

SHRI BODHISATTWA GAUTAM VS MISS SUBHRA CHAKRABORTY

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INTRODUCTION

The case of Shri Bodhisattwa Gautam vs Miss Subhra Chakraborty¹ proved to be a landmark judgment for rape victims. The Supreme Court made a significant ruling in this case, establishing that under Article 32² of the Indian Constitution, it has the authority to grant compensation for violations of Fundamental Rights, including interim compensation for victims of rape. The judgment also recognized rape as a violation of the Fundamental Right to Life and Personal Dignity guaranteed by Article 21³ of the Indian Constitution. This ruling shed light on the difficulties a rape victim has to go through and emphasized an urgent need for reform of the patriarchal society.

FACTS OF THE CASE

The petitioner was a lecturer at Baptist College, Kohima and the respondent was a student there. The petitioner first visited the respondent's home in Kohima on June 10th, 1989, and subsequently made frequent visits. During one such visit in November 1989, the petitioner revealed to the respondent that he was already in love with her, which led to the development of a romantic relationship between them since 1989.

After this, the petitioner allegedly deceived her by making false promises of marriage, which led to both of them engaging in sexual intercourse. Whenever the respondent asked about marriage, the petitioner would skillfully postpone it, citing reasons such as waiting for his parents' formal consent or until he secured a government job. This behavior on the part of the petitioner was malicious and aimed at deceiving the innocent complainant.

In the course of events, the respondent got pregnant twice, once in September 1993 and another in April 1994. This led to the respondent being concerned about their state of affairs, and she firmly insisted on getting married. A quarrel also broke out between both of them on this pretext, and the petitioner agreed to a secret marriage.

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¹ Shri Bodhisattwa Gautam v Miss Subhra Chakraborty, 1996, AIR 922, 1996 SCC (1) 490

² Constitution of India, 1950, art 32

³ Constitution of India, 1950, art 21

Despite being in a difficult position due to her pregnancy, the respondent agreed to the secret marriage. On September 20th, 1993, the accused married the respondent in front of his God at his residence in Kenozou Valley, Kohima, by applying sindoor on her forehead, thus accepting her as his lawful wife.

However, the respondent was subjected to further abuse as the petitioner pressured her to undergo an abortion despite her objections to the idea of terminating the pregnancy. The first abortion was done in October 1993 at Putonou Clinic, Kohima and the second abortion took place in April 1994 at Carewell Nursing Home, Dimapur. The petitioner gave the excuse of his parents not accepting a child before marriage to force her to abort both times.

The petitioner went to the extent of providing a false name, "Bikash Gautam," when signing the consent paper at the nursing home. He concealed his real name, which was unknown to the respondent until the second week of February 1995, when the respondent went to obtain a certified copy of the abortion consent paper of the petitioner. There, she discovered his true identity.

When the petitioner informed the respondent that he was going to Silchar to join Cachar College, a government college, she asked him to take her with him permanently. However, the petitioner declined to acknowledge her as his wife, arguing that their consensual union and application of vermilion on her forehead did not constitute a valid marriage. He further claimed that his parents would never accept her as their daughter-in-law. Even his friends were unable to persuade him to stay with the respondent whom he cruelly abandoned despite co-habiting with her for years.

JUDGEMENT IN THE LOWER COURTS

In the court of Judicial Magistrate, 1st Class, Kohima, Nagaland, it was judged that the petitioner not only deceived the respondent by inducing her to cohabit with him and falsely assuring her of marriage but also fraudulently conducted a certain marriage ceremony with the knowledge that it was not a valid marriage, thereby deceitfully making the complainant believe that she was his lawfully wedded wife. Moreover, the petitioner committed the heinous offense of inducing miscarriage by forcing the complainant to undergo abortion twice against her will. The way he exploited and abandoned the respondent constitutes an egregious act of cruelty that has caused serious mental and physical harm to her health. As a result, it was ruled that the

petitioner committed criminal offenses punishable under sections 312⁴, 420⁵, 493⁶, 496⁷, and 498-A⁸ of the Indian Penal Code.

However, he filed a petition in the Gauhati High Court under Section 482 of the Code of Criminal Procedure⁹, seeking to quash the complaint and the proceedings based on it, arguing that the allegations against him did not make out a case. The High Court rejected this petition in its judgment and order dated May 12, 1995.

Shri Bodhisattwa Gautam then filed a Special Leave Petition with the Supreme Court, where it was dismissed. They, however, decided to take suo motu notice of the facts presented by the respondent, and the following legal issues were raised in the Supreme Court: -

LEGAL ISSUES

- The primary question was whether there existed valid reasons for dismissing all legal actions taken against the defendant in Criminal Case No. 1 of 1995 held in the Court of Judicial Magistrate, First Class, Kohima.
- The secondary question was whether the Supreme Court had the authority to issue any additional directives in the case, and if such an order could compel Shri Bodhisattwa Gautam to provide interim compensation to Miss Subhra Chakraborty while the Criminal Case was still ongoing.

ARGUMENTS MADE BY THE PETITIONER

The petitioner denied the charges and claimed that the complaint was filed to humiliate and trouble him. He argued that there was no basis for him to pay any financial support to the complainant. He also revealed that he had secured a job at Cachar College, but his employment was terminated. As he did not have any employment, there arose no question of burdening him with the liability of payment of maintenance.

ARGUMENTS MADE BY THE RESPONDENT

The respondent's party argued that the petitioner had essentially exploited Miss Subhra Chakraborty. He had sexual intercourse with her on the false pretense of marriage, which led to her pregnancy twice. Furthermore, he forced her to abort despite her unwillingness to do so

⁴ Indian Penal Code, 1860, s 312

⁵ Indian Penal Code, 1860, s 420

⁶ Indian Penal Code, 1860, s 493

⁷ Indian Penal Code, 1860, s 496

⁸ Indian Penal Code, 1860, s 498A

⁹ Code of Criminal Procedure, 1973, s 482

and committed the offense of miscarriage. The petitioner was also completely aware of the fact, that they did not have a valid marriage when he put vermilion on her before the God he worshipped and abandoned her despite co-habiting with her for years.

OBSERVATIONS OF THE SUPREME COURT

According to Article 32 of the Constitution, the Supreme Court has the authority to uphold the Fundamental Rights guaranteed by the Constitution by issuing writs. Even private entities and individuals can be held accountable for violating Fundamental Rights. Additionally, the right to approach the Supreme Court under Article 32 for the enforcement of Fundamental Rights is also considered a Fundamental Right. The Court's authority under Article 32 is extensive, as it can declare an Act as being beyond the legislative body's competence or ultra vires while examining a petition for the enforcement of any of the Fundamental Rights guaranteed in Part III of the Constitution. Additionally, the Court can grant compensation for the breach of Fundamental Rights.

The Court has also reiterated numerous times that the "Right to Life" does not simply mean the bare minimum existence but encompasses the right to live with human dignity. It, therefore, includes all aspects of life that make it worth living.

Regrettably, women in our nation are members of a societal group that faces numerous social obstacles and limitations, rendering them at a disadvantage and making them vulnerable to oppression by men, despite the equal status granted to them by the Constitution. Their dignity and honor must not be subjected to infringement or violation, and they are also entitled to live a peaceful and dignified life.

Hence, Rape is not just an offense against the individual woman who is victimized, but rather a crime against the entire society. It can shatter a woman's psychology, plunging her into deep emotional turmoil. It is the most detestable crime, violating not only basic human rights but also the victim's most treasured Fundamental Right - the Right to Life, as outlined in Article 21 of the Constitution. The Court addressed that unfortunately, current rape laws do not fully address the social aspects of this crime, and are deficient in several areas.

The decision in Delhi Domestic Working Women's Forum vs Union of India, 1995 (1) SCC 14 acknowledges the victim's entitlement to compensation, stating that the Court shall grant it upon the offender's conviction, subject to the Central Government's finalization of the Scheme. If a Court has the power to award compensation in the final stage of a rape case, there is no justification for denying it the authority to award interim compensation, which should be

included in the Scheme. According to the principles outlined in the aforementioned Delhi Domestic Working Women's Forum case, the Court's jurisdiction to award interim compensation should be considered part of its overall jurisdiction in rape cases. As mentioned earlier, rape is a violation of basic human rights and the Fundamental Rights of Personal Liberty and Life.

THE VERDICT

The Supreme Court decided to uphold the judgment of the Gauhati High Court and refused to quash the ongoing case against the petitioner in the Court of Judicial Magistrate, First Class, Kohima. Taking into account the circumstances of the case, the Court also decided that the petitioner should pay an interim compensation of Rs. 1,000/- per month to Miss Subhra Chakraborty during the pendency of Criminal Case No. 1/95 in the court of Judicial Magistrate, First Class, Kohima, Nagaland. He must also pay any overdue compensation at the same rate from the date on which the complaint was filed until now. It is also to be noted that the contents of the current judgment will not impact or influence the Magistrate's decision on the complaint's merits based on the evidence presented before it and by the law.

ANALYSIS AND CONCLUSION

“Rape is thus not only a crime against the person of a woman (victim), it is a crime against the entire society.”

The case of *Shri Bodhisattwa vs Miss Subhra Chakraborty* emphasizes the ambit of Article 21 and Article 32. Rape is a violation of our Fundamental Right to Life with dignity. The criminal justice system faces various challenges when dealing with rape cases. While there are calls for severe punishments, the focus often shifts away from the suffering of the victim. Rape is a traumatic experience that deeply affects the lives of victims. The impact can be long-lasting, affecting their ability to form personal relationships, changing their values and behavior, and causing persistent fears. Furthermore, victims have to endure additional suffering during legal proceedings. Therefore, the justice system will benefit greatly if Section 375 of the Indian Penal Code ¹⁰(rape) takes into account the social stigma faced by the victims due to a heinous crime like rape. The mental suffering of the victim must be taken into consideration to give them justice.

¹⁰ Indian Penal Code, 1860, s 375