

ITEM NO.301

COURT NO.6

SECTION IIB

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

CRIMINAL APPEAL NO(s). 135 OF 2010

BUDHADEV KARMASKAR

Appellant (s)

VERSUS

STATE OF WEST BENGAL

Respondent(s)

( With office report )  
[FOR DIRECTIONS ]

Date: 19/07/2011 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE MARKANDEY KATJU  
HON'BLE MRS. JUSTICE GYAN SUDHA MISRA

Amicus Curiae Solicitor General of India (NP)

Amicus Curiae Mr. Pradip Ghosh, Sr. Adv.  
Mr. Pijush K. Roy, Adv.Amicus Curiae Mr. Jayant Bhushan, Sr. Adv.  
Ms. Reena George, Adv.  
Mr. Gautam Talukdar, Adv.

For Appellant(s) Mr. Lajja Ram, Adv. (A.C)

For Respondent(s)

Mr. T.C. Sharma, Adv.

Mr. P.P. Malhotra, A.S.G.  
Mr. Gaurav Sharma, Adv.  
Ms. Sushma Suri, Adv.

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Mr. Ashok Bhan, Sr. Adv.  
Ms. Sadhana Sandhu, Adv.  
Mr. Mohd. Khairati, Adv.  
Mr. D.S. Mahra, Adv

Mr. Irshad Ahmad, Adv

Ms. Anitha Shenoy, Adv.

Mr. Ratnakar Das, Sr. Adv.  
Mr. Sandeep Singh, Adv.  
Mr. Anuvrat Sharma, Adv.Mr. I. Venkatanarayana, Sr. Adv.  
Mr. D. Mahesh Babu, Adv.  
Mr. Ramesh Alanki, Adv.

Mr. Maunit Kumar, Adv. Formulated

M/s Corporate Law Group

Mr. Anil Srivastava, Adv.

Mr. Gopal Singh, Adv.  
Mr. Manish Kumar, Adv.

Mr. P.P. Malhotra, A.S.G.  
Ms. Anjani Aiyagari, Adv.  
Mr. Wasim Quadiri, Adv.  
Mr. Zaid Ali, Adv.  
Ms. Anil Katiyar, Adv.

Ms. Hemantika Wahi, Adv.

Mr. Manjit Singh, Adv. Gen.  
Mr. Tarjit Singh, Adv.  
Mr. Kamal Mohan Gupta, Adv.

Mr. Abhishek Sood, Adv.  
Mr. Rohit Kr. Singh, Adv.

Mr. Sunil Fernandes, Adv.  
Ms. Astha Sharma, Adv.

Mr. P.V. Dinesh, Adv.

Mr. Sanjay Kharde, Adv.  
Ms. Asha G. Nair, Adv.

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Mr. KH. Nobin Singh, Adv.

Mr. Balaji Srinivasan, Adv.

Mr. R.S. Jena, Adv.

Mr. Kuldip Singh, Adv.  
Mr. R.K. Pandey, Adv.  
Mr. H.S. Sandhu, Adv.  
Mr. K.K. Pandey, Adv.  
Mr. Mohit Mudgil, Adv.

Mr. A. Mariarputham, Adv. Gen.  
Ms. Aruna Mathur, Adv.  
Mr. Avneesh Arputham, Adv.  
Mr. Yusuf Khan, Adv.  
Ms. Megha Gaur, Adv.  
M/s Arputham Aruna & Co.

Mr. Abhijit Sengupta, Adv.  
Mr. B.P. Yadav, Adv.

Mr. Anil K. Jha, Adv.  
Mr. Dharmendra Kr. Sinha, Adv.  
Ms. Chhaya Kumari, Adv.

Mr. Anirudha Kr. Sinha, Adv.

Mr. V.G. Pragasam, Adv.  
Mr. S.J. Aristotle, Adv.  
Mr. Prabu Ramasubramanian, Adv.

Mr. K.N. Madhusoodhanan, Adv.

Ms. A. Subhashini, Adv.

Mr. Jogy Scaria, Adv.

Mr. M.S. Doabia, Adv.

Ms. Kiran Bhardwaj, Adv.

Mr. Edward Belho, Adv.

Mr. K. Inatoli Sema, Adv.

Mr. Nimshim Voshum, Adv.

Mr. Ranjan Mukherjee, Adv.

Mr. S.Bhowmick, Adv.

Mr. S.C. Ghosh, Adv.

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Dr. Manish Singhvi, Adv.

Mr. Vijay Verma, Adv.

Ms. Savita Singh, Adv.

Mr. Anand Grover, Adv.

Ms. Tripti Tandon, Adv.

Ms. Shivangi Rai, Adv.

UPON hearing counsel the Court made the following

O R D E R

Mr. P.P. Malhotra, learned Additional Solicitor

General appearing for the Union of India, has stated that

the affidavit of the Central Government will be filed

within a week. He may do so.

Mr. A. Wasim A Qadri, learned counsel appearing for

the Government of Delhi, has stated that he will be filing

the affidavit on behalf of the Delhi Government in the

course of the day. He may do so.

Mr. Manish Kumar, learned counsel appearing for the

State of Bihar, has stated that he will file the affidavit

on behalf of the State of Bihar in the course of the day.

He may do so.

Mr. Kuldip Singh, learned counsel appearing for the

State of Punjab, seeks two days' time to file the affidavit

on behalf of the State of Punjab. He may do so.

Ms. A. Subhashini, learned counsel appearing for the

State of Goa, Mr. K.N. Madhusoodhanan, learned counsel

appearing for the State of Mizoram, Mr. Jogy Scaria,

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learned counsel appearing for the State of Kerala,

Mr. Sunil Fernandes, learned counsel appearing for the

State of Jammu & Kashmir, and Mr. M.S. Doabia, learned counsel appearing for the Union Territory of Chandigarh, have stated that they will file the affidavits on behalf of their respective States and Union Territory within a week. They may do so.

Ms. Hemantika Wahni, learned counsel appearing for the State of Gujarat, Mr. C.D. Singh, learned counsel appearing for the State of Madhya Pradesh, and Mr. Subramaniam Prasad, learned counsel appearing for the State of Tamil Nadu, have stated that they will file the affidavits on behalf of their respective States within two weeks' time. They may do so.

It appears that the State of Uttarakhand has not filed its affidavit. None appeared on behalf of the State of Uttarakhand. The Standing Counsel for the State of Uttarakhand is directed to file the affidavit within two weeks' time.

All the above affidavits, when filed, are directed to be taken on record.

Copies of all the affidavits be given to Mr. Pradip Ghosh and Mr. Jayant Bhushan, learned senior counsels, who have earlier been appointed as Amicus Curiae in this matter.

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We further add that the affidavits which will be filed on behalf of several States and on behalf of the Union of India should focus on the implementation of the suggestions as we are acutely conscious that affidavits merely indicating and suggesting that States and the Union of India are doing enough would not be sufficient for the cause for which this matter has been taken up. We, therefore, suggest that the States, Union Territories and the Union of India should highlight suggestions for implementation of the programmes and the schemes which

might have been formulated, and come out with concrete suggestions in this regard.

We hereby constitute a Panel for assisting us in this matter consisting of the following :-

- (i) Mr. Pradip Ghosh, Senior Counsel  
who will be the Chairman of the Panel
- (ii) Mr. Jayant Bhushan, Senior Counsel
- (iii) Usha Multipurpose Co-operative Society  
through its President/Secretary
- (iv) Durbar Mahila Samanwaya Committee  
through its President/Secretary
- (v) Roshni through Ms. Saima Hasan  
152, Golf Links, New Delhi.

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The Chairman of the Panel, Mr. Pradip Ghosh, is authorised to nominate any other Organisation or individual in this Panel. The purpose of this Panel is to assist and advise us for giving suitable directions in this matter. All States, Union Territories and Union of India shall co-operate with this Panel so that the Panel can perform its functions effectively. The States and the Central Governments will attend the meetings to be fixed by the Chairman of the Panel from time to time. The Central Government will allot suitable accommodation in Delhi and staff and necessary infrastructure for the meetings of the Panel. The State Governments and the Central Government will allocate sufficient funds for the schemes suggested by us.

Since this is a continuing mandamus, to begin with we will focus on the metropolitan cities of India, namely, Delhi, Kolkata, Chennai and Mumbai as this problem of sex workers is more acute and on a much larger scales in these metropolitan cities. However, this does not mean that we will not take up other cities into consideration.

We may reiterate that this exercise has been done by us because the word "life" in Article 21 of the Constitution of

India has been interpreted in several decisions of this Court

to mean a right to "life with dignity".

It is only if a sex

worker is able to earn a livelihood through technical skills

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rather than by selling her body that she can live with

dignity, and that is why we have requested all the States and

the Union of India to submit schemes for giving technical

training to these sex workers.

Mr. Jayant Bhushan, learned senior counsel, who is also

Amicus Curiae in this case, has submitted that there are

broadly three aspects of the matter :-

- (1) Prevention of trafficking,
- (2) Rehabilitation of sex workers who wish to leave sex work, and
- (3) Conditions conducive for sex workers who wish to continue working as sex workers with dignity.

These aspects may be studied by the Panel and they may

make suitable suggestions to the Court.

Mr. Anand Grover, learned counsel

appearing for Usha

Multipurpose Co-operative Society and Durbar Mahila Samanwaya

Committee, has made a good suggestion that in order to get

rehabilitation done and implemented properly, it is necessary

to carry out a survey for ascertaining how many sex workers

want rehabilitation and to find out a mechanism for

rehabilitation. The States, the Union Territories and the

Union of India will carry out this survey through their

agencies and report to the Panel constituted by this Order.

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Copy of this Order will be given to the counsels in this

case as well as to the Panel members forthwith.

List on 02.08.2011 at 10.30 a.m. before this Bench.

( Rajesh Dham )  
Court Master

( Indu Satija )  
Court Master