

## SYNOPSIS

This review petition impugns the judgment and order dated 11.12.2013 passed by this Hon'ble Court in Civil Appeal No. 10972 of 2013 and in all connected matters, whereby this Hon'ble Court has upheld the validity of Section 377, Indian Penal Code, 1860 (hereinafter 'Section 377') that criminalises all penile-non vaginal sexual acts between consenting adults and set aside the judgment dated 02.07.2009 passed by the High Court of Delhi in *Naz Foundation (India) Trust v. The Government of NCT of Delhi & Ors.* [W.P. (C) No. 7455 of 2001], which had declared Section 377 unconstitutional, insofar as it criminalised consensual sexual acts of adults in private, violated Articles 21, 14 and 15 of the Constitution.

There are a number of grave and manifest errors of law and wrong application of law in the impugned judgment that need to be corrected under review by this Hon'ble Court. This impugned judgment is contrary to the well-settled legal principles under Article 21 and 14 of the Constitution to assess the validity of Section 377, IPC that criminalises all penile-non vaginal sexual acts between consenting adults.

The present review impugns the judgment of this Hon'ble Court, which is of constitutional import of substantial public interest and far reaching public importance. It involves the interpretation by the High Court on Articles 14, 15 and 21 of the Constitution of India, which is in line with jurisprudence around the world. That interpretation has been negated without consideration of the submissions of the Review Petitioner or of the reasoning of the High Court and without sound and legal reasoning, contrary to well-settled principles laid down by this Hon'ble Court.

This Hon'ble Court has failed to consider that Section 377, which prohibits all penile-non vaginal sexual acts between consenting adults, violates right to privacy of all persons under Article 21, irrespective of sexual orientation. This Hon'ble Court did not consider the High Court's findings on rejection of public health and public morality as the purported compelling State interest in retaining Section 377.

This Hon'ble Court has failed to consider that Section 377, by criminalising certain intimate sexual conduct between consenting adults, violates the right to dignity of all, irrespective of sexual orientation. In particular, by criminalising the only form of sexual expression of homosexual men and transgender/hijra persons, i.e., penetrative sex, it impairs and violates their dignity and sense of selfhood.

This Hon'ble Court has failed to consider that Section 377, by criminalising intimate sexual acts between consenting adults, does not pass the test of substantive due process under Article 21, wherein the law itself has to be substantively fair, just and reasonable.

This Hon'ble Court has failed to consider that Section 377 violates the right to health of men having sex with men, since criminalisation of same sex activity impedes access to health services of these marginalised communities who remain underground due to fear of law. This Court has not considered the wealth of materials shown by the Review Petitioner and affidavits submitted by the Ministry of Health and Family Welfare, Government of India stating that Section 377 hampered HIV prevention efforts.

This Hon'ble Court has completely ignored the comparative jurisprudence from foreign jurisdictions on anti-sodomy laws and how they have been struck down for being violative of rights to privacy, dignity and autonomy of Lesbian, Gay, Bisexual and Transgender (hereinafter 'LGBT') persons. Instead, this Court rejected the High Court's findings under Article 21 on the basis that the High Court had blindly applied foreign jurisprudence in the domestic context.

This Hon'ble Court has erred in upholding Section 377 under Article 14, on the basis that the classification between carnal intercourse in the ordinary course of nature and carnal intercourse against the order of nature is valid and not arbitrary, without recording a finding on the rational nexus with the object of legislation.

This Hon'ble Court has failed to record a finding whether Section 377 is vague and arbitrary, since there is no definition of carnal intercourse against the order of nature in the penal law and no clarity exists on which sexual acts are prohibited under the law, as argued by the Review Petitioner.

Contrary to settled position of law that in assessing the constitutional validity of a statute, the effect or impact of the law must be looked into, this Hon'ble Court has failed to look at the effect of Section 377, which is to target a particular class of persons, i.e., homosexual men and transgender persons.

This Hon'ble Court has failed to consider whether Section 377 violates Article 15, as argued by the Review Petitioner and as held by the High Court that sexual orientation is a ground analogous to sex and that

discrimination on the basis of sexual orientation is not permitted by Article 15.

This Hon'ble Court has erred in not applying the test of passage of time to Section 377, wherein a law may become unreasonable and arbitrary with passage of time and in light of change of circumstances.

This Hon'ble Court has erred in applying the principle of presumption of constitutionality in case of Section 377 on appeal, which was held to be unconstitutional and read down to that extent by the Delhi High Court in 2009 in its originating jurisdiction and the said decision was not appealed by the Union of India. In this regard, no presumption of constitutionality existed in favour of Section 377.

This Hon'ble Court has erred in ignoring the fact that the Union of India has made a considered decision not to challenge the High Court decision, since it found 'no legal error' in the judgment and had accepted the verdict that Section 377 was unconstitutional, in so far as it criminalised adult consensual sexual acts in private.

This Hon'ble Court has erred in ignoring the fact that the High Court judgment was challenged in this Hon'ble Court by the private parties; most of whom were not even parties in the High Court.

The impugned order dated 11.12.2013 of this Hon'ble Court has caused immense prejudice to all adult persons engaging in consensual sex, in particular from the LGBT community who suddenly have been put at risk of prosecution under criminal law and require immediate relief.

## LIST OF DATES

- 2001 The Review Petitioner filed a public interest litigation, being Writ Petition (Civil) No. 7455 of 2001, in the Hon'ble Delhi High Court challenging the constitutionality of Section 377, *Indian Penal Code*, 1860 (hereinafter 'Section 377, IPC'), on the grounds that it violated Articles 14, 15, 19 and 21 of the Constitution.
- 07.12.2001 Rule D.B. was issued by a Division Bench of the Hon'ble Delhi High Court.
- 28.01.2002 Notice was issued to the Attorney General of India, in view of the petition challenging the constitutional vires of Section 377, IPC
- 04.09.2003 The Union of India, through the Ministry of Home Affairs, filed a counter affidavit opposing the writ petition
- 02.09.2004 The Hon'ble Delhi High Court dismissed Writ Petition (Civil) No. 7455 of 2001 on the ground that there was no cause of action as no prosecution was pending against the Review Petitioner under the impugned Section 377 IPC and held that an academic challenge to the constitutionality of a legislative provision could not be entertained.

- 15.10.2004 Review Petition 384 of 2004 in Writ Petition (Civil) No. 7455 of 2001 was filed by the Review Petitioner before the Hon'ble Delhi High Court.
- 03.11.2004 The Hon'ble Delhi High Court rejected the review petition filed by the Review Petitioner vide its order in Review Petition No. 384 of 2004 in Writ Petition (Civil) No. 7455 of 2001.
- 16.02.2005 The Review Petitioner filed a special leave petition, being SLP (C) No. 7217-7218 of 2005 challenging the orders of the Hon'ble Delhi High Court dated 02.09.2004 and 03.11.2004.
- 03.02.2006 This Hon'ble Court disposed the Civil Appeal No. 952 of 2006 arising out of SLP (C) 7217-7218 of 2005, holding that the matter required consideration and set aside the impugned orders dated 02.09.2004 and 03.11.2004, directing the Delhi High Court to consider Writ Petition (C) 7455 of 2001 afresh.
- 17.07.2006 Ministry of Health and Family Welfare, through National AIDS Control Organisation, filed an affidavit in support of the writ petition
- 22.11.2006 Intervention application by Voices against 377, a coalition of 12 organisations working on child rights, women's rights, human rights, and rights of lesbian, gay, bisexual and transgender persons, was allowed

by the Hon'ble Delhi High Court. They placed on record various materials including affidavits, FIRs, judgments and orders with objectively documented instances of exploitation, violence, rape and torture suffered by LGBT persons.

02.07.2009

The Division Bench of the Hon'ble Delhi High Court delivered its final order and judgment, finding Section 377 IPC, insofar as it criminalised consensual sexual acts of adults in private, violated Articles 21, 14 and 15 of the Constitution. As a result, the Hon'ble Delhi High Court read down Section 377 to that extent but clarified that Section 377 IPC would continue to govern non-consensual penile non-vaginal sex and penile non-vaginal sex involving minors.

09.09.2009

A special leave petition being *Suresh Kumar Koushal v. Naz Foundation and Ors.*, C.C. No. 9255/2009 was mentioned before this Hon'ble Court on behalf of the Respondent No. 1 herein, *Suresh Kumar Koushal*, who was not a party before the High Court. This Hon'ble Court granted permission to file a special leave petition, which was numbered SLP(C) 15436 of 2009.

Subsequently, fifteen special leave petitions came to be filed against the judgment of the Hon'ble Delhi High Court dated 02.07.2009. All SLPs were tagged with *Suresh Kumar Koushal v. Naz Foundation and Ors.*, SLP (C) 15436 of 2009. Pertinently, this Hon'ble Court

did not grant a stay on the order or judgment of the Hon'ble Delhi High Court. Pertinently, the Union of India did not appeal the High Court decision.

- 07.02.2011 Intervention applications were allowed both in support of the High Court decision and against the judgment.
- 27.03.2012 Final arguments concluded in *Suresh Kumar Koushal v. Naz Foundation and Ors.*, SLP (C) 15436 of 2009 and all connected petitions and a bench of this Hon'ble Court comprising Hon'ble Justice G.S. Singhvi and Hon'ble Justice S.J. Mukhopadhaya reserved the matter for judgment.
- 09.04.2013 Written submissions along with compendium of studies and documents in support of their arguments were filed by the Review Petitioner in this Hon'ble Court.
- 11.12.2013 This Hon'ble Court delivered its final order and judgment in *Suresh Kumar Koushal v. Naz Foundation and Ors.*, SLP (C) 15436 of 2009 and all connected petitions, setting aside the judgment of the Division Bench of the Ld. Delhi High Court dated 02.07.2009 and holding that Section 377 IPC did not suffer from the vice of unconstitutionality.
- 24.12.2013 Hence, this Review Petition.

**IN THE SUPREME COURT OF INDIA AT NEW DELHI**

**CIVIL APPELLATE JURISDICTION**

**REVIEW PETITION (CIVIL) NO. OF 2013**

**IN**

**CIVIL APPEAL NO. 10972 OF 2013**

**IN THE MATTER OF:**

Naz Foundation,

A Trust registered under the Indian Trust Act,

At having its registered office

A-86, East of Kailash

New Delhi- 110065

...PETITIONER

Versus

1. Suresh Kumar Koushal

S/o Shri S.D. Koushal,

C-105, Nirman Vihar,

Delhi- 110092

Delhi

...RESPONDENT NO. 1

2. Dr. Mukesh Kumar Koshal

S/o Shri S.D. Koushal

C-105, Nirman Vihar,

Delhi – 110 092

...RESPONDENT NO. 2

3. Government of NCT Delhi,

through the Secretary

Social Welfare Delhi Secretariat

ITO, New Delhi

Delhi

...RESPONDENT NO. 3

4. Commissioner of Police

Police Headquarters,

ITO, New Delhi

Delhi

...RESPONDENT NO. 4

5. Delhi State AIDS Control Society

B.S. Ambedkar Hospital

Dharamshala Block

Rohini, Sector 6

Delhi

...RESPONDENT NO. 5

6. National AIDS Control Organization,

Set up by the Union of India,

Having its office

9th Floor, Chandralok Building

Opp. Imperial Hotel,

New Delhi

Delhi

...RESPONDENT NO. 6

7. Union of India,

through Secretary

Ministry of Home,

North Block, India Gate

New Delhi

...RESPONDENT NO. 7

8. Union of India,

Through Secretary

Ministry of Health Family Welfare,

Having its office at

344, Nirman Bhavan,

Maulana Azad Road,

New Delhi

...RESPONDENT NO. 8

9. Union of India,

Through Secretary

Ministry of Social Justice and Empowerment

Shashtri Bhavan,

New Delhi

...RESPONDENT NO. 9

10. Joint Action Council Kannur  
C-38, Anand Niketan  
New Delhi-110 021 ...RESPONDENT NO. 10

11. Shri B.P. Singhal  
Retd. DGP, Ex-MP  
C-001, Stellar Kings Courts,  
F-32, Sector 50  
Noida – 201305 ... RESPONDENT NO. 11

12. Voices Against Section 377  
A coalition of 12 organisations  
Having its address at  
11, Mathura Road,  
First Floor, Jangpura B  
New Delhi – 110013 ...RESPONDENT NO. 12

**AND IN THE MATTER OF:**

**CIVIL APPEAL NO. 10974 OF 2013**

Naz Foundation Society,  
Through Anjali Gopalan  
Executive Director  
A-86, East of Kailash  
New Delhi- 110065 ...PETITIONER

Versus

1. Ram Murti  
S/o. Sh. Dalip Rai  
R/o. D-54, First Floor  
Hauz Khas,  
New Delhi- 110016 ...RESPONDENT NO. 1

2. Government of NCT Delhi,  
through the Secretary

Social Welfare Delhi Secretariat ITO,  
New Delhi  
Delhi

...RESPONDENT NO. 2

3. Commissioner of Police  
Police Headquarters,  
ITO, New Delhi  
Delhi

...RESPONDENT NO. 3

4. Delhi State AIDS Control Society  
B.S. Ambedkar Hospital  
Dharamshala Block  
Rohini, Sector 6  
Delhi

...RESPONDENT NO. 4

5. National AIDS Control Organization,  
Set up by the Union of India,  
Having its office  
9th Floor, Chandralok Building  
Opp. Imperial Hotel,  
New Delhi  
Delhi

...RESPONDENT NO. 5

6. Union of India  
Through Secretary  
North Block, India Gate  
New Delhi

...RESPONDENT NO. 6

7. Ministry of Home  
through Secretary  
North Block, India Gate  
New Delhi

..RESPONDENT NO. 7

8. Ministry of Health  
Through Secretary  
Having its office at  
344, Nirman Bhavan,  
Maulana Azad Road,

New Delhi

...RESPONDENT NO. 8

9. Ministry of Social Justice  
And Empowerment  
Through Secretary  
Shashtri Bhavan,  
New Delhi

...RESPONDENT NO. 9

10. Joint Action Council Kannur  
C-38, Anand Niketan  
New Delhi-110 021

...RESPONDENT NO. 10

**AND IN THE MATTER OF:**

**CIVIL APPEAL NO. 10986 OF 2013**

Naz Foundation

A Society registered under the Societies Registration Act

D-45, Gulmohar Park

New Delhi- 110049

Through its Chairman

...PETITIONER

Versus

1. Sanatan Dharam Pratinidhi  
Sabha Delhi (Registered),  
Delhi-110015  
Through its Chairman  
Shri Manohar Lal Kumar  
(Delhi)

...RESPONDENT NO. 1

2. Shri Manohar Lal Kumar  
Chairman, Sanatan Dharam  
Pratinidhi Sabha  
Delhi (Registered)  
Delhi – 110015

Kumar House 4940-47,  
Chowk Bara Tooti, Sadar Bazar,  
Delhi - 110006

...RESPONDENT NO. 2

3. Government of NCT Delhi,  
through the Secretary  
Social Welfare Delhi Secretariat  
ITO, New Delhi  
Delhi

...RESPONDENT NO. 3

4. Commissioner of Police  
Police Headquarters,  
ITO, New Delhi  
Delhi

...RESPONDENT NO. 4

5. Delhi State AIDS Control Society  
11, Lances Road, Timarpur,  
Delhi -110 054  
Delhi,  
Through Secretary

...RESPONDENT NO. 5

6. National AIDS Control Organization,  
Set up by the Union of India,  
Having its office  
9th Floor, Chandralok Building  
Opp. Imperial Hotel,  
New Delhi  
Delhi,  
Through Secretary

...RESPONDENT NO. 6

7. Union of India  
Through Secretary  
Ministry of Home  
through Secretary  
North Block, India Gate  
New Delhi

..RESPONDENT NO. 7

8. Union of India

Through Secretary  
Ministry of Health  
Having its office at  
344, Nirman Bhavan, Maulana Azad Road,  
New Delhi ...RESPONDENT NO. 8

9. Union of India  
Ministry of Social Welfare  
Through Secretary  
Shashtri Bhavan,  
New Delhi ...RESPONDENT NO. 9

10. Joint Action Council Kannur  
C-38, Anand Niketan  
New Delhi-  
110 021  
Through Chairman ...RESPONDENT NO. 10

**AND IN THE MATTER OF:**

**CIVIL APPEAL NO. 10981 OF 2013**

Naz Foundation  
A Society registered under the Societies Registration Act  
D-45, Gulmohar Park  
New Delhi- 110049  
Through its Chairman ...PETITIONER

Versus

1. Utkal Christian Council,  
Rep. by its Secretary Miss. Jyotsna Rani Patro,  
Aged about 69 years,  
D/o. late Parom Patro  
R/o. Thavittangarath Kuniyil House,  
Bidanathpur PS,  
Ganjam District.  
Orissa ...RESPONDENT NO. 1

2. Government of NCT Delhi,  
through the Secretary  
Social Welfare Delhi Secretariat  
ITO, New Delhi  
Delhi ...RESPONDENT NO. 2
  
3. Commissioner of Police  
Police Headquarters,  
ITO, New Delhi  
Delhi ...RESPONDENT NO. 3
  
4. Delhi State AIDS Control Society  
11, Lances Road, Timarpur,  
Delhi -110 054  
Delhi ...RESPONDENT NO. 4
  
5. National AIDS Control Organization,  
Set up by the Union of India,  
Having its office  
9th Floor, Chandralok Building  
Opp. Imperial Hotel,  
New Delhi  
Delhi ...RESPONDENT NO. 5
  
6. Union of India  
Through Secretary  
Ministry of Home  
North Block, India Gate  
New Delhi ..RESPONDENT NO. 6
  
7. Union of India  
Ministry of Health Welfare  
Through Secretary  
Having its office at  
344, Nirman Bhavan,  
Maulana Azad Road,  
New Delhi ...RESPONDENT NO. 7

8. Union of India  
Ministry of Social Welfare  
Through Secretary  
Shashtri Bhavan,  
New Delhi ...RESPONDENT NO. 8
9. Joint Action Council Kannur  
C-38, Anand Niketan  
New Delhi-110 021 ...RESPONDENT NO. 9
10. Shri B.P. Singhal  
Retd. DGP, Ex-MP  
C-001, Stellar Kings Courts,  
F-32, Sector 50  
Noida – 201305 ... RESPONDENT NO. 10
11. Voices Against Section 377  
A coalition of 12 organisations  
Having its address at  
11, Mathura Road,  
First Floor, Jangpura B  
New Delhi – 110013 ...RESPONDENT NO. 11

**AND IN THE MATTER OF:**

**CIVIL APPEAL NO. 10983 OF 2013**

Naz Foundation  
A Society registered under the Societies Registration Act  
D-45, Gulmohar Park  
New Delhi- 110049  
Through its Chairman ...PETITIONER

Versus

1. S.K. Gupta Tijarawala

S/o. Sh. B.K. Gupta,  
Spokesperson of Swami Ramdev Ji,  
Patanjali Yogpeeth (Trust)  
Bharat SwabhimanTrust  
R/o. 35/5, Ground Floor,  
Old Rajinder Nagar,  
New Delhi-60

...RESPONDENT NO. 1

2. Government of NCT Delhi,  
through the Secretary  
Social Welfare Delhi Secretariat  
ITO, New Delhi  
Delhi

...RESPONDENT NO. 2

3. Commissioner of Police  
Police Headquarters,  
ITO, New Delhi  
Delhi

...RESPONDENT NO. 3

4. Delhi State AIDS Control Society,  
Through Secretary  
11, Lances Road, Timarpur,  
Delhi -110 054  
Delhi

...RESPONDENT NO. 4

5. National AIDS Control Organization,  
Set up by the Union of India,  
Having its office  
9th Floor, Chandralok Building  
Opp. Imperial Hotel,  
New Delhi  
Delhi

...RESPONDENT NO. 5

6. Union of India  
Through Secretary

(a) Ministry of Home  
North Block, India Gate

New Delhi

(b) Ministry of Health & Family Welfare

Through Secretary

Having its office at

344, Nirman Bhavan,

Maulana Azad Road,

New Delhi

(c) Union of India

Ministry of Social Welfare

Shashtri Bhavan,

New Delhi

...RESPONDENT NO. 6

7. Joint Action Council Kannur

C-38, Anand Niketan

New Delhi -110 021

...RESPONDENT NO. 7

**AND IN THE MATTER OF:**

**CIVIL APPEAL NO. 10984 OF 2013**

Naz Foundation

A Society registered under the Societies Registration Act

D-45, Gulmohar Park

New Delhi- 110049

...PETITIONER

Versus

1. Apostolic Churches Alliance,

Rep. by its Bishop Salm T. Varghese

T.C 11/2147-1

Tilak Nagar, Nalanohira P.O.

Trivandrum, Kerala

...RESPONDENT NO. 1

2. Government of NCT Delhi,

through the Secretary

Social Welfare Delhi Secretariat  
ITO, New Delhi  
Delhi

...RESPONDENT NO. 2

3. Commissioner of Police  
Police Headquarters,  
ITO, New Delhi  
Delhi

...RESPONDENT NO. 3

4. Delhi State AIDS Control Society,  
Through Secretary  
11, Lances Road, Timarpur,  
Delhi -110 054  
Delhi

...RESPONDENT NO. 4

5. National AIDS Control Organization,  
Through Secretary  
Set up by the Union of India,  
Having its office  
9th Floor, Chandralok Building  
Opp. Imperial Hotel,  
New Delhi  
Delhi

...RESPONDENT NO. 5

6. Union of India  
Through Secretary  
Ministry of Home  
through Secretary  
North Block, India Gate  
New Delhi

..RESPONDENT NO. 6

7. Union of India,  
Ministry of Health Welfare  
Through Secretary  
Having its office at  
344, Nirman Bhavan,  
Maulana Azad Road,

New Delhi

...RESPONDENT NO. 7

8. Union of India

Ministry of Social Welfare

Through Secretary

Shashtri Bhavan,

New Delhi

...RESPONDENT NO. 8

9. Joint Action Council Kannur

C-38, Anand Niketan

New Delhi-

110 021

...RESPONDENT NO. 9

**AND IN THE MATTER OF:**

**CIVIL APPEAL NO. 10975 OF 2013**

Naz Foundation

A Society registered under the Societies Registration Act

D-45, Gulmohar Park

New Delhi- 110049

...PETITIONER

Versus

1. Shri B.P. Singhal

Son. Of late Rai Bahadur M.S.Singhal,

R/o. C-001, Steller King Court,

F-32 Sector – 50, Noida, U.P.

...RESPONDENT NO. 1

2. Government of NCT Delhi,

through the Secretary

Social Welfare Delhi Secretariat

ITO, New Delhi

Delhi

...RESPONDENT NO. 2

3. Commissioner of Police

Police Headquarters,  
ITO, New Delhi  
Delhi

...RESPONDENT NO. 3

4. Delhi State AIDS Control Society,  
Through Secretary  
11, Lances Road, Timarpur,  
Delhi -110 054  
Delhi

...RESPONDENT NO. 4

5. National AIDS Control Organization,  
Through Secretary  
Set up by the Union of India,  
Having its office  
9th Floor, Chandralok Building  
Opp. Imperial Hotel,  
New Delhi  
Delhi

...RESPONDENT NO. 5

6. Union of India  
Through Secretary  
Ministry of Home  
through Secretary  
North Block, India Gate  
New Delhi

..RESPONDENT NO. 6

7. Union of India  
Ministry of Health Welfare  
Through Secretary  
Having its office at  
344, Nirman Bhavan,  
Maulana Azad Road,  
New Delhi

...RESPONDENT NO. 7

8. Union of India  
Ministry of Social Welfare  
Through Secretary

Shashtri Bhavan,  
New Delhi

...RESPONDENT NO. 8

9. Joint Action Council Kannur,  
Through Secretary  
C-38, Anand Niketan  
New Delhi- 110021

...RESPONDENT NO. 9

10. Voices Against Section 377,  
Through Secretary  
A coalition of 12 organisations  
Having its address at  
11, Mathura Road,  
First Floor, Jangpura B  
New Delhi – 110013

...RESPONDENT NO. 10

**AND IN THE MATTER OF:**

**CIVIL APPEAL NO. 10973 OF 2013**

Naz Foundation, through Secretary  
A Society registered under the Societies Registration Act  
D-45, Gulmohar Park  
New Delhi- 110049

...PETITIONER

Versus

1. Delhi Commission of Protection  
of Child Rights,  
Govt. of NCT of Delhi  
5<sup>th</sup> Floor, ISBT Building,  
Kashmere Gate, New Delhi-6  
Through its Chairman

...RESPONDENT NO. 1

2. Government of NCT Delhi,  
through the Secretary  
Social Welfare Delhi Secretariat  
ITO, New Delhi  
Delhi

...RESPONDENT NO. 2

3. Commissioner of Police  
Police Headquarters,  
ITO, New Delhi  
Delhi ...RESPONDENT NO. 3
  
4. Delhi State AIDS Control Society,  
Through Secretary  
11, Lances Road, Timarpur,  
Delhi -110 054  
Delhi ...RESPONDENT NO. 4
  
5. National AIDS Control Organization,  
Through Secretary  
Set up by the Union of India,  
Having its office  
9th Floor, Chandralok Building  
Opp. Imperial Hotel,  
New Delhi  
Delhi ...RESPONDENT NO. 5
  
6. Union of India  
Through Secretary  
Ministry of Home  
through Secretary  
North Block, India Gate  
New Delhi ..RESPONDENT NO. 6
  
7. Union of India  
Ministry of Health Welfare  
Through Secretary  
Having its office at  
344, Nirman Bhavan,  
Maulana Azad Road,  
New Delhi ...RESPONDENT NO. 7

8. Union of India  
Ministry of Social Welfare  
Through Secretary  
Shashtri Bhavan,  
New Delhi ...RESPONDENT NO. 8

9. Joint Action Council Kannur,  
Through Secretary  
C-38, Anand Niketan  
New Delhi-110021 ...RESPONDENT NO. 9

**AND IN THE MATTER OF:**

**CIVIL APPEAL NO. 10985 OF 2013**

Naz Foundation  
A Society registered under the Societies Registration Act  
D-45, Gulmohar Park  
New Delhi- 110049 ...PETITIONER

Versus

1. Prof. Bhim Singh  
Chairman,  
J&K National Panthers Party  
17, V.P. House, Rafi Marg,  
New Delhi-110001 ...RESPONDENT NO. 1

2. Government of NCT Delhi,  
through the Secretary  
Social Welfare Delhi Secretariat  
ITO, New Delhi  
Delhi ...RESPONDENT NO. 2

3. Commissioner of Police

Police Headquarters,  
ITO, New Delhi  
Delhi

...RESPONDENT NO. 3

4. Delhi State AIDS Control Society,  
Through Secretary  
11, Lances Road, Timarpur,  
Delhi -110 054  
Delhi

...RESPONDENT NO. 4

5. National AIDS Control Organization,  
Through Secretary  
Set up by the Union of India,  
Having its office  
9th Floor, Chandralok Building  
Opp. Imperial Hotel,  
New Delhi  
Delhi

...RESPONDENT NO. 5

6. Union of India  
Through Secretary  
Ministry of Home  
through Secretary  
North Block, India Gate  
New Delhi

..RESPONDENT NO. 6

7. Union of India  
Ministry of Health Welfare  
Through Secretary  
Having its office at  
344, Nirman Bhavan,  
Maulana Azad Road,  
New Delhi

...RESPONDENT NO. 7

8. Union of India  
Ministry of Social Welfare  
Through Secretary  
Shashtri Bhavan,

New Delhi

...RESPONDENT NO. 8

9. Joint Action Council Kannur,  
Through Secretary  
C-38, Anand Niketan  
New Delhi-  
110 021

...RESPONDENT NO. 9

**AND IN THE MATTER OF:**

**CIVIL APPEAL NO. 10976 OF 2013**

Naz Foundation

A Society registered under the Societies Registration Act

D-45, Gulmohar Park

New Delhi- 110049

...PETITIONER

Versus

1. B.Krishna Bhat

S/o. Late B. Narayan Bhat,

Aged About 79 years.

Residing at No. 399, J.P.Road,

I Phase, Girinagar, Bangalore-560085,

(Karnataka)

...RESPONDENT NO. 1

2. Government of NCT Delhi,

through the Secretary

Social Welfare Delhi Secretariat

ITO, New Delhi

Delhi

...RESPONDENT NO. 2

3. Commissioner of Police

Police Headquarters,

ITO, New Delhi

Delhi

...RESPONDENT NO. 3

4. Delhi State AIDS Control Society,  
Through its Chairman  
11, Lances Road, Timarpur,  
Delhi -110 054  
Delhi ...RESPONDENT NO. 4
  
5. National AIDS Control Organization,  
Through its Director  
Set up by the Union of India,  
Having its office  
9th Floor, Chandralok Building  
Opp. Imperial Hotel,  
New Delhi  
Delhi ...RESPONDENT NO. 5
  
6. Union of India  
Through Secretary  
Ministry of Home  
through Secretary  
North Block, India Gate  
New Delhi ..RESPONDENT NO. 6
  
7. Union of India  
Ministry of Health Welfare  
Through Secretary  
Having its office at  
344, Nirman Bhavan,  
Maulana Azad Road,  
New Delhi ...RESPONDENT NO. 7
  
8. Union of India  
Ministry of Social Welfare  
Through Secretary  
Shashtri Bhavan,  
New Delhi ...RESPONDENT NO. 8

9. Joint Action Council Kannur,  
Through its Secretary  
C-38, Anand Niketan  
New Delhi-  
110 021

...RESPONDENT NO. 9

**AND IN THE MATTER OF:**

**CIVIL APPEAL NO. 10980 OF 2013**

Naz Foundation,  
Through Executive Ms. Anjali Gopalan,  
A Society registered under the Societies Registration Act  
A-86, East of Kailash  
New Delhi- 110065

...PETITIONER

Versus

1. Krantikati Manuvadi Morcha Party  
F-62, Sector 11,  
NOIDA,  
Uttar Pradesh  
Through the President  
Shri R.K. Bhardwaj

...RESPONDENT NO. 1

2. R. K. Bhardwaj  
Son of late Shri J. C. Bhardwaj  
Resident of F.62, Section 11,  
Noida U.P

... RESPONDENT NO. 2

3. Government of NCT Delhi,  
through the Secretary  
Social Welfare Delhi Secretariat  
ITO, New Delhi  
Delhi

...RESPONDENT NO. 3

4. Commissioner of Police  
Police Headquarters,  
ITO, New Delhi  
Delhi ...RESPONDENT NO. 4
5. Delhi State AIDS Control Society  
B.S. Ambedkar Hospital  
Dharamshala Block  
Rohini, Sector 6  
Delhi ...RESPONDENT NO. 5
6. National AIDS Control Organization,  
Set up by the Union of India,  
Having its office  
9th Floor, Chandralok Building  
Opp. Imperial Hotel,  
New Delhi  
Delhi ...RESPONDENT NO. 6
8. Union of India  
Through Secretary
- (a) Ministry of Home  
North Block, India Gate  
New Delhi
- (b) Ministry of Health  
Through Secretary  
Having its office at  
344, Nirman Bhavan,  
Maulana Azad Road,  
New Delhi
- (c) Union of India  
Ministry of Social Justice  
And Empowerment  
Shashtri Bhavan,  
New Delhi ...RESPONDENT NO. 7

7. Joint Action Council Kannur  
C-38, Anand Niketan  
New Delhi-110 021

...RESPONDENT NO. 8

**AND IN THE MATTER OF:**

**CIVIL APPEAL NO. 10982 OF 2013**

Naz Foundation, through Director  
A Society registered under the Societies Registration Act  
D-45, Gulmohar Park  
New Delhi- 110049

...PETITIONER

Versus

1. All India Muslim Personal Law Board  
A Society registered under the  
Societies Registration Act,  
Through its Secretary  
Mr. Abdul Sattar Shaikh  
Having its officer at  
76A/1, Main Market,  
Okhla Village, Jamia Nagar,  
New Delhi-110025

...RESPONDENT NO. 1

2. Government of NCT Delhi,  
through the Secretary  
Social Welfare Delhi Secretariat  
ITO, New Delhi  
Delhi

...RESPONDENT NO. 2

3. Commissioner of Police  
Police Headquarters,  
ITO, New Delhi  
Delhi

...RESPONDENT NO. 3

4. Delhi State AIDS Control Society,  
Through its Director

11, Lances Road, Timarpur,  
Delhi -110 054  
Delhi

...RESPONDENT NO. 4

5. National AIDS Control Organization,  
Through its Director  
Set up by the Union of India,  
Having its office  
9th Floor, Chandralok Building  
Opp. Imperial Hotel,  
New Delhi  
Delhi

...RESPONDENT NO. 5

6. Union of India  
Through Secretary  
Ministry of Home  
North Block, India Gate  
New Delhi

..RESPONDENT NO. 6

7. Union of India  
Ministry of Health Welfare  
Through Secretary  
Having its office at  
344, Nirman Bhavan,  
Maulana Azad Road,  
New Delhi

...RESPONDENT NO. 7

8. Union of India  
Ministry of Social Welfare  
Through Secretary  
Shashtri Bhavan,  
New Delhi

...RESPONDENT NO. 8

9. Joint Action Council Kannur,  
Through its Director,  
C-38, Anand Niketan  
New Delhi-  
110 021

...RESPONDENT NO. 9

**AND IN THE MATTER OF:**

**CIVIL APPEAL NO. 10977 OF 2013**

Naz Foundation

A Society registered under the Societies Registration Act

D-45, Gulmohar Park

New Delhi- 110049

...PETITIONER

Versus

1. Joint Action Council, Kannur  
Through its General Convenor,  
Having its office at  
C- 38, Anand Niketan,  
New Delhi-110021  
...RESPONDENT NO. 1
2. Government of NCT Delhi,  
through the Secretary  
Social Welfare Delhi Secretariat  
ITO, New Delhi  
Delhi  
...RESPONDENT NO. 2
3. Commissioner of Police  
Police Headquarters,  
ITO, New Delhi  
Delhi  
...RESPONDENT NO. 3
4. Delhi State AIDS Control Society,  
Through its Secretary  
11, Lances Road, Timarpur,  
Delhi -110 054  
Delhi  
...RESPONDENT NO. 4
5. National AIDS Control Organization,  
Through its Secretary

Setup by the Union of India,  
Having its office  
9th Floor, Chandralok Building  
Opp. Imperial Hotel,  
New Delhi  
Delhi

...RESPONDENT NO. 5

6. Union of India, through Secretary

(a) Ministry of Home  
North Block, India Gate  
New Delhi

(b) Ministry of Health Welfare  
Through Secretary  
Having its office at  
344, Nirman Bhavan,  
Maulana Azad Road,  
New Delhi

...RESPONDENT NO. 6

7. Shri B.P. Singhal  
Retd. DGP, Ex-MP  
C-003, Stellar Kings Courts,  
F-32, Sector 50  
Noida – 201305

... RESPONDENT NO. 7

8. Voices Against Section 377,  
Through its Secretary  
A coalition of 12 organisations  
Having its address at  
11, Mathura Road,  
First Floor, Jangpura B  
New Delhi – 110013

...RESPONDENT NO. 8

**AND IN THE MATTER OF:**

**CIVIL APPEAL NO. 10978 OF 2013**

Naz Foundation

A Society registered under the Societies Registration Act

D-45, Gulmohar Park

New Delhi- 110049

Through its General Secretary

...PETITIONER

Versus

1. The Tamil Nadu Muslim

Munnetra Kazhagam,

Represented by

Its General Secretary

S. Hyder Ali

S/o. Mr. Syed Mohammed

7, Vadamaricoir Street,

Mannady Chennai:-600 001

... RESPONDENT NO. 1

2. S. Hyder Ali

S/o Mr. Syed Mohammed

Mannady Chennai

600 001

... RESPONDENT NO. 2

3. Government of NCT Delhi,

through the Secretary

Social Welfare Delhi Secretariat

ITO, New Delhi

Delhi

...RESPONDENT NO. 3

4. Commissioner of Police

Police Headquarters,

ITO, New Delhi

Delhi

...RESPONDENT NO. 4

5. Delhi State AIDS Control Society,  
Through its Secretary  
11, Lances Road, Timarpur,  
Delhi -110 054  
Delhi ...RESPONDENT NO. 5
  
6. National AIDS Control Organization,  
Through its Secretary,  
Setup by the Union of India,  
Having its office  
9th Floor, Chandralok Building  
Opp. Imperial Hotel,  
New Delhi  
Delhi ...RESPONDENT NO. 6
  
7. Union of India  
Through Secretary  
Ministry of Home  
through Secretary  
North Block, India Gate  
New Delhi ..RESPONDENT NO. 7
  
8. Union of India  
Ministry of Health Welfare  
Through Secretary  
Having its office at  
344, Nirman Bhavan,  
Maulana Azad Road,  
New Delhi ...RESPONDENT NO. 8
  
9. Union of India  
Ministry of Social Welfare  
Through Secretary  
Shashtri Bhavan,  
New Delhi ...RESPONDENT NO. 9
  
10. Joint Action Council Kannur,  
Through its Secretary

C-38, Anand Niketan  
New Delhi-  
110 021

...RESPONDENT NO. 10

**AND IN THE MATTER OF:**

**CIVIL APPEAL NO. 10979 OF 2013**

Naz Foundation

A Society registered under the Societies Registration Act

D-45, Gulmohar Park

New Delhi- 110049

...PETITIONER

Versus

1. Raza Academy

52, Dantad Street

First Floor, Khadak

Mumbai 400009

Maharashtra

(through its President

Munammad Saeed Noori)

... RESPONDENT NO. 1

2. Government of NCT Delhi,

through the Secretary

Social Welfare Delhi Secretariat

ITO, New Delhi

Delhi

...RESPONDENT NO. 2

3. Commissioner of Police

Police Headquarters,

ITO, New Delhi

Delhi

...RESPONDENT NO. 3

4. Delhi State AIDS Control Society,

Through its Secretary

11, Lances Road, Timarpur,

Delhi -110 054

Delhi

...RESPONDENT NO. 4

5. National AIDS Control Organization,

Through its Secretary

Set up by the Union of India,

Having its office

9th Floor, Chandralok Building

Opp. Imperial Hotel,

New Delhi

Delhi

...RESPONDENT NO. 5

6. Union of India

Through Secretary

Ministry of Home

through Secretary

North Block, India Gate

New Delhi

..RESPONDENT NO. 6

7. Union of India

Ministry of Health Social Welfare

Through Secretary

Having its office at

344, Nirman Bhavan,

Maulana Azad Road,

New Delhi

...RESPONDENT NO. 7

8. Union of India

Ministry of Social Welfare

Through Secretary

Shashtri Bhavan,

New Delhi

...RESPONDENT NO. 8

9. Joint Action Council Kannur,

Through its Secretary

C-38, Anand Niketan

New Delhi- 110 021

...RESPONDENT NO. 9

**PETITION UNDER ARTICLE 137 OF THE  
CONSTITUTION OF INDIA, ORDER XLVII OF  
THE CODE OF CIVIL PROCEDURE, 1908,  
READ WITH ORDER XL OF THE SUPREME  
COURT RULES, 1966 SEEKING REVIEW OF  
THE JUDGMENT DATED 11.12.2013 PASSED  
BY THIS HON'BLE COURT IN CIVIL APPEAL  
NO. 10972 OF 2013 AND IN ALL CONNECTED  
MATTERS**

To,  
The Hon'ble Chief Justice of India  
and his Companion Justices of the  
Supreme Court of India, New Delhi

The humble petition of  
the Petitioner above-  
named:

**MOST RESPECTFULLY SHOWETH:**

1. That the instant review petition is being filed on behalf of the Review Petitioner, who was the original Petitioner in Writ Petition No. (Civil) No. 7455 of 2001, the Delhi High Court, in which by a final order and judgment, held that Section 377 Indian Penal Code, 1860 (hereinafter 'Section 377') insofar as it criminalised consensual sexual acts of adults in private, violated Articles 21, 14 and 15 of the Constitution. It was arrayed as the Respondent No. 1 in all the Civil Appeals mentioned in the cause title, which were filed impugning the judgment of the Delhi High Court. The Review Petitioner is seeking

review of the judgment and order passed by this Hon'ble Court dated 11.12.2013 in Civil Appeal No. 10972 of 2013 and in all connected matters, whereby this Hon'ble Court was pleased to allow the appeals filed by the Appellants against the judgment and order dated 02.07.2009 passed by the High Court of Delhi in *Naz Foundation (India) Trust v. The Government of NCT of Delhi & Ors.* [W.P. (C) No. 7455 of 2001].

2. The brief facts and averments for reviewing the matter are as follows:

a. In December, 2001, the writ petition [W.P. (C) No. 7455 of 2001] was filed in the High Court of Delhi in 2001 by the Review Petitioner, which is a non-governmental organisation (hereinafter 'NGO') registered under the *Indian Trusts Act, 1882* working on issues concerning male sexual health and providing HIV prevention services for men having sex with men (hereinafter 'MSM'). While working with the MSM and homosexual men, Review Petitioner realised that Section 377, which prohibited penile-non vaginal sexual acts between consenting adults, was severely impairing the HIV prevention activities and had criminalised the whole Lesbian, Gay, Bisexual and Transgender (hereinafter 'LGBT') community in India.

b. The Review Petitioner challenged the constitutional validity of Section 377, to the extent it criminalised sexual acts between consenting adults in private, in High Court of Delhi on the grounds of violation of rights to privacy, dignity and health under Article 21, equal protection of law and non-

discrimination under Articles 14 and 15 and freedom of expression and association under Article 19 (1) of the Constitution.

- c. On 02.09.2004, the Writ Petition was dismissed by the Delhi High Court for lack of cause of action, as no prosecution was pending against the Review Petitioner.
- d. On 03.11.2004, the review petition (RP 384/2004), filed by the Review Petitioner, was dismissed by the High Court.
- e. Aggrieved by the High Court order, the Review Petitioner had filed a Special Leave Petition (C) No. 7217-7218 in this Hon'ble Court.
- f. On 03.02.2006, allowing the appeal in Civil Appeal No. 952 of 2006, this Hon'ble Court remitted the matter back to the High Court for consideration on merits on the ground that "*the matter does require consideration and is not of a nature which could have been dismissed on the ground afore-stated.*"
- g. There was a division of opinion between the two Ministries within the Union of India. While the Ministry of Home Affairs opposed the petition on the grounds of protection of public health and public morality, via an affidavit filed in 2003, the Ministry of Health and Family Welfare supported the petition on the ground that Section 377 impeded HIV prevention activities, via an affidavit filed in 2006.

- h. In November, 2006, an intervention application was filed by Voices Against 377, a coalition of 12 organisations working on child rights, women's rights, human rights, and rights of LGBT persons, which was allowed by the Delhi High Court. They placed on record various materials including affidavits, FIRs, judgments and orders with objectively documented instances of exploitation, violence, rape and torture suffered by LGBT persons.
- i. On 02.07.2009, the High Court of Delhi struck down Section 377, insofar it criminalises consensual sexual acts between consenting adults in private, to be violative of Articles 21, 14 and 15 of the Constitution.
- j. Upholding the contentions of the Respondent No. 1 based on the reasons and materials provided, the High Court of Delhi held:
  - i. Section 377 grossly violated the right to privacy and liberty embodied in Article 21 insofar as it criminalised consensual sexual acts between adults in private in para 52 of the High Court judgment, a copy of which is annexed hereto as **Annexure P-1 from pages \_\_\_ to \_\_\_**.
  - ii. Section 377 denied a person's dignity and criminalised his or her core identity solely on account of his or her sexuality and thus violated Article 21 as well as denuded a gay person of the right to full personhood,

which is implicit in notion of life under Article 21 in para 48 of the High Court judgment.

- iii. On the basis of government affidavits and documented instances of harassment, the High Court agreed that Section 377 pushed gays and MSM underground, made them vulnerable to police harassment and rendered them unable to access HIV/AIDS prevention material and treatment, thereby violating right to health under Article 21 in para 71 of the High Court judgment.
- iv. Rejecting the Union of India's defence of Section 377 on the grounds of protection of women and children, preventing the spread of HIV/AIDS and enforcing societal morality, the High Court held that firstly, Section 377 was not enacted to deal with child sexual abuse or to fill in lacunae in rape law but to enforce particular concept of sexual morality. Secondly, Section 377 hampered HIV/AIDS prevention efforts, by pushing the epidemic underground. Thirdly, public morals cannot be basis of invading privacy of citizens or regulating conduct of citizens. In the absence of any serious harm, the objective of criminalisation of private sexual relations between consenting adults is arbitrary and unreasonable and thus violates Article 14 of the Constitution in para 92 of the High Court judgment.
- v. Though facially neutral and applicable to acts and not identities, Section 377 operated unfairly against a

particular class, i.e. homosexual men. It disproportionately impacted homosexual persons by perceiving them as criminals, marking the whole gay and lesbian community as deviant and perverse and subjecting them to extensive prejudice in para 94 of the High Court judgment.

vi. Sexual orientation was a ground analogous to sex and discrimination on the basis of sexual orientation was not permitted by Article 15 in para 104 of the High Court judgment.

k. In 2009, 15 Special Leave Petitions were filed in this Hon'ble Court against the High Court decision, on behalf of mostly faith-based and religious groups from all parts of India. 7 intervention applications (hereinafter 'I.A.s') were also filed; out of which, 5 I.A.s were in support of the High Court judgment while 2 I.A.s were against the decision.

l. On 27.03.2012, final arguments concluded in *Suresh Kumar Koushal v. Naz Foundation and Ors.*, SLP (C) 15436 of 2009 and in all connected petitions and a bench of this Hon'ble Court comprising Hon'ble Justice G.S. Singhvi and Hon'ble Justice S.J. Mukhopadhaya reserved the matter for judgment.

m. On 09.04.2012, written submissions along with compendium of studies and documents in support of their pleadings were filed by the Review Petitioner in this Hon'ble Court, a copy of

which is annexed hereto as **Annexure P-2** from pages \_\_\_ to  
—,

- n. On 11.12.2013, this Hon'ble Court upheld the constitutional validity of Section 377, set aside the High Court judgment and dismissed the writ petition.
3. The Review Petitioner states that it has not filed any other such or similar petition against the aforesaid impugned judgment dated 11.12.2013.
4. The Review Petitioner is seeking review of the judgment dated 11.12.2013 passed by this Hon'ble Court in Civil Appeal No. 10972 of 2013 and in all connected matters on the following, amongst other grounds, which are without prejudice to each other:

#### **GROUND**

5. Because it is a settled position of law that this Hon'ble Court can review its own order or judgment in case of a manifest wrong or error apparent on the face of the record in the impugned judgment.
6. Because the present case relates to constitutional principles having a significant bearing on fundamental rights of citizens, which have been wrongly applied by the judgment under review. In *Sajjan Singh v. State of Rajasthan* (1965) 1 SCR 933, this Hon'ble Court had held that *"it is true that the Constitution does not place any restriction on our powers to review our earlier decisions or even to depart from them and there can be no doubt that in matters relating to the decision of constitutional points which have a significant impact on*

*the fundamental rights of citizens, we would be prepared to review our earlier decisions in the interest of public good.”*

7. Because the impugned judgment suffers from several errors apparent on the face of the record, including incorrect application of law that goes against canons of well-established jurisprudence on constitutional validity of laws impinging on fundamental rights.
8. Because non-consideration of the contentions raised by the Review Petitioner is an established ground for review by this Hon'ble Court, as held in *Indian Charge Chrome v. Union of India*, (2005) 4 SCC 67.

### **Non-consideration of the submissions of the Review Petitioner**

#### **Violation of Right to privacy under Article 21**

A. Because the Review Petitioner had submitted that the Constitution of India protects a zone of privacy within the realm of personal liberty of all persons, including the family, marriage, motherhood, procreation and child rearing, as held in *Gobind v. State of Madhya Pradesh & Anr.* (1975) 2 SCC 148, which extends to intimate sexual conduct between consenting adults. By criminalizing penile-non-vaginal sexual acts, i.e., penile-anal and penile-oral sex, Section 377 violates the right to privacy of all protected under Article 21, including the right to form intimate and sexual relationships between consenting adults in private, unless there is a compelling State interest, as evident in paras 82 – 109 of the Written Submissions filed by the Review Petitioner dated 09.04.2012 (hereinafter 'Written Submissions'). This Hon'ble Court was bound to consider this contention. While this Hon'ble Court notes that Section 377 would

apply, irrespective of age and consent in para 38 of the impugned judgment, it fails to consider this contention. This non-consideration constitutes a manifest error on the face of the record and needs to be corrected in the review.

B. Because the Review Petitioner had argued that the compelling interest shown by the State in the High Court, in terms of protection of public health and public morality, was rejected by the High Court, in view of the different stands taken by the Ministry of Health and the Ministry of Home Affairs in paras 61 – 92 of the High Court judgment. This Hon'ble Court has not dealt with the said reasoning of the High Court and has failed to consider that no compelling State interest exists in intruding into the intimate private zone of consenting adults. This is an error on the face of the record and needs to be corrected in review.

C. Because this Hon'ble Court has erred in failing to consider the High Court's holding on constitutional morality, as opposed to public morality, wherein the High Court held that *'the Constitution of India recognises, protects and celebrates diversity. To stigmatise or to criminalise homosexuals only on account of their sexual orientation would be against the constitutional morality'* in para 80 of the High Court decision. The non-consideration of the High Court's holding on constitutional morality constitutes a patent error on the face of the record and needs to be corrected in the review.

## **Violation of Right to Dignity under Article 21**

D. Because the Review Petitioner had argued that Section 377, by proscribing certain sexual acts between consenting adults in private, demeans and impairs the dignity of all individuals under Article 21, irrespective of their sexual orientation, in paras 121 to 133 of the Written Submission. Intimate sexual acts between consenting adults in private, which form the core of the fundamental human experience, become subject of scrutiny by State authorities, including the police under Section 377, thereby impairing the dignity of persons. This Hon'ble Court has ignored this submission, which constitutes a patent error on the face of the record.

E. Because the Review Petitioner had argued that Section 377 criminalises the most intimate form of sexual expression, i.e., penile-oral or penile-anal sex, of the homosexual men and transgender/hijra persons, which, therefore, results in the criminalisation of their sexual identity and impairs the dignity and self-worth of the homosexual men and transgender/hijra persons in para 134 – 147 of the Written Submissions. Section 377, in effect, prohibits all forms of penetrative sex for the homosexual men and transgender/Hijra persons and makes any sexually active gay man a potential criminal in the eyes of the law. This Hon'ble Court did not consider this submission, which constitutes a patent error on the face of the record

## **Fails the test of substantive due process under Article 21**

F. Because it is a settled position in law that substantive due process, i.e., whether the substantive law itself is just, fair and reasonable,

has become the standard in examining the validity of State action that infringes upon the realm of personal liberty under Article 21, as held in *Smt. Selvi v. State of Karnataka* (2010) 7 SCC 263. The Review Petitioner had argued that Section 377 violates substantive due process under Article 21, since it infringes upon the most private sphere of individuals by making their intimate sexual conduct a crime in para 110 – 120 of the Written Submissions. This contention was not dealt with by this Hon'ble Court, which constitutes an error on the face of the record.

### **Violation of Right to health under Article 21**

G. Because the Review Petitioner had argued that Section 377 violates the right to health of men who have sex with men (hereinafter 'MSM') under Article 21, including gay men, since criminalisation of same sex activity impedes access to health services, including HIV prevention efforts, as well as makes it difficult for the State to reach out to these populations, who remain underground due to fear of law. Criminalisation further accentuates the stigma and discrimination against MSM, which in turn hampers access to services. This contention was supported by the Ministry of Health and Family Welfare in the affidavit on behalf of the Union of India, through Ministry of Health and Family Welfare (MOHFW), dated 17.06.2006 and a note submitted by MOHFW dated nil titled 'Concerns of Ministry of Health'. This Hon'ble Court has not addressed this contention at all, thereby committing an error on the face of the record.

H. Because that the afore-said submissions were made is evident not only from the written submissions of the Review Petitioner but also from the summary of the submissions in the impugned judgment under review itself.

I. Because this Hon'ble Court has dealt with the arguments under Article 21, cursorily, in one para 51 of the impugned judgment, by stating that "*Respondent No. 1 attacked Section 377 IPC on the ground that the same has been used to perpetuate harassment, blackmail and torture on certain persons, especially those belonging to the LGBT community. In our opinion, this treatment is neither mandated by the section nor condoned by this and the mere fact that the section is misused by police authorities and others is not a reflection of the vires of the section.*" This constitutes a complete misreading and misrepresentation of the arguments made by the Review Petitioner, who never raised the issue of misuse of law as a ground for constitutional invalidity but premised on the fact that Section 377, by criminalising penile non-vaginal acts for all, was violating the right to privacy, right to dignity, particularly of homosexual men and right to health, as well as failing the test of substantive due process under Article 21. None of these grounds, which had been upheld by the High Court, were considered by this Hon'ble Court on merits and given a finding based on reasoned analysis. This constitutes a patent error on the face of the record and needs to be corrected in review.

### **Void because of vagueness under Article 14**

J. Because it is a settled law that a penal law can be declared void for vagueness under Article 14 if its prohibitions are not clear, as held in *Kartar Singh v. State of Punjab* (1994) 3 SCC 569. The Review Petitioner argued that Section 377 is vague and arbitrary, since there is no definition of carnal intercourse against the order of nature. Starting from excluding oral sex, Section 377 was later held to cover both penile sex and oral sex, mutual masturbation, penetration into artificial orifices like thighs, amongst others by judicial interpretation. The tests to determine acts covered under Section 377 also broadened, beginning from non-procreative test to imitative/sexual perversity test. In effect, there was no clarity on which sexual acts are prohibited under the law, as mentioned in para 166 – 177 of the Written Submissions. This contention was not considered by this Hon'ble Court, though the Court itself has recorded that no uniform tests can be culled to classify acts that would be covered under carnal intercourse against the order of nature in para 38 of the impugned judgment. This constitutes a manifest error on the face of the record.

### **Violation of Article 15**

K. Because the Review Petitioner had argued that Section 377 violates Article 15, since sexual orientation is a ground analogous to sex, therefore discrimination on the basis of sexual orientation is not permitted by Article 15. The idea behind prohibiting sex discrimination is to proscribe sex stereotyping, i.e., the stereotypical gender roles attributed to men and women, including that women

would form sexual relationships with men and vice-versa, as mentioned in para 203 to 223 of the Written Submission. This was upheld by the High Court in para 104 of the High Court judgment. This contention was not considered by this Hon'ble Court, thereby constituting a manifest error on the face of the record.

### **Incorrect application of law by this Hon'ble Court**

#### **Incomplete test of classification under Article 14**

L. Because it is an established principle of law that under Article 14, differential treatment is sustainable only if it satisfies the following two tests, namely that: i) the classification must be based on an intelligible differentia, and ii) that differentia must have a rational nexus with the object of the legislation. This Hon'ble Court has upheld the classification between carnal intercourse in the ordinary course of nature and carnal intercourse against the order of nature in para 42 of the impugned judgment, without considering the second test, i.e., whether there is a rational nexus with the object of legislation. This is a manifest error on the face of the record. In this respect, the High Court had given detailed reasoning on the purported object of Section 377, i.e., protection of public health and protection of public morality and had categorically rejected the stated objects by terming them as unreasonable and arbitrary, as evident in para 91-93 of the High Court decision. This Hon'ble Court does not even consider those submissions, let alone coming to contrary findings from the High Court on the purported object of Section 377.

## **Failure to exercise jurisdiction**

M. Because this Hon'ble Court has committed a patent mistake of law in expressing apprehension whether the Court would apply Section 377 in a case of proved consensual intercourse between adults in para 38 of the impugned judgment. This was precisely the issue before this Hon'ble Court, i.e., whether criminalisation of adult consensual sexual acts in private is in violation of Articles 21, 14 and 15 of the Constitution. It was not a subject matter of speculation before this Hon'ble Court. Instead of expressing apprehension, this Hon'ble Court should have considered and decided the issue, which it was duty bound to do so. In not doing so, there is a patent error.

## **Non-application of the 'effect' test**

N. Because this Hon'ble Court has erred in not applying the settled position of law laid down in *Anuj Garg v. Hotel Association of India* (2008) 3 SCC 1 and *Peerless General Finance Investment Co. Ltd. V. Reserve Bank of India* (1992) 2 SCC 343, which held that in assessing the constitutional validity of a statute, the effect or impact of the law must be looked into. This Hon'ble Court, by holding that Section 377 prohibits certain acts and does not criminalise a particular people or identity or orientation in para 38 of the impugned judgment, has not looked at the effect of Section 377, which is to target a particular class of persons, i.e., homosexual men and transgender persons by criminalizing their most intimate form of sexual expression and in effect, criminalizing their sexual identity, as evident from para 53 to 75 of the Written Submissions. This constitutes a manifest error on the face of the record.

### **Irrelevant precedents cited**

- O. Because this Hon'ble Court has erred in incorrectly applying the ratio of this Hon'ble Court in *Southern Petrochemical Industries v. Electricity Inspector* (2007) 5 SCC 447 and *Seema Silk & Sarees and Another v. Directorate of Enforcement and Others* (2008) 5 SCC 580 in para 39 of the impugned judgment. In the former case, the Petitioner had not even raised the ground of Article 14 in the High Court in their pleadings and raised it for the first time before this Hon'ble Court at the appeal stage, while in the latter, no factual foundation was provided to support the writ petition, which was not even annexed with the appeal.
- P. Because these precedents are not applicable for the present case of constitutional challenge to Section 377, since the Review Petitioner had raised the ground of Article 14 before the High Court that recorded a specific finding that Section 377 violated Article 14 on the basis of the materials submitted before the High Court in para 88 to 98 of the High Court decision. This constitutes a manifest error on the face of the record.

### **Complete overlooking of materials provided by the Review Petitioner**

- Q. Because this Hon'ble Court in para 9 of the impugned judgment itself records an observation from the High Court decision that "*a number of documents, affidavits and authoritative reports of independent agencies and even judgements of various courts have been brought on record to demonstrate the widespread abuse of*

*Section 377 IPC for brutalizing MSM and gay community persons, some of them of very recent vintage*". It is clear that the High Court had found sufficient materials to come to its finding that Section 377 violated the fundamental rights under Articles 21, 14 and 15. This Hon'ble Court has completely overlooked those materials, which constitutes a manifest error on the face of the record.

R. Because the Review Petitioner had pleaded all the grounds in the writ petition under Articles 21, 14, 15 and 19 of the Constitution and materials and documents in support of the pleadings were provided in the High Court. This Hon'ble Court has found that the pleadings lacked in particulars. It is settled position in law that pleadings lay the foundation and particulars can be furnished later in the form of affidavits. In fact, the particulars were furnished in the form of affidavits, FIRs and reports, amongst others. As noted above, the High Court had found these materials sufficient to record its findings. The Review Petitioner further provided a number of studies documenting human rights violations against members of the LGBT community as well as several studies on impact of 377 on HIV and other health intervention efforts in paras 53 – 75 of the Written Submissions. These submissions have been recorded by this Hon'ble Court itself in para 19.9 of the impugned judgment where it states "*there have been documented instances of harassment and abuse, for example, Lucknow 2001 and Lucknow, 2006.*" This Hon'ble Court was not considering the challenge in its originating jurisdiction but on an appeal from a High Court decision that had struck down Section 377. It ought to have ruled on the basis of all the materials available before the Court at the time of arguments and pleadings and on the basis of the High Court

decision. Therefore, this Hon'ble Court's holding that the Review Petitioner had failed to furnish the particulars of the incidents of discriminatory attitude exhibited by the State agencies towards sexual minorities in para 40 of the impugned judgment is a manifest error on the face of the record.

S. Because this Hon'ble Court has further erred in holding that the affidavit provided by the Ministry of Health was insufficient to record a finding that LGBTs are being subject to discrimination by the State agencies in para 40 of the impugned judgment. This constituted a complete misreading of the documents provided by the Ministry of Health and Family Welfare (hereinafter 'MOHFW'). The purpose of the NACO's affidavit in 2006 and MOHFW's note in 2012 was to show how Section 377 impeded government health programmes and put the MSM population most at risk of HIV due to criminalisation. It was not meant to provide details of discriminatory incidents against the LGBT persons.

### **Rejection of the foreign jurisprudence in interpreting fundamental rights under Article 21**

T. Because this Hon'ble Court has committed a patent mistake of law in holding that the judgments from other jurisdictions were applied in a blindfolded manner by the High Court in deciding the constitutionality of Section 377 in para 52 of the impugned judgment. It is well-settled that international jurisprudence can be used to interpret and expand fundamental rights. This Hon'ble Court has, in fact, failed to appreciate the fact that initial jurisprudence on right to privacy and dignity under Article 21 has developed from the cases from United States like *Munn v. Illinois* (1877) 94 US 113,

*Griswold v. State of Connecticut* (1965) 381 US 479, and *Roe v. Wade* (1973) 410 US 113, as is evident from *Kharak Singh v. State of Uttar Pradesh* (1964) 1 SCR 332 and *Gobind v. State of Madhya Pradesh & Anr.* (supra). This Hon'ble Court has both influenced and been influenced by the case laws from foreign jurisdictions, especially from the common law countries.

U. Because the High Court did not blindly apply the foreign jurisprudence in the present case but used it to give an overview of the current understanding of the right to privacy, dignity, equality and non-discrimination in international human rights law.

V. Because this Hon'ble Court has failed to consider that international human rights law is not only applicable in India, in view of the ratification of the International Covenant on Civil and Political Rights (hereinafter 'ICCPR') and International Covenant on Economic, Social and Cultural Rights (hereinafter 'ICESCR') by India but that ICCPR and ICESCR are now directly applicable as law by virtue of the *Protection of Human Rights Act, 1993*.

W. Because this Hon'ble Court has further erred in relying upon *Jagmohan v. State of Uttar Pradesh* (1973) 1 SCC 20, which was the first case of constitutional challenge to imposition of death penalty for murder under Section 302, IPC and did not lay down any law on the use of international law principles in domestic jurisprudence. The relevant excerpts from *Jagmohan* cited by this Hon'ble Court only refer to transplantation of western experience, in terms of western studies on the issue of appropriateness of death penalty, when the Constitution of India itself provides for death

penalty, into the Indian context. The present case of Section 377 did not seek any transplantation of western experience into India but challenged the law on the basis of violation of fundamental rights and the reliance on judgments from other jurisdictions was on concepts like dignity, which are already incorporated in Article 21 and which have been developed in other jurisdictions.

### **Failure to protect of the rights of the minority community**

X. Because this Hon'ble Court has incorrectly held that "*since the LGBT persons constitute a miniscule fraction of the country's population and only 200 persons have been prosecuted under Section 377 in the last 150 years, it cannot be made a sound basis to declare Section 377 ultra vires of Articles 15, 14 and 21*" in para 43 of the impugned judgment. It is an established position in law that the protection of fundamental rights is not subject to numerical calculations. Even if one person's fundamental rights are adversely affected by a law, such a law is liable to be struck down. It is duty of this Hon'ble Court to uphold the fundamental rights of each and every person in India. In a constitutional democratic country like India, where legislators are motivated more by the majority electoral considerations than by principles of justice and fairness, this Hon'ble Court remains the most important institution for the protection and preservation of fundamental rights of the minority communities. This is the very essence of the separation of powers wherein the duty of the Superior Court in a constitutional democracy is mandated with a duty to always protect the fundamental rights of the minorities. It would be doing violence to the Constitutional mandate if this Hon'ble Court fails in its duty of protecting the

fundamental rights of the persons from the minority community, including the LGBT community.

Y. Because this Hon'ble Court has further erred in holding that only 200 prosecutions have been reported, which remain insufficient to strike down a law in para 43 of the impugned judgment. The number of prosecutions in the reported cases in the High Courts and in this Hon'ble Court does not reflect the true extent of the impact of Section 377. It is common knowledge that actual prosecutions are only a small portion of the actual cases that go further up from the Magistrate's or Session's Courts, which are in turn a small portion of the threat of prosecution and prosecutions launched. This is a patent error on the face of the record and needs to be corrected in the review.

Z. Because this Hon'ble Court has further failed to consider the High Court's finding on 'inclusiveness' as the cardinal tenet that underlines the whole constitutional ethos and that is said to be embedded in the Indian culture and traditions, as mentioned in para 130 of the High Court decision.

### **The judgment under review reflects an issue bias**

AA. Because the observations of this Hon'ble Court in referring to the LGBT community in terms of "the so-called rights of LGBT persons" in para 51 of the impugned judgment or viewing them as "miniscule fraction of the country's population" in para 43 of the impugned judgment to whom fundamental rights do not extend, actually reflect an "issue bias" in the judgment of this Hon'ble Court which vitiates

the judgment. [*State of Gujarat and Another v. Justice R.A. Mehta (Retired) And Others* (2013) 3 SCC 1]

### **Section 377 has become irrelevant with passage of time**

BB. Because the Review Petitioner had argued that Section 377 enacted in 1861 by the British colonial government, in prohibiting non-procreative sex, has become completely out-moded and irrelevant in the present times. The State itself has been promoting contraceptive methods, including condom use over the last 30 years as part of the family planning programme in para 183 – 188 of the Written Submissions. The Hon'ble Court has erred in not applying the test of passage of time to Section 377 as laid down in *John Vallamattom and Anr. v. Union of India* AIR (2003) SC 2902, which this Court has recorded in the impugned judgment itself that “*the law, although may be constitutional when enacted but with passage of time, the same may be held to be unconstitutional in view of the changed situation*” in para 27 of the impugned judgment. This is a patent error.

CC. Because this Hon'ble Court has ignored its own ratio in *Satyawati Sharma v. Union of India* (2008) 5 SCC 287, wherein it held that “*legislation which may be quite reasonable and rationale at the time of its enactment may with the lapse of time and/or due to change of circumstances become arbitrary, unreasonable and violative of the doctrine of equality and even if the validity of such legislation may have been upheld at a given point of time, the Court may, in subsequent litigation, strike down the same if it is found that the rationale of classification has become non-existent.*”

DD. Because the Review Petitioner had further argued that while interpreting a restrictive law like Section 377, one may consider not only the past history of the legislation concerned but the manner in which the same has been dealt with by the legislature of its origin, as held in *John Vallamattom v Union of India* (supra). Section 377 enacted by the British colonial regime in India in 1861 was similar to the offence of buggery as part of unnatural offences in the English law of *Offences against the Person Act*, 1861. In 1967, the English law was reformed in Britain by the Sexual Offences Act that decriminalised homosexuality and acts of sodomy between consenting adults in private. By not applying the settled legal principles to the facts of the present case, this Hon'ble Court has committed a patent mistake of law.

#### **No Presumption of Constitutional Validity**

EE. Because this Hon'ble Court has proceeded on the basis that there exists a presumption of constitutionality in case of Section 377, IPC. The impugned law was held to be unconstitutional by the Delhi High Court, a constitutional court, which read down the law to the extent of its unconstitutionality, in its originating jurisdiction. Further, that the Union of India did not appeal the High Court decision and submitted before this Hon'ble Court that it found 'no legal error' in the High Court judgment, bolstering the position that no presumption of validity was attached to Section 377 before this Hon'ble Court. This Court's presumption of constitutional validity thus constitutes a grave and manifest error, which strikes at the root of the impugned judgment.

FF. Because this Hon'ble Court has further proceeded on the basis that the burden to show that Section 377 was unconstitutional under Articles 21, 14 and 15 was on the Review Petitioner and that this burden was uniform. In doing so, this Hon'ble Court has ignored the fundamental distinction between cases which arise under Article 14 and those under Article 21. The impugned decision is contrary to the ratio laid down by this Hon'ble Court in *Deena alias Deen Dayal v. Union of India*, (1983) 4 SCC 645 and *Bachan Singh v. State of Punjab*, (1980) 2 SCC 684 in this regard.

GG. Because this Hon'ble Court in *Deena alias Deen Dayal v. Union of India* (supra) and *Bachan Singh v. State of Punjab* (supra) held that where a law is challenged under Article 21 and there appears to be a violation of the right to life and personal liberty of a person, the burden is on the State to establish the constitutional validity of the law. On the other hand, it is for the Petitioner to plead and prove the unconstitutionality of the law under Article 14, as held in *Ram Krishna Dalmia v. Justice S.R. Tendolkar*, AIR 1958 SC 538.

HH. Because the burden on the Review Petitioner to establish the violations under Articles 21, 14 and 15 was different. However, in the impugned judgment, this Hon'ble Court holds, contrary to the settled position in law, that same burden in respect of all exists and that too on the Review Petitioner. This is based on a wrong application of the ratio in *Ram Krishna Dalmia v. Justice S.R. Tendolkar* (supra), which is an authority for only cases involving challenging the validity of a law under Article 14, as clarified in *Deena v. Union of India*.

**Constitutional Duty of this Hon'ble Court to strike down laws that violate fundamental rights, unless they can be read down**

II. Because under the Constitution, though law-making is the sole responsibility of the Parliament, it is the task of this Hon'ble Court to judge the constitutional validity of laws. Non-amendment of law by the Parliament, especially a pre-Constitutional law, is no limitation on the power of judicial review. It is the bounden duty of this Hon'ble Court, as the protector and guarantor of fundamental rights of people, to strike down any law that violates the fundamental rights, if it cannot be read down, which was precisely sought by the Review Petitioner and done by the High Court. The power of judicial review of this Hon'ble Court is independent of the amending power of the legislature and this Court cannot abdicate its constitutional duty of protecting the fundamental rights of individuals.

JJ. Because this Hon'ble Court has erred in observing that though 30 amendments were made to the IPC over the last 65 years, including the ones in 2013, the Parliament has chosen not to amend the Section 377 in para 32 of the impugned judgment. Section 377 was amended only once in 1955, wherein the phrase 'transportation of life' was replaced with 'imprisonment for life'. That is only time that Parliament applied its mind on 377. Further, the Parliament not amending Section 377 does not absolve this Hon'ble Court from its constitutional duty of testing the validity of the law on constitutional grounds. More pertinently, after the declaration of the Delhi High Court, Parliament did not amend the law to restore the original 377. It accepted the Delhi High Court judgment.

## **Acceptance of the High Court judgment by the Union of India**

KK. Because the Union of India had decided not to appeal the High Court judgment that decriminalised certain private sexual acts between consenting adults. The Union of India had accepted the correctness of the High Court decision, since it found no legal error in the judgment (Affidavit on behalf of Union of India through the Ministry of Home Affairs dated 01.03.2012).

LL. Because this Hon'ble Court has erred in holding in para 32 of the impugned judgment that "*despite the decision of the Union of India to not challenge in appeal the order of the Delhi High Court, the Parliament has not made any amendment in the law*". The Parliament is not bound to repeal an unconstitutional law, as evident in *Mithu v. State of Punjab* (1983) 2 SCC 277, wherein this Hon'ble Court had struck down imposition of mandatory death penalty under Section 303, IPC as unconstitutional but the Parliament did not repeal the same. The reasoning of this Hon'ble Court in this respect is contrary to the material on record and is based on pure conjecture pure *ipsi dixit*.

MM. Because this Hon'ble Court committed a patent error on the face of the record in abdicating its constitutional duty to judging the constitutional validity of section 377 on grounds of presumption of constitutional validity, judicial restraint and Parliament not amending section 377 IPC.

NN. Because this Hon'ble Court further failed to consider that it is the Executive, i.e., the Government alone is duty bound to defend the

constitutionality of statutes in this Hon'ble Court. The fact that the Union of India did not challenge the Delhi High Court verdict and did not appeal, ought to have led to the dismissal of the SLPs. This Hon'ble Court has not considered that the High Court judgment was challenged only by the private parties, who were Respondents in the original petition in the Delhi High Court and by third parties, i.e., those private parties who were not even party to the original writ petition in the High Court. The private parties have no locus to defend the constitutionality of a statute. Therefore, this Hon'ble Court ought to have dismissed the appeals at the admissibility stage itself. The Review Petitioner had submitted this in para 103 of the written submissions. However, the same is not considered. This constitutes an error.

OO. Because this Hon'ble Court has incorrectly recorded that the learned Attorney General had argued the case as an 'Amicus' in para 21 of the impugned judgment. The learned Attorney General had made submissions before this Hon'ble Court on behalf of the Union of India that had taken a categorical stand of accepting the High Court verdict.

PP. Because this Hon'ble Court has incorrectly recorded the estimated number of MSM in 2009 in para 23 of the impugned judgment as 12.4 lakhs. The note submitted by MOHFW had stated the number as 4.12 lakhs in para 5 of the same.

QQ. Because in recording the submissions made by Shri P.P. Malhotra, learned Additional Solicitor General of India, this Hon'ble Court has failed to note that the said submissions were made

without authorisation from the Union of India and were later withdrawn by the Union of India, whose stand was correctly represented by the learned Attorney General in this Court. This constitutes a manifest error on the record.

RR. That in case the present petition is not allowed, then it would cause grave miscarriage of justice. The order dated 11.12.2013 of this Hon'ble Court impugned in this review contains several instances of grave and patent errors on the face of the record and mistakes of law, which undermines its soundness and reasoning. Further, the impugned order had caused immense prejudice to all adult persons who engage in consensual sex, in particular those persons from the LGBT community, who suddenly have been put at risk of prosecution under criminal law require immediate relief.

SS. The present review impugns the judgment of this Hon'ble Court, which is of constitutional import of substantial public interest and far reaching public importance. It involves the interpretation by the High Court on Articles 14, 15 and 21 of the Constitution of India, which is in line with jurisprudence around the world. That interpretation has been negated without consideration of the submissions of the Review Petitioner or of the reasoning of the High Court and without sound and legal reasoning, contrary to well settled principles laid down by this Hon'ble Court.

#### **PRAYER**

It is therefore most respectfully prayed that this Hon'ble Court may be pleased to:

- a. Review the judgment and order dated 11.12.2013 passed by this Hon'ble Court in Civil Appeal No. 10972 of 2013 and in all connected matters;
- b. Allow oral hearing before deciding the review petition;
- c. For costs of this petition;
- d. Pass such other orders or directions as may be deemed fit and proper under the circumstances of the case.

**AND FOR THIS ACT OF KINDNESS, THE PETITIONER AS  
IS DUTY BOUND, SHALL EVER PRAY**

Drawn On:

Filed By:

Filed On:

Mr. Chanchal Kumar Ganguli