



GIAN KAUR V. STATE OF PUNJAB: CASE COMMENT

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BACKGROUND:

The right to die is always a disputed one where the question of suicide is debated both in the ethical as well as the legal sphere. This question was first disputed in the *P. Rathinam v. Union of India*¹ where the court held suicide to be acceptable and permissible but this judgement was later overruled in *Gian Kaur v. State of Punjab*². All the judgements were based on various interpretations derived from Art.21 of the Indian Constitution which deals with 'Right to life and Personal Liberty'. Thus, it aims to determine the legality of S.306 & S.309 of IPC which punishes abettors to suicide as well as the person who attempted suicide respectively.

INTRODUCTION:

The appellant Gian Kaur and her husband Harbans Singh were convicted by the Trial court for abetting their daughter-in-law, Kulwant Kaur, to commit suicide. This was challenged in the court and were convicted for this heinous crime under S.306 & S.309 of IPC. After several appeals were dismissed in the lower courts, the appellants filed special leave petition stating S.306 & S.309 to be unconstitutional. However, the court withheld the decision that S.306 and S.309 of IPC are constitutionally valid. Thereby, the court struck down P. Rathinam's case.

This case deals with the widely debated Articles of the Constitution. It has provided a basis for other interpretations with regards to 'right to die'. This case has contributed to the enhancement of human well-being by declaring it to be the responsibility of the state to protect the people as well as their lives. This case aims to derive the scope of right to die, validity of the provisions of IPC and its constitutionality with respect to the Constitution. Therefore, this case has contributed to comprehend the articles of the constitution and expand the subject of constitutional law.

ANALYSIS:

This case has widened the concept of right to life. There were two important issues addressed in this case. Firstly, whether the S.306 of IPC was in accordance to the Art.14 and Art.21 of the Constitution. Secondly, whether S.309 of IPC was constitutionally valid. While, the court gave the judgment for the same, the following principles were laid down:

- Extinction of life is not included in protection of life and said that 'right to life' does not include 'right to die'. Right to Life is a natural right, embodied in Art. 21 but suicide is an unnatural termination and therefore, inconsistent and incompatible with the concept of 'right to life'.
- The Court makes it clear that the "Right to Life" denotes the right to lead a life with dignity. The word "Life" in Art.21 does not refer to the mere survival, but it mainly emphasizes the right to live with human dignity and personal liberty until his/her natural end of life.

¹ *P. Rathinam v. Union of India*, 1994 SCC (3) 394

² *Gian Kaur v. State of Punjab*, AIR 1996 SC 1257



- There is sentencing discretion and hence all suicides are not treated alike, therefore S.306 & S. 309 of IPC is not violative of Art.14. While, it is not violating Art.21 of the Constitution as well, because it prevents to take away one's own life as everyone has 'right to life'.

Therefore, on the above grounds, Gian Kaur and her husband were awarded 3 years imprisonment and fine of Rs. 2000 each for abetting their daughter-in-law to commit suicide. All the judges had common opinion and thus none dissented with the judgment which makes it a strong case law. After this judgment was passed, it has been restated in the famous case of *Aruna Ramachandra Shanbaug v Union of India and Ors*³. Thus, this case has stood as a landmark judgement.

COMMENT:

The Supreme Court has examined various case laws, articles as well as books in-depth and adopted a line of reasoning in delivering this judgment. The line of reasoning is that S.309 of IPC is constitutional as 'right to life' does not include 'right to die'. The arguments were fundamentally based on the presumption that killing or attempting to kill oneself is a criminal wrong. Abetment of suicide is made punishable in accordance to the procedure established by law and is provided with any exceptions.

I support the judgment with respect to S.309 of IPC in its totality but I have a dissenting opinion with regard to the criminalization of attempt to commit suicide under S.306 of IPC. The decision of one wanting to live or not is fundamentally inherent and thereby making it an 'inalienable' right. Moreover, a

person who tries to kill himself do not infringe upon others rights so it is not said to violate any public policy.

The above said judgment states that '*Art.21 confers a natural right which cannot be unnaturally curtailed*'⁴. Thereby, the people should be given a choice to live or die and should not be forced to live due to the fear of being punished for death. Furthermore, the person who had attempted to kill himself must be suffering already and punishing him, would be making him suffer more. Such a person has to be counselled rather than being put behind bars. Therefore, as Arthur Schopenhauer said, "*There is nothing in the world which every man has a more unassailable title than to his own life and person*"⁵ so attempt to commit suicide has to be de-criminalized.

CONCLUSION:

Suicide is an act done to kill oneself and such suicidal tendencies can occur in all age groups. One's life is precious but its premature termination is not acceptable by the society. The person attempting to commit suicide needs care and rehabilitation rather than imprisonment. The government has to enact legislations which regulates the 'right to die' by providing reasonable reformative measures, where he can be reformed and be given a new life. Hence, 'right to die' is at one's own will and shall not be forced to continue with life. Thus, it shall be included as a fundamental right and it shall not be curbed unreasonably but should be regulated in a reasonable manner.

³ *Aruna Ramachandra Shanbaug v Union of India and Ors*, (2011) 4 SCC 454

⁴ *Ibid* 2

⁵ <http://www.antipsychiatry.org/suicide.htm>



Moreover, this instant case signified the importance of an individual's life and emphasised more on leading a dignified life. It most importantly validated the S.309 of the IPC. It also decided upon the consistency of S.306 and S.309 with Art.14 as well as Art.21 of the Constitution. It had also contributed to add a different interpretation to Art.21 of the Constitution. Hence, this judgement is a landmark judgement of 'right to life'.

