

## LGBT community cheerful

Bright as rainbow: A file photo of members of the LGBT community organising a 'Pride March' in Bengaluru. Sudhakara Jain

Bringing hope and cheer to the LGBT community, Thursday's Supreme Court judgment on the right to privacy has rekindled the possibility that Section 377 of the Indian Penal Code, which holds that gay sex is a crime, could soon be history.

Congress MP Kapil Sibal felt that the judgment had put an end to the debate on the British-era Section 377. "Sexual orientation is part of the court judgment and the debate over Section 377 is settled," Mr. Sibal told *The Hindu*.

Section 377 of Indian Penal Code was struck down by the Delhi High Court in July 2009. However, overruling this judgment, the Supreme Court upheld Section 377 IPC in what is popularly referred to as the Kaushal judgment.

Thursday's judgment, however, said the right to privacy cannot be denied "even if a minuscule fraction of population is affected". "Privacy includes at its core the preservation of personal intimacies, the sanctity of family life, marriage, procreation, the home and sexual orientation... Privacy also connotes a right to be left alone."

### Offensive to dignity

"It clearly states that discrimination against an individual on the basis of sexual orientation is deeply offensive to the dignity of individual. We hope that this will reinforce the Delhi High Court judgment in the Naz foundation case as the correct constitutional position," LGBT activist Gautam Bhan said.

The judgment stopped short of overruling the SC's previous order. It is for a five-judge bench, which is looking at the curative petition, to take a final call.

"The judgment has made it clear that LGBT citizens like anyone else enjoy not just the right to privacy, but right to equality, right to free expression and right to life. Today's judgment will have a wide-ranging impact but one among them is Section 377 will have to be struck down," senior lawyer Karuna Nundy said. The activists are demanding that the Supreme Court should *suo motu* revisit many of its recent judgments where privacy has been undermined.

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