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# **CENTRIC APPROACH TO RIGHT TO DIE:** **SPECIAL REFERENCE TO GIAN KAUR V.** **STATE OF PUNJAB**

**AUTHORED BY –**  
**KRISHNARDHULA SARUYU**

## **ABSTRACT:**

The most basic and important Fundamental Right is Right to Live with dignity, which is laid down under Article 21 of the Indian Constitution. Right to die, i.e., suicide is a crime under Section 309 of Indian Penal Code, 1860. Gian Kaur v. State of Punjab is the first case that turned the tables around and articulated that Right to live doesn't include right to die in 1996. Till 1996, The Court of Law, held in various cases, that Right to live includes Right to Die.

## **INTRODUCTION:**

Section 309 of Indian Penal Code, 1860 deals with suicide and its punishment. It lays down that when a person commits suicide, i.e., killing themselves, then they are subjected to an imprisonment which may extend to a term of 1 year, or fine, or both. Section 306 of Indian Penal Code, 1860 deals with Abetment to suicide along with its punishment. It articulates that any person who abets, i.e., influences another human being to commit suicide, then they are liable to imprisonment which may extend to term of 10 years and fine. Article 21 of Indian Constitution deals with Right to life and personal liberty, which also include Right to live with dignity.

## **PARTIES INVOLVED:**

Kulwant Singh: Daughter – in – Law

Gian Kaur: Mother – in- Law

Harbans Singh: Father – in – Law

## **FACTS:**

- Kulwant Singh was married to the son of Gian Kaur and Harbans Singh. Ever since their marriage, the Daughter – in – law was being continuously abused by her in laws and were often asking her to commit suicide by saying mean things to her.
- The Daughter – in – Law approached the police station and the case was taken up to the Trial Court. The Trial Court held that Gian Kaur and her husband Harbans Singh liable under Section 306 of Indian Penal Code, 1860 and were sentenced to imprisonment for a period of 6 years along with Rs. 2,000 fine.

- Gian Kaur, aggrieved by the decision of the Trial Court approached High Court via Article 226 to quash the order passed by the lower Court, i.e., 6 years imprisonment along with Rs. 2,000.
- The Judgment given by High Court was against Gian Kaur and supported the decision taken by the Trial Court. However, the term of imprisonment reduced from 6 years to 3 years.
- Gian Kaur was still not satisfied with the Judgment of the High Court. They appealed to the Supreme Court and the case was put to hearing in front of a Five Bench Judge.
- The main prayer of the Appellant was to declare Section 209 of Indian Penal Code null and void as in the previous cases, Section 209 was held as unconstitutional

## ISSUES:

- Whether Section 306 of Indian Penal Code, 1860 is constitutionally valid?
- Whether Section 309 of Indian Penal Code, 1860 violates Article 14 and 21 of the Indian Constitution?

## BACKGROUND OF THE CASE:

In 1985, State Vs. Sanjay Kumar Bhatia was put to hearing in front of the Delhi High Court Division Bench. The Hon'ble Bench held that the continuance of Section 309 IPC is an anachronism unworthy of human society like the current one. The question of the constitutional validity with reference to provisions under Constitution was not considered.

In 1988, Chenna Jagadeeswar and another Vs. State of Andhra Pradesh was put forth for hearing in front of the Andhra Pradesh High Court Division Bench. The Constitutional validity of Section 309 and right to die is included in right to life was rejected.

In 1994, P. Rathinam vs. Union of India and Anr. was put to hearing in front of the Bench of two learned Judges of Court. The Division Bench rejected the challenge of the constitutional validity of Section 309 based on Article 14, but, however, they upheld the challenge on the basis of Article 21 of the Constitution. The Bench held that Right to live includes Right to die and held that Section 309 is constitutionally invalid.

## CONTENTIONS OF THE APPELLANTS:

The Appellants insisted that there was no abetment to suicide and that their choice of conviction is erroneous. They also contended that they were just motivating their Daughter – in – Law to exercise her Fundamental Right of Right to die under Article 21. They stressed and presented their arguments completely based on the Judgment given in P. Rathinam v. Union of India case that Section 309 is in violation of Article 14 and Article 21 of Indian Constitution. One of the major and directly raised point by the appellants was that as Right to die includes Right to live, they cannot be punished for the commission of their fundamental Right

## **CONTENTIONS OF THE RESPONDENTS:**

The Respondents put forth that the charges against the appellants were correct and are valid as Section 306 is constitutionally valid. The Respondents contended that Section 306 and Section 309 of IPC were different from each other and grooved different offences and that Section 306 can survive with Section 309 of IPC. The Respondents laid down that Article 21 can't be construed to incorporate the right to die as it guarantees protection of life and liberty due to which it can't possess a negative connotation of giving a right to its extinction and that there was no merit within the argument put forth by the appellants' supporting Article 14 because there was satisfactory discretion given to Courts.

## **JUDGMENT:**

- The Hon'ble Court held that Article 21 of Constitution of India states "Right to life and personal liberty" and does not include Right to Die or Right to Kill because it is against the nature or rule of God. It also held that no person has the Right to speed up the process of death. Thus, Section 309 of the IPC does not violate Articles 21 and 14 and are constitutionally valid.
- The Court also observed and put forth the difference between Right to die and Right to die with dignity. The Hon'ble Bench held that everyone has the Right to die with dignity but not the Right to die or kill themselves.
- This case overruled the Judgment passed in the case of P. Rathinam v. Union of India.

## **CONCLUSION:**

Gian Kaur v. State of Punjab still stands as a landmark Judgment in relation to Article 21. It emphasized on the importance of a Human's life and held that committing suicide and anyone who abets to commit suicide are serious offences under Indian Penal Code, 1860.