BLOGS

Important Judgement for CLAT 2024 : Gian Kaur vs. State of Punjab

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Date: March 21, 1996 Bench: Justice J.S. Verma, Justice G.N. Ray, Justice N.P. Singh, Justice Faizan Uddin, and Justice G.T. Nanavati

Article 21 of the Indian Constitution states that no person can be deprived of his life or personal liberty unless according to a procedure established by law. Time and again, the Courts of our country have reiterated the importance of this article and how fundamental it is for the existence of human society. A law that takes away the life or liberty of a person on arbitrary and unreasonable grounds is against public policy and is violative of basic human rights.

The significance of Article 21 extends to the point that even during a situation of national emergency, this Fundamental Right cannot be suspended. In the case of ***Francis Coralie Mullin v. the Administrator***, Justice P N Bhagwati said that Article 21 is a constitutional value that is very important in a democracy.

The scope of this article is supposed to cover all those cases where a person is deprived of his life or liberty without any reasonable justification. But what exactly does this article preach?

What is the right to life? And does it include the right to die? If so, why is an attempt to commit suicide punishable under our criminal law? The right to life and the right to die are two separate points, but somehow they are interlinked. Where one is permitted, the other is prohibited. The confusion between the two will become apparent once we look into a landmark case on this topic, namely *Gian Kaur v. State of Punjab*.

Background of Gian Kaur vs. State of Punjab

- Section 309 of the Indian Penal Code punishes a person who attempts to commit suicide and does any act in furtherance of the same. Essentially, a person who dies by suicide cannot be

punished, but a person who fails in an attempt to commit suicide will be punished by law. As bizarre as it may sound, the law has prevented many mishaps from occurring, and the Courts have acquitted people despite their attempts to break the law. The section, however, has been challenged several times in court on the grounds that Article 21 of the Constitution grants us the right to live and die as we see fit, and Section 309 of the IPC contradicts that.

- The first challenge came in the case of Maruti Shripati Dubal v. State of Maharashtra, wherein the Court struck down the section because it was violative of Article 21 of the Constitution. The Court stated that the right to life also included the right to die if one wished to end one's own life, and the right to life had positive as well as negative aspects. Justice P. B. Sawant then opined that if the section was against those who wished to end their lives, how could it be fair to punish those who attempted but failed to do so? Those who are suicidal require psychiatric treatment and not prison cells, whereas those who wish to terminate their lives due to a physical illness, old age, disability, etc. require nursing homes. If a person does not want to live for any reason, this section is useless in preventing that person and is actually counter-productive and self-defeating.
- In State v. Sanjay Kumar Bhatia, the Delhi High Court acquitted a young boy when he tried to commit suicide by way of consumption of "tik-20," a bed bug killer, and pressed the urgency of deleting Section 309 from the Indian Penal Code because it was an "anachronism unworthy of a human society like ours." The boy needed a psychiatric clinic, and instead of sending him there, we sent him to prison cells, among criminals.
- Further, in P. Rathinam v. Union of India, the Supreme Court of India upheld the decision of the Maruti Shripati case and stated that Section 309 of the IPC was violative of Article 21 of the Constitution and thus void. The Court went on to say that a person cannot be forced by the state, or anyone else, to enjoy his life if he does not wish to do so. The right to life under Article 21 also includes the right not to live, and there is no justification to prosecute those who attempt suicide. But before concluding, the court took notice of various judgements from the courts of Delhi, Andhra Pradesh, Bombay, etc. and allowed the section to remain in the Code. Still, various judgements and articles on this issue came out, all condemning the section and asking for it to be declared unconstitutional. But soon after, the Supreme Court went back on its own decision and overruled it in the case to come.

Facts of the case

1. Gian Kaur and her husband, Harbans Singh, were accused of aiding the suicide of their daughter-in-law, Kulwant Kaur, since they wanted their son to marry someone else, someone who could bring them dowry.
2. The trial court had convicted them under Section 306 of the Indian Penal Code, which states the offence of abetment to suicide. Both of them were sentenced to rigorous imprisonment for 7 years and were also liable to pay a fine of Rs. 2000. In the event that they did not pay the fine, they were sentenced to 9 months in prison.
3. The convicts appealed to the High Court, but it upheld the decision of the trial court. The only change made by the High Court was to reduce Gian Kaur's sentence from 7 years to 3 years of rigorous imprisonment. The sentence for her husband remained unchanged.
4. Finally, the appellants approached the Supreme Court through a Special Leave Petition. They challenged the constitutional validity of Section 306 of the IPC as being violative of Article 21 of the Constitution. They argued that, as held in P. Rathinam v. Union of India, Article 21 includes the right to life as well as the right to end one's own life. As a result, a person convicted of aiding and abetting suicide was simply assisting a person's right to commit suicide.

Issues

- Whether or not Article 21, which addresses the "right to life," also addresses the "right to die"?
- Whether Section 306 of the Indian Penal Code, 1860, is constitutionally valid?
- Is Section 309 of the Indian Penal Code of 1860 a violation of Articles 14 and 21 of the Indian Constitution?

Appellant's Argument

- The counsel on behalf of the petitioner contended that the judgement passed by the trial court is of an erroneous nature. It was strongly alleged that there was no abetment of any kind. The appellant had approached the High Court to plead that she wanted to get rid of the said allegations. The contention was that Section 306 of the Indian Penal Code, 1860, should be held constitutionally invalid by referring to the case of P. Rathinam v. Union of India in which

the Court declared Section 309 of the Indian Penal Code, 1860, unconstitutional by stating that it is a violation of Article 21 of the Constitution.

- In the P. Rathinam case, it was held that the “right to die” falls within the ambit of Article 21 of the Indian Constitution and that any person aiding the enforcement of the “right to die” is merely aiding the implementation of Article 21, which is a fundamental right and cannot be penalised.
- The counsel on behalf of the petitioner further contended that the term “life” does not mean mere “animal existence,” but the “right to live with human dignity” and “embracing the quality of life.” As a result, a person who has the “right to life” also has the “right not to live,” that is, the right to die or end his own life.
- Further, one of the attorneys who appeared for the petitioner further contended that Section 309 of the Indian Penal Code, 1860, is violative of Article 14 of the Constitution and should be held unconstitutional on the grounds that the provision is discriminatory and arbitrary in nature.

Respondent’s Arguments

- The respondent in this case, the State, wanted the decision of the trial court and the High Court to be upheld by the Supreme Court.
- It was strongly argued that Section 306 of the Indian Penal Code, 1860, talks about the abetment of an attempt to commit suicide, which is an independent provision on its own, and hence it should not rely for validation on Section 309 of the same act.
- Section 306 is constitutional, and it does not violate Article 21 of the It was contended that the ruling in the case P. Rathinam v. Union of India should be struck down since Section 309 of the IPC is also constitutionally valid.
- “Right to life” is inherently inconsistent with the “right to die,” and the right to die cannot be said to fall within the ambit of Article 21.

Supreme Court’s Observation

1. The Supreme Court observed that the “right to life” under Article 21 of the Indian Constitution does not include the “right to die” or “right to be killed.” The Supreme Court propounded that the right to life also includes the right to a dignified life till the time one reaches the point of

death, even including the dignified procedure of death; hence, it includes the right of a man who is dying to also die with dignity when his or her life is waning.

2. The Supreme Court further observed that the attempt to commit suicide and any person who abets the commission of an attempt to commit suicide do not, by any means, violate Articles 14 and 21 of the Constitution. The Honourable Apex Court overruled the previous decision of P Rathinam v. Union of India, hence making Sections 306 and 309 of the Indian Penal Code, 1860, constitutionally valid.
3. The Supreme Court was of the opinion that life is defined as the right to live with dignity and that the dead shall also undergo a dignified procedure. Therefore, a person leading a life with dignity shall not, under any circumstance, end his life in an undignified manner. The Supreme Court proposed that no individual end their life as a right to die, and thus it follows that the "right to die" is not constitutionally valid.
4. The Supreme Court made certain that the "right to die with dignity" was not confused with the "right to die in an unusual manner. The Court observed that expediting the process of any person's natural course of death, which by God's creation are impending in nature, and permitting termination of any individual's life under such circumstances is not permitted and available for interpretation under Article 21 of the Therefore, the petitioner's contention on making Section 309 of the Indian Penal Code, 1860, unconstitutional, and thus they violated the provisions of Article 21. Further, the Apex Court also rejected the contention that questioned the constitutional validity of Section 309 on the grounds of Article 14 of the Constitution.
5. The Supreme Court also confirmed that aided suicide attempt and assisted suicide are punishable and considered an offence for compelling reasons in the interest of society. The main objective of such a provision is to prevent the inherent danger to society in the absence of such Section 306 of the Indian Penal Code, 1860, enacts a distinct crime that can survive independent of Section 309 of the said Act. Whereupon, the Honourable Court made it crystal clear that the arguments made to support the plea for not punishing the person who attempts to commit suicide do not make use of another person aiding in the commission of suicide or in the attempt at it.

Judgement

1. The Supreme Court's five-judge Constitutional Bench of Justice J.S. Verma, Justice G.N. Ray, Justice N.P. Singh, Justice Faizan Uddin, and Justice G.T. Nanavati in the instant case held that the "right to life" is inherently inconsistent and inconvenient with the "right to die," as is "death" with "life."
2. The Supreme Court further held that P Rathinam v. Union of India was struck down by the Court, making Section 306 and Section 309 of the Indian Penal Code, 1860, constitutionally valid and making the accused person punishable for the offence committed under these Sections.