



CASE ANALYSIS: BUDHADEV KARMASKAR VS STATE OF WEST BENGAL

Surbhi Sudhanshu*

INTRODUCTION

This case arose from brutal murder of sex workers which helps in recognizing the rights of sexual workers and subsequently evolved into a landmark judgement concerning the rights and dignity of sexual workers relying upon Article 21 of the constitution this case has a broader aspect in making procedural reformation in recognizing the rights of sex workers and its recent interpretations in 2022 by Supreme Court helped in prevention in human trafficking, coercion, exploitation etc. of sex workers, its judgement has its significance in Indian jurisprudence by recognizing the right of every individual irrespective of their profession, identity has their right to live with dignity. This judgement has a huge significance as it differentiates between consensual and non-consensual sex workers and criminalises non-consensual activities. It represents a huge step in recognising and upholding Human rights and ensuring equal treatment before the law.

BACKGROUND OF THE CASE

The deceased Chayay Rani Pal, alias Buri, was living in a red-light area. She was evidently a sex worker. The Appellant Budhadev assaulted her with fists and legs, causing her to fall on the floor. The appellant then grabbed her by the hair and repeatedly banged her head against the floor and the wall several times. As a result, the victim sustained several injuries and bled from her ears, nose and head. Four people witnessed the incident. The police were informed about the incident by telephone. The victim was taken to the hospital by one of the witnesses, where she was declared dead on arrival.

ISSUES BEFORE THE COURT

1. Whether the conviction held on Budhadev Karmaskar for the murder of Chayay Rani Pal was justified based on the evidence of record.

*BA LLB, SECOND YEAR, USHA MARTIN UNIVERSITY.

2. Whether sex workers are entitled to the protection of fundamental rights, particularly the Right to life and dignity under Article 21 of the Constitution of India.
3. Does the state have the duty to take measures for the rehabilitation and social welfare of sex workers?
4. Whether society and governmental authorities should ensure equal treatment and protection of sex workers despite the stigma attached to their profession.

Arguments of the Appellant: The learned counsel for the appellant narrated the facts of the case to convince them of what they saw. They had supported the post-mortem report, which told about the nature of injuries and how they were caused, in which reports suggested injuries caused by beating through fists and legs, with reports that gave the evident cause of death of any human.

Arguments of the Respondent: The defendant's counsel defended by saying that the result can be the result of continuous falling from the stairs and that the assault was not committed by the accused, and defending the ground evidence of the presence of eye witnesses, stating that the eye witnesses were not present at the time of cross-examination and will not be admissible as per Section 164 of the Code of Criminal Procedure, 1973. The defence also cast doubt on the facts stated by the Appellant, stating that the presented facts are unsupported by any testimony or evidence from the resident.

JUDGEMENT

The Trial Court has rightly convicted the appellant under Section 302 IPC and sentenced him to life imprisonment. The High Court recognised the right of prostitutes under the Right to live, and Dignity under Article 21 dismissed the appeal and found no actual reason to disbelieve the eyewitnesses, which is evident with the medical evidence and accused the appellant of murder in a brutal manner of helpless women and declared no mercy from the court. With the dismissal of the appeal, the High Court directed the State and Central governments to provide welfare and rehabilitation measures to eradicate poverty. As a woman who is affected by the cause of abject poverty, with vocational training, women can gain employment and would be able to earn a decent livelihood.

RATIO DECIDENDI

The Court held the principle of Right to life and Dignity and equal protection of laws for sex workers and maintained that the prostitutes cannot be subjected to any discrimination or

brutality supporting with issuance of Aadhar card, criminalizing running a brothel as a business, police to recognize the right of sex workers and restriction on Press Council of India to take appropriate guideline and to not reveal the identities of sex workers.

OBITER DICTA

The Supreme Court later observed and expanded the scope of human rights and dignified right to life to sex workers through ensuring various enforcement procedures and guidelines in a subsequent 2022 judgement by recognising sex work as a profession, and directing the state to ensure sex workers have access to basic identification like Aadhar, Voter and ration cards. The court issued various directions to ensure the Right to Life and Dignity with various directions of rehabilitation and skill development, police sensitisation and protection, children's rights and media guidelines.

CONCLUSION

Budhadev Karmaskar v State of West Bengal is a landmark judgement in recognising the rights of sex workers and entitling them with Constitutional rights of Right to Life and Dignity under Article 21, and also accord them with Humanitarian rights by recognising their profession in a fair and consensual manner and criminalising trafficking, coercion and running and managing a brothel. The Supreme Court also conferred upon them Rehabilitation procedures and mandated their identity under UIDAI (Unique Identification Authority of India), which made it a landmark judgement in recognising the rights and profession of sex workers.

CRITICAL ANALYSIS

In Budhadev Karmaskar v State of West Bengal, Supreme Court took a landmark judgement and a progressive approach in recognising sex workers and their profession as dignified, entitling them with constitutional rights, and granting them the very protection of getting in this work on a consensual basis, with criminalizing any non-voluntary means whereas criminalizing running of brothel was a huge step in societal importance and recognizing their work on a dignified basis. Court directions to the state for rehabilitation schemes, vocational employment training targeted at eliminating poverty and providing for employment options for those who took this profession because of abject poverty. The judgment ensures that sex workers are subjected to human rights, the right to life and Dignity with Equal protection of law.

The Judgement also helped in eliminating the social stigma revolving around sex workers and their profession by providing them with guidelines and rehabilitation schemes, and protecting their rights within the law. The existing gap between sex workers and their profession is a lack of enforcement of lawful procedures, as its historical background reflects sex workers to be considered and reflected through mythological entities such as apsaras (celestial dancers). Despite this deeply rooted historical background, they are exploited and are not given basic humane conditions or enforcement of their rights.

SUGGESTION/RECOMMENDATION

Based on the analysis of the judgment, certain areas where legal and policy reforms may be necessary.

- The government should ensure incentives and investments for rehabilitation programs by ensuring employment, efforts should be made to eradicate poverty and create sustainable livelihood opportunities so that no individual is forced to adopt sex work as a means of survival.
- Sex work as a profession should be opted for by a person as a consensual profession, as subject to the 2025 Supreme Court Judgement, with criminalising coercion, trafficking, etc.
- Courts are to ensure the enforceability of guidelines as provided in the judgment, as the gap exists in the enforceability of guidelines, in establishing the rights of sex workers.
- Elimination of social stigma revolving around the profession of sex workers through community outreach programs and inclusion in educational curriculum.
- Awareness and sensitisation campaigns to be conducted by the government to educate the public and challenge stereotypes that affect the rights of sex workers and their equal protection under the law.