequently, connected miscellaneous petition is closed. There shall be no order as to cost.

13.04.2023

Internet: Yes

Index : Yes/No

Speaking/Non Speaking order

rts

To

1. The Secretary to Government,
Union of India
Law Department,
New Delhi.
2. The Chief Secretary to Government,
State of Tamilnadu
Fort St. George,
Chennai.
3. The Public Prosecutor,
Madras High Court,
Chennai.



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G.K.ILANTHIRAIYAN. J.

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