

EQUAL JUSTICE TO WOMEN -ROLE OF COURTS-

PROFESSOR & LAWYER

PUTTU GURU PRASAD

VVIT, NAMBUR.

93 94 96 98 98

pgpjntuk@gmail.com



COURTS AND GENDER JUSTICE

While enforcing the state's constitutional obligations, the Court has been fairly assertive about holding the Indian government to the international commitments it has made when ratifying numerous United Nations (U.N.) treaties, including **the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)**, the **International Covenant on Civil and Political Rights (ICCPR)**, the **International Covenant on Economic, Social and Cultural Rights (ICESCR)**, and the **Convention on the Rights of the Child (CRC)**.

Although petitions must be premised on constitutional claims, these international treaties, the explanatory comments issued by U.N. monitoring bodies, and comparative sources of law from foreign courts can provide a critical source of legal norms for legal actions seeking to advance gender justice in the Indian context.

EQUAL JUSTICE TO WOMEN

A nation's progress and prosperity can be judged by the way it treats its women folk

Men must recognize and accept the fact that women are equal partners in life

DETRIMENTAL CULTURAL PRACTICES

After marriage – husbands are dominating

Dominance from In-laws family / members

Never / rarely considered for any decision making

Can not support her parents

Limitations in continuing relationships with brothers / sisters / relatives

Child / Early marriage

Patriarchal attitudes

Not able to continue girl/boy friends friendship after marriage

DISCRIMINATIVE SOCIALIZATION PROCESS

Customary practices

In household activities only (boys not allowed)

Restricted to play

Isolation / separation in schools/public places

Restricted to move freely

VIOLENCE AGAINST WOMEN

Forced in to subordinate position

Every 42 minutes a sexual harassment occurs.

Every 43 minutes a woman kidnapped.

Every 93 minutes a woman is burnt a very dowry.

Pre quarter of reported rapes involve girls under the age of 16 years.

Restricted out-side participation

Trafficking / selling of girl child

Every 26 minutes women is molested.

Every 34 minutes a rape take place.

GENDER DISPARITY

In many parts of India, women are viewed as an economic liability despite contribution in several ways to our society and economy

The crime graph against women is increasing at an alarming rate.

The condition of an Indian widow is quite deplorable.

At home, the woman's contribution towards home as a housewife is not recognized..

Domestic Violence, Rape, Sexual Exploitation, molestation, eve-teasing, forced prostitution, Sexual harassment at work places etc are a common affair today

COMMON OBSERVATIONS ABOUT MALE VS. FEMALE LANGUAGE STRATEGIES:

Men are lecturers; women are listeners; Men hold the floor longer.

Men use more negative face; women use more positive face.

Men are more exclusive; women are more inclusive.

Men's language is vertical (competitive); women's language is horizontal (social).

However for many men and women, these tendencies are becoming reversed.

“WOMAN BARBER,” “MALE NURSE,” “WOMAN DRIVER,” “MAILWOMAN,” AND THE “POWDER PUFF DERBY” FOR “WOMEN PILOTS.”

Male

Female

Male

Female

Adjutant

Helpmate

Maitre D

Hostess

Chef

Cook

Major

Majorette

Clerk Typist

Secretary

Orderly

Cleaning Lady

Medic

Nurse

Paternity

Maternity

To Doctor

To Nurse

Duke

Duchess

Gent Suit

Lady Suit

King

Queen

Professional

Proficient

King-Sized

Queen-Sized

Tailor

Seamstress

SEXUAL HARASSMENT AT THE WORKPLACE

Reality of the situation on the ground for women and members of vulnerable groups continues to be extremely harsh despite the Constitutional, legislative and administrative framework in place in India

Failure to implement protective provisions and continuing gender biases within society ensures that Constitutional and legal safeguards are rendered meaningless to many

LEGISLATIVE SAFEGUARDS

Article 15 of Constitution

Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth

o *The National Commission for Women* set up as a statutory body in January 1992 under the National Commission for Women Act, 1990

o Passage of constitutional amendments to reserve for women 33 per cent of the seats in the Panchayati Raj

POLITICAL PARTICIPATION

The Year 2001 was announced by the Indian government as Women's Empowerment Year

The National Commission for Women was set up in 1992 ; BUT

"No amount of legislation will be effective as long as the political will to promote gender equity is absent."

POLITICAL PARTICIPATION

Indian women played a major role in the freedom movement, it did not translate into continued participation in public life in the post-independence era

Representation of women in the state legislatures and in Parliament is low

81st Amendment Bill, drafted in 1996, that proposes the reservation of one-third of seats in the Lok Sabha, still pending for passing

HISTORICAL EVIDENCES

Amazon women warriors:-

In classical legend the Amazons were a tribe of warrior women. Their name is supposedly derived from Greek A-mazos, “without a breast,” because according to the legend they cut off their right breasts so as to be better able to shoot with a bow and arrow.

Amazon is the Ionian Greek form of the Iranian word Ha-mazan, “fighting together.”

Amazon women dislocate the joints of their male children at birth...some at knees, some at hips ... to make them lame ... so that the male race might not conspire against the female race.

Their women, so long as they are virgins, ride, shoot, throw the javelin while mounted, and fight with their enemies. They do not lay aside their virginity until they have killed three of their enemies, and they do not marry before they have performed the traditional sacred rites.

HISTORICAL EVIDENCES

PENTHESILEIA (Penthesilea) was an Amazon queen who led her troops to Troy in support of King **Priam** during the **Trojan War**.

Some say she was a mercenary seeking gold, others that she had accidentally killed her sister and sought redemption.

In the battles which ensued Penthesileia slew the Greek Makhaon but was in turn felled by **Achilles**.

When the hero lifted her helm he fell in love and agreed to return her body unharmed to the Trojans for proper burial.

HISTORICAL EVIDENCES

STORY OF PRAMEELA ~ WOMAN WARRIORS OF BHARATAM

STATUS OF WOMEN IN ANCIENT BHARATVARSH

In Hindu Vedic society : The women occupied a very important position, in the ancient Bharat Varsha. In fact far superior position to the men of the that time. "Shakti" a feminine term means "power" and "strength".

APPROX 3100BCE It is said that Goddess Parvati had cursed the land to be such that the women folk remain devoid of male partners, which was then decreed to be freed of the curse only when Arjun would arrive in pursuit of the sacred horse of the Aswamedha yagam.

STORY OF PRAMEELA : Prameela, a woman-queen of unparalleled beauty, valour, wisdom and spirituality, a misogynist who ultimately weds Arjuna (Pandava hero). She is said to have ruled the region that is now Kerala (then Seemanthini Nagara) which sort of explains the matrilineal society still prevalent in Kerala.

The story begins where Dharmaraja (post-Mahabharata victory) is advised to hold 'Ashwamedha Yagna' (horse sacrifice) to re-establish the Pandava sovereignty.

HISTORICAL EVIDENCES

Matrilineal society still prevalent in Kerala:-

The other theory relates to the ancient martial tradition of the **Nairs**. Boys were sent off to train in military gymnasiums from the age of eight, and their sole occupation thereafter was to master the art of warfare.

For them death by any other means than at the end of a sword on the battlefield was a mortifying ignominy and in their constant zeal for military excellence and glorious bloodshed, they had no time to husband women or economic resources.

So a man would never “marry” a woman, as in other parts of India, and start a family with their children. Instead he would visit a lady in her natal home every now and then, solely for sexual purposes, and the offspring would be her responsibility entirely.

Matrilineal was, as per this theory, consequent upon the men purely being instruments of war rather than householders. So the onus of family and succession was taken care of by women, who formed large establishments and managed their affairs independently in the absence of men.

ANTS' SOCIAL BEHAVIOUR.

Larger colonies Ants consist mostly of sterile, wingless females forming castes of "workers", "soldiers", or other specialized groups.

Nearly all ant colonies also have some fertile males called "drones" and one or more fertile females called "queens".

She(queen) can live up to 15 years and needs to mate only once. After the mating, the drones (potent Males) will soon die. Their span of adult life is only two or three days.

The other main function of a queen is to lay the fertilized eggs, millions of eggs. We could say that the queen is the mother of all the ants in the colony.

Worker ants are infertile females. They are the majority of individuals in the colony.

The queens are bigger than the workers and the drones. The queens produce particular pheromones, (which are special secreted substances with special smells), that makes the whole colony work and keep together. Each colony has its distinct smell, and all the members of the same colony controlled by the Queen Ant.


THE Y-CHROMOSOME MAKES MEN GENETICALLY INFERIOR TO WOMEN

Another nonsensical argument that female supremacists love to throw around is to make a huge deal about the fact that the male has one X chromosome and a smaller Y chromosome while females have two X chromosomes.

In their mind, this makes females genetically "superior" because the Y, being a smaller, degenerated X-like chromosome, indicates males as "broken" or "incomplete" versions of females.

GENDER TREATMENT

Male '+' 

Female '-' 

Difference in Physical Strength,

Pregnancy, Child Bearing and rearing,

Baby dress code- Blue for boys and pink for girls,

Women's Colleges, Lady clubs, Lady Doctor,

Burqua clad, Sati, Not allowed to recite Vedas,

Wife is Property of the Husband, House wife, House Makers,

No property rights, Surname changes after wedding,

Desk jobs, indoor jobs, day time jobs, Nursing jobs,

Females are for cooking, washing, cleaning and maintaining the house hold,(myth)

GENDER SENSITIZATION

Gender Imbalance	Gender Bias
Gender Neutrality	Gender equality
Gender policy	Gender rights
Gender laws	Gender discrimination
Gender privileges	Gender provisions
Gender balance	Gender gap
Gender vulnerability	Gender treatment
Gender code	Gender color
The Protection of Women from Domestic Violence Act, 2005	The Criminal Law (Amendment) Bill, 2013 commonly known as the Anti-Rape Bill
The Immoral Traffic (Prevention) Act, 1956.	The Dowry Prohibition Act, 1961 (28 of 1961) (Amended in 1986)
The Indecent Representation of Women (Prohibition) Act, 1986.	The Commission of Sati (Prevention) Act, 1987 (3 of 1988)

SECTION 498A-DOMESTIC VIOLENCE

Passed by Indian Parliament in 1983, Indian Penal Code 498A, is a criminal law (not a civil law) which is defined as follows,

“Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine. The offence is Cognizable, non-compoundable and non-bail able.

Your wife/daughter-in-law who's demands are not met can make a written false complaint of dowry harassment to a nearby police station. The husband, his old parents and relatives are immediately arrested without sufficient investigation and put behind bars on a non-bail able terms. Even if the complaint is false, you shall be presumed guilty until you prove that you are innocent.

SECTION 304 B-DOWRY DEATH

Section 304B in The Indian Penal Code

(1) Where the death of a woman is caused by any burns or bodily injury or occurs otherwise than under normal **circumstances within seven years** of her marriage and it is shown that soon before her death she was subjected to cruelty or harassment by her husband or any relative of her husband for, or in connection with, any demand for dowry, such death shall be called “dowry death”, and such husband or relative shall be deemed to have caused her death. Explanation.—For the purpose of this sub-section, “dowry” shall have the same meaning as in section 2 of the Dowry Prohibition Act, 1961 (28 of 1961).

(2) Whoever commits dowry death shall be punished with imprisonment for a term which shall not be less than seven years but which may extend to imprisonment for life.

Example:- Gowrisankar VS Union of India 1983.- Acquitted on the grounds of non validity of Dying Declaration recorded by Executive Magistrate rather than Judicial Magistrate.

CRIMINAL LAW

Constitutional challenges have been brought to the adultery, maintenance, prostitution and bail provisions.

The courts have primarily adopted a formal approach to Equality and a protectionist approach to Gender difference.

Adultery:- the supreme court has considered several challenges to sec. 497 of the IPC, which makes only Adultery committed by a man an offence, and sec. 198 of IPC, which allows only the husband of the “Adulteress” to prosecute the man with whom she committed adultery, but does not allow the wife of that man to prosecute him.

In Abdul Aziz vs. Bombay, the accused charged with committing adultery under sec.497, challenged the section as discriminatory on the basis of sex, and in violation of Article 14(equity before law) and 15 (prohibition of discrimination)

CRIMINAL LAW

The high court concluded that the difference of treatment was not based on sex but rather, on the social position of the women in India.

On appeal, the supreme court held that any challenge under Article 15(1) was met by 15(3).

15(1)- the state shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place, of birth or any of them.

15(3)- Nothing in this article shall prevent the state from making any special provision for women & children.

Within this understanding , the adultery is seen as the fault of the man, a woman is simply his hapless victim, and not to be blamed.

In **Sowmithri Vishnu Vs. union of India, sec.497 of the IPC was challenged as unconstitutional by a woman whose husband had prosecuted her lover for adultery. She argued that the section was discriminatory because the husband had a right to prosecute the adulterer. The wife on the other hand had no right.**

TYPICAL BEHAVIORAL PATTERNS OF INVESTIGATING OFFICERS TOWARDS WOMEN

1. **Insensitivity to women complaints.**
2. **Reluctance to register cases of the nature of family quarrel.**
3. **Registration of cases under sections of law inviting lesser punishment.**
4. **Viewing cases of pre-marital pregnancies as the sole responsibility of women.**
5. **Ignoring instances of eve teasing as due to the 'dressing style' of women.**
6. **Attitude of branding a rape victim as 'of loose moral character'.**
7. **Dismissing dowry related torture cases as matters of 'quarrelsome-women'**
8. **Blaming child sexual abuse cases, as caused by failure of the mother in bringing up the child.**
9. **Very liberal attitude in dealing with bigamy cases.**
10. **Tendency to brand persistent women petitioner as 'insane'**
11. **It is equally true that, since judges also come from the same society, they also can not be entirely free from the value system, the prejudices, the biases and stereotypical views.**

THE LIST OF MOVIES SHOWCASING WOMEN GRIEVANCES

1. Julia Roberts – **Erin Brockovich**- Agony of Single Parents.
2. Amber Heard – **North Country** – About Sexual Harassment by the co- workers and the first **Class Action** suit against S.H.in US.
3. Monica Bellucci – **Melena** – Sufferings of a women at the time of WW2.
4. **Malala** – Religious suppression on women folk in Pakistan,
5. Amitabh Bachan- **Pink**- women's freedom to her own sexuality.
6. **Bread and Roses** – about labor rights.
7. **Iron Jawed Angels**- Right to vote.
8. **Moolaadé** - Female genital mutilation (FGM).
9. **Take My Eyes** - Domestic violence.
10. **Water** - Widowhood

THE CASES AND JUDGMENTS

1. Government of AP Vs P B Vijay Kumar and another, 1995,

The Government of Andhra Pradesh in the year 1984 decided that women were not getting their due share of public employment.

"22-A: Notwithstanding anything contained in these Rules or Special or Ad-hoc Rules-

(1) In the matter of direct recruitment to posts for which women are better suited than men, preference shall be given to women; (G.O..Ms.MNo.472, G.A. dated 11.10.1985):

Provided that such absolute preference to women shall not result in total exclusion of men in any category of posts.

(2) In the matter of direct recruitment to posts for which women and men are equally suited, other things being equal, preference shall be given to women and they shall be selected to an extent of at least 30% of the posts in each category of O.C., B.C., S.C., and S.T. quota.

(3) In the matter of direct recruitment to posts which are reserved exclusively for being filled by women they shall be filled by women only."

GOVERNMENT OF AP VS P B VIJAY KUMAR AND ANOTHER, 1995,

The respondent before us has submitted that if Article 16(2) is read with Article 16(4) it is clear that reservation of appointments or posts in favor of any backward class of citizens which, in the opinion of the State, is not adequately represented in the services under the State is expressly permitted.

But there is no such express provision in relation to reservation of appointments or posts in favor of women under Article 16. Therefore, the respondent contends that the State cannot make any reservation in favor of women in relation to appointments or posts under the State. According to the respondent this would amount to discrimination on the ground of sex in public employment or appointment to posts under the State and would violate Article 16(2).

2. KARNEL SING VS STATE OF MP, 1995

The appellant challenges his conviction under Section 376, IPC, and the sentence and fine imposed on him. The facts leading to the conviction, briefly stated, are that the prosecutrix (PW 1) Panchbai, was working at a factory where she had reported for duty on the morning of 28.8.1987 around 8.00 a.m. Her job was to lift boulders and place them within the factory premises. While she was working inside the factory, another laborer by the name Charan was also present.

The appellant and his companion Pyaru came to the factory premises, asked Charan to fetch tea and on his departure the appellant lifted her bodily and took her inside the machine room, placed her on the ground, undressed her from below the waist and had sexual intercourse with her. Pyaru, since acquitted, was asked to keep a watch outside the factory. According to the prosecution after the appellant had satisfied his lust and before Pyaru could take his turn the prosecutrix ran through the opening in the compound wall of the factory, searched her husband, a rickshaw puller, and thereafter lodged the First Information Report (Ex.P-1).

3.VISHAKA AND OTHERS VS STATE OF RAJASTHAN, 1997

In 1992 Bhanwari Devi a social worker in Rajasthan was brutally gang raped by a number of upper class men, because she had tried to stop a child marriage. Bhanwari Devi was determined to get justice and lodged a case against the offenders. However, the accused was acquitted by a trial court. This appalling injustice, together with the fighting spirit of Bhanwari Devi, inspired several women's groups and NGOs to file a petition in the Supreme Court under the collective platform of Vishakha.

The petition, resulted in what are popularly known as the Vishaka Guidelines. The judgment of August 1997 given by a bench of J. S. Verma (then C.J.I.), Sujata Manohar and B. N. Kirpal, provided the basic definitions of sexual harassment at the workplace and provided guidelines to deal with it. It is seen as a significant legal victory for women's groups in India.

4. MS. GITA HARIHARAN AND ANOTHER VS RBI ,1999

The petitioner and Dr. Mohan Ram were married at Bangalore in 1982 and in July 1984, a son named Rishab Bailey was born to them. In December, 1984 the petitioner applied to the Reserve Bank of India for 9% Relief Bond to be held in the name of their minor son Rishab along with an intimation that the petitioner No.1 being the mother, would act as the natural guardian for the purposes of investments.

The application however was sent back to the petitioner by the RBI Authority advising her to produce the application signed by the father and in the alternative the Bank informed that a certificate of guardianship from a Competent Authority in her favour, ought to be forwarded to the Bank forthwith so as to enable the Bank to issue Bonds as requested and it is this communication from the RBI authorities, which is stated to be arbitrary and opposed to the basic concept of justice in this petition under Article 32 of the Constitution challenging the validity of section 6 of the Act as indicated above.

The factual backdrop in WP c No.1016 of 1991 centers round a prayer for custody of the minor son born through the lawful wedlock between the petitioner and the first respondent. Be it noted that a divorce proceeding is pending in the District Court of Delhi and the first respondent has prayed for custody of their minor son in the same proceeding.

5. DELHI DOMESTIC WORKING WOMEN FORUM VS UNION OF INDIA, 1994

The Judgment of the Court was delivered by S.MOHAN, J.- This public interest litigation invokes the benign provision of Article 32 of the Constitution of India, at the instance of the petitioner Delhi Domestic Working Women's Forum to espouse the pathetic plight of four domestic servants who were subject to indecent sexual assault by seven army personnel.

The incident, with a filmy background, has outclassed even the movies. On 10-2-1993, six women, by name, Usha Minz, Shanti, Josphine Kerketta, Rosy Kerketta, Nilli and Lili, domestic servants, were travelling by the Muri Express. The journey was from Ranchi to Delhi. One of the victims Miss Lili described the incidence graphically.

"We are now victim-oriented and have taken an active role in getting the entire helping network lawyers, doctors, nurses, social workers, rape crises center workers to talk and to interact together We are then in a position to concentrate fully on the primary goal that unites us all helping victims of sexual assault to get their lives back together."

6. GAURAV JAIN VS UNION OF INDIA, 1997.

Gaurav Jain vs. Union of India & Ors. [1990 Supp. SCC 709] that "segregating children of prostitutes by locating separate schools and providing separate hostels" would not be in the interest of the children and the society at large. This Court directed that they "should be segregated from their mothers and be allowed to mingle with others and become a part of the society".

Accepting the suggestion from the Bar and rejecting the limited prayer of the petitioner, this Court had ordered that "Children of prostitutes should, however, not be permitted to leave in inferno and the undesirable surroundings of prostitute homes". This was felt particularly so in the case of young girls whose body and mind are likely to be abused with growing age for being admitted into the profession of their mothers.

While this Court did not accept the plea for separate hostels for children of prostitutes, it felt that "accommodation in hostels and other reformatory homes should be adequately available to help segregation of these children from their mothers living in prostitute homes as soon as they are identified". In that view, instead of disposing of the writ petition with a set of directions, this Court constituted a Committee comprising

7. SARLA MUDGAL VS UNION OF INDIA , 1995,

In the Sarla Mudgal v. Union of India, there were two main petitioners. The first was Kalyani, a NGO that works with needy and distressed women, which is headed by Sarla Mudgal.

The next petitioner was Meena Mathur, married to Jitender Mathur, in 1988, Meena finds that Jitender converted to Islam and solemnized second marriage with Sunita Narula, also known as Fathima. Meena Mathur complains that her husband converted to Islam only for the purposes of getting married again and circumvented the provisions of Section 494 of IPC.

In the case Section 494 of IPC, article 14, 15 20 were discussed in details. The court discussed in detail these two issues:

1. Whether a Hindu husband married under Hindu law is allowed to embrace Islam and then second another?
2. Whether the husband can be charged under 494 of IPC?

8. ROHITH SINGH VS SMT. RAMENDRI AND OTHERS, 2000

Learned counsel for the petitioner then submitted that once a decree for divorce was passed against the respondent and marital relations between the petitioner and the respondent came to an end, the mutual rights, duties and obligations should also come to an end. He pleaded that in this situation, the obligation of the petitioner to maintain a woman with whom all relations came to an end should also be treated to have come to an end.

This plea, as we have already indicated above, cannot be accepted as a woman has two distinct rights for maintenance. As a wife, she is entitled to maintenance unless she suffers from any of the disabilities indicated in Section 125(4). In another capacity, namely, as a divorced woman, she is again entitled to claim maintenance from the person of whom she was once the wife. A woman after divorce becomes a destitute. If she cannot maintain herself or remains unmarried, the man who was, once, her husband continues to be under a statutory duty and obligation to provide maintenance to her.

9. BALWANT KAUR VS CHANAN SINGH, 2000,

Factual background : One Sham Singh was the sole owner of land in dispute measuring 47 Kanals situated in village Dolharon, Tehsil Garhshankar of Hoshiarpur District of the State of Punjab. Appellant no.1 is his widowed daughter and was dependent on him for her maintenance and support. He had no other issue.

The said Sham Singh executed a will dated 21st August, 1959 in favour of his daughter-appellant no.1 on whom he conferred life interest to the extent of residue 1/3rd of the suit land which, according to the will on her death had to revert to his two brothers Teja Singh and Beant Singh, predecessors in interest of the respondents herein. His two brothers were given the legacies of 1/3rd interest each in the suit land as full owners by the very same will.

The appeal is accordingly allowed. The judgment and order of the High Court are set aside and the decree of dismissal of respondents suit as passed by the learned District Judge, Hoshiarpur on 16th August, 1976 is confirmed.

10. RAGHUBAR SINGH VS GULAB SING, 1996,

Smt. Janak Dulari continued to remain in possession of the suit property after the death of her husband Manraj Singh on 27.8.1946. She died on 3.11.1969. The respondents (sons of Samsher Singh son of Dashrath Singh) herein, after the death of Smt. Janak Dulari, filed a suit for possession of the suit land and mesne profits inter alia alleging that the land in suit was ancestral Pawai land of Manraj Singh and on the death of Manraj Singh, Smt. Janak Dulari as his widow came into possession of the entire land.

That Manraj Singh had no son and as his only issue, a daughter by name Narbadia, according to the law then in force in Rewa State (where the suit lands are situated) could not inherit from her father, he (Manraj Singh) executed a will on 23.6.46 gifting the entire property, movable and immovable, to Raghubir Singh protecting the right of his wife Smt. Janak Dulari to enjoy the usufruct from the land during her life time.

It was also alleged that Janak Dulari had no pre-existing right in the suit land and that the compromise decree (ex-P-3) had created only life interest in her and, therefore, despite Section 14 of the Hindu Succession Act, 1956, Smt. Janak Dulari, never became the full or absolute owner of the suit property.

11 . T. SAREETHA VS T. VENKATA SUBBAIAH ON 1 JULY, 1983

This civil revision petition is filed by sareetha, a well-known film actress of the south Indian screen against an order passed by the learned subordinate Judge, Cuddapah, overruling her objection raised to the entertaining of an application filed by one Venkata Subbaiah, under section 9 of the Hindu Marriage Act (hereinafter referred to as 'the Act') for restitution of conjugal rights with her.

Sareetha while studying in a high school and then hardly aged about sixteen-years and staying with her parents at Madras was alleged to have been given in marriage to the said Venkata Subbaiah, at Tirupathi on 13-12-1975. Almost immediately thereafter they were separated from each other and have been continuously living apart from each other for these five-years and more. Venkata Subbaiah had, therefore, filed under section 9 of the Act O.P. No. 1 of 1981 on the file of the sub court, Cuddapah for restitution of conjugal rights with sareetha.

In the view I have taken of the constitutional validity of section 9 of the Hindu Marriage Act, I declare that section 9 is null and void. As a corollary to that declaration, I hold that O.P. No. 1 of 1981 on the file of subordinate Judge, Cuddapah, filed by Venkata Subbaiah for the relief of restitution of conjugal rights with sareetha is legally incompetent. Accordingly, I prohibit the Court of the subordinate Judge, Cuddapah from trying O.P. No. 1/81.

THE CASES AND JUDGMENTS

Shah Bano case:

On 23 April 1985, the Supreme Court granted maintenance to Shah Bano Begum, a 62-year-old Muslim mother of five who had been divorced by her husband, under Section 125 of the Criminal Procedure Code. Under pressure from the Islamic orthodoxy, the then Congress government, which had an absolute majority in Parliament, diluted this judgment by enacting The Muslim Women (Protection of Rights on Divorce) Act, 1986—entitling a divorced Muslim woman to maintenance only during the period of iddat, or a period of 90 days after divorce, according to Islamic Law.

THE CASES AND JUDGMENTS

Satya Rani Chadha case:

Chadha launched the anti-dowry movement across India after her daughter died of burns in a dowry harassment case in 1979. Her agitation led to the government passing tighter laws against dowry deaths, shifting the burden of proof to the husband and his family, and making not just the husband but also his close relatives culpable.

THE CASES AND JUDGMENTS

Mathura case:

The alleged custodial rape of a young tribal girl in 1978 by two policemen at the Desai Ganj police station in Chandrapur district, Maharashtra, came to notice much after the Supreme Court acquitted the accused. Later, the case led to amendments in the Indian rape law via the Criminal Law (Second Amendment) Act, 1983.

THE CASES AND JUDGMENTS

The Delhi bus rape-murder:

It was the gang rape of a physiotherapy student on a Delhi bus on 16 December 2012, followed by massive protests, that led to tougher provisions and penalties under the Criminal Amendment Act of 2013. The victim died of the brutal injuries inflicted on her. The case also led to amendments in the Juvenile Justice Act as one of the accused in the case was a juvenile. On 7 May 2015, the Lok Sabha passed the Juvenile Justice (Care and Protection of Children) Bill, 2014, which seeks to allow children in the 16-18 age group to be tried as adults for heinous crimes. It is yet to be passed by the Rajya Sabha

THANK YOU ALL



P. Guru Prasad,
VVIT,NAMBUR,
93 94 96 98 98

