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ATTEMPT TO COMMIT SUICIDE IN I.P.C : AN ANALYTICAL STUDY

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Attempt to Commit Suicide in I.P.C : An Analytical Study

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Abstract – Right to life, which is described under Article 21 of the Constitution also aids in giving citizens a right to live a life of dignity. A life with full control over it is supposedly guaranteed by the constitution. The conflict, however, begins here. Liberty is guaranteed to an individual but no such right is given to end his life with his own will. This debate has been the subject is cases of P. Rathinam v. Union of India and Smt. Gian Kaur v. State of Punjab. In P. Rathinam, the Supreme Court held the right to die as an aspect of article 21. It was held that the section 309 was violative of article 21 of the constitution inasmuch as right to live includes right to die or right not to live a forced life and the section interferes with that right. The court agreed with the reasoning given by Bombay High Court in the case of Maruti Shripati Dubai v. State of Maharashtra, “ the freedom of speech and expression includes freedom not to speak and to remain silent. The freedom of association and Movement likewise includes the freedom not to join any association or to move anywhere. The freedom of business and occupation includes freedom not to do business and to close down the existing business. If this is so, logically it must follow that right to live as recognized by Article 21 of the constitution will include also a right not to live or not to be forced to live . To put it positively, Article 21 would include a right to die, or to terminate one’s life”

Key Word : Suicide, I.P.C., Punishment.

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INTRODUCTION

In India, attempt to commit suicide is punishable u/s 309 Of the Indian Penal Code. Section 309 of the Indian Penal Code thus reads as :

“Whoever attempts to commit suicide and does any act towards the commission of such offence shall be punished with simple imprisonment for a term which may extend to one year or with fine or with both”

The above section has been the subject of controversy in many cases, especially over the last two decades. Most notably, the subject was under the scrutiny in the cases of P. Rathinam v. Union of India and Smt. Gian Kaur v. State of Punjab. In the former case, the Division Bench of two judge of the Supreme Court held section 309 as ultra vires of the fundamental rights enshrined in Article 21 of the constitution. In the latter case, a Division Bench of three judges of the Supreme Court had to decide correctiveness of P. Rathinam. The earlier decision of Supreme Court in P. Rathinam was overruled and the court held the section 309 was neither violative of Article 21 nor Article 14 of the Constitution.

It is also important to note that the Law Commission of India has also recommended decriminalizing of attempt to commit suicide in its 42nd and 210th reports.

So far, the law on attempt to commit suicide is still based on the ruling of Supreme Court in Gian Kaur.

MEANING OF SUICIDE

Interestingly, the term ‘suicide’ is not defined in the Indian Penal Code. However, a quick reference of Clift v. Schwabe gives an apt definition of this term, “to ‘commit suicide’ is for a person voluntarily do an Act. (or, as it is submitted, to refrain from taking bodily sustenance), for the purpose of destroying his own life, being conscious of that probable consequence, and having, at the time, ‘sufficient mind to will the destruction of life.” Emphases here are on the words ‘voluntary act’ and ‘being conscious of that consequence.’ This means intention is the essential ingredient. It can be observed that, while, there is no punishment for the completed act but the law makes sure that the individuals who are not able to accomplish the act are punished. This implies a person who is highly depressed or diseased, someone who has lost all hope to live, decides to end his life and his attempt in Unsuccessful, the penal procedures would make sure that he is punished for the unsuccessful attempt.

One perspective on the above illustration would evoke sympathy towards the survivor, such a person needs help and counseling. He needs emotional

supports. The other perspective is that punishment for suicide would act as deterrence. This aspect would also be dealt with further in the paper when the number of suicides in the recent years is analyzed.

Another argument is that a person accused for offence such as human trafficking, drug trafficking or murder and other crimes, tries to end his life by committing suicide, this provision would make sure that he is tried under this section. At least if he escapes the other charges. But is this reason strong enough to advocate containing with section 309 in Indian Penal Code ?

Further, declaring attempt to commit suicide as a crime presents another problem. In countries like United States of America and Canada, practice of using the words 'died by suicide' rather than 'committed suicide' is slowly developing. The reason for that is, crime are committed by criminals and suicide is not a crime (Not even an attempt to commit suicide is a crime in these countries). Therefore, 'committed suicide' and similar 'attempt to commit suicide' are not appropriate terms in modern times.

Attempt to Commit Suicide is a Crime or Not?

Right to life, which is described under Article 21 of the Constitution also aids in giving citizens a right to life of dignity. A life with full control over it is supposedly guaranteed by the constitution. The conflict, however, begins here. Liberty is guaranteed to an individual but no such right is given to end his life with his own will. This debate has been the subject in cases of P. Rathinam v. Union of India and Smt. Gian Kaur v. State of Punjab. In P. Rathinam, the Supreme Court held the right to die as an aspect of Article 21. It was held that section 309 was violative of Article 21 of the constitution inasmuch as a right to live includes right to die or right not to live a forced life and the section interferes with that right. The court agreed with the reasoning given by Bombay High Court in the case of Maruti Shripati Dubai v. State of Maharashtra, "the freedom of speech and expression includes freedom not to speak and to remain silent. The freedom of association and movement likewise includes the freedom not to join any association or to move anywhere. The freedom of business and occupation includes freedom not to do business and to close down the existing business. If this is so, logically it must follow that right to live as recognized by Article 21 of the constitution will include also a right not to live or not to be forced to live. To put it positively, Article 21 would include a right to die, or to terminate one's life."

The High Court also observed that there is nothing unnatural about the desire to die and hence the right to die. The means adopted for ending one's life may be unnatural varying from starvation to strangulation. But, the desire which leads one to resort to the means is not unnatural. Suicide or an Attempt to commit suicide is not a feature of a normal life. It is an incident of abnormality or of an extraordinary situation or of an uncommon trait of personality. Abnormality and

uncommonality are not unnatural merely because they are exceptional.

The High Court further observed that the right to die or to end one's life is not something new or unknown to civilization. Some religions like Hindu and Jain have approved of the practice of ending one's life by one's own Act in certain circumstances while condemning it in other circumstances. The attitude of Buddhism has been ambiguous though it has encouraged suicide under certain circumstances such as in the service of religion and country. Neither the old nor the New Testament has condemned suicide explicitly. However, Christianity has condemned suicide as a form of murder. In contrast, the Quran has declared it a crime worse than homicide.

The Supreme Court's stand attempt to commit suicide was categorically overruled in the case of Smt. Gian Kaur. The court held that right to die cannot be construed from right to life under Article 21. The court stated, "Right to life is a natural right embodied in Article 21 but suicide is an unnatural termination or extinction of life end, therefore, incompatible and inconsistent with the concept of right to life. With respect and in all humility, we find no similarity in the nature of the other rights, such as the right to freedom of speech etc. to provide a comparable basis to hold that the 'right to life' also includes the 'right to die'. With respect, the comparison is inapposite, for the reason indicated in the context of Article 21. The decisions relating to other fundamental rights where in the absence of compulsion to exercise a right was held to be included within the exercise of that right are not available to support the view taken in P. Rathinam qua Article 21. To give meaning and content to the word 'life' in Article 21, It has been construed as life with human dignity. Any aspect of life which makes it dignified may be read into it but not that which extinguishes it and is, therefore, inconsistent with the continued existence of life resulting in effacing the right itself. The right to die, if any, is inherently inconsistent with right to life as is death with life."

Thus section 309 was upheld as constitutional. But the motive with which this section was first instated in the Indian Penal Code and the subsequent upholding of the section i.e. to protect life and discourage self-destructive practice of suicide is now slowly losing its relevance. This is evident from the rise of suicide cases in recent years.

While approximately one million people die by suicide worldwide, more than one Lakh person (1, 18, 112) in the country lost their lives by committing suicide during the year 2006. This indicates an increase of 3.7 percent over the previous year's figure (1,13, 914). The number of suicides in the country during the decade (1996-2006) has recorded an increase of 33.9 percent (from 88,241 in 1996 to 1,18,112 in 2006).

Looking at the offence of attempting to commit suicide, it has been observed by an English writer. "It seems a

monstrous procedure to inflict further suffering on even a single individual who has already found life so unbearable, his chances of happiness so slender, that he has been willing to face pain and death in order to further bitterness and degradation seems perverse legislation."

A COMPARATIVE STUDY

Only a small number of countries in the world like Pakistan, Bangladesh, Malaysia, Singapore and India continue with the law of criminalizing attempt to commit suicide. Large number of countries including United States of America, England, the whole of Europe, some South American nations and neighbouring Shri Lanka have decriminalized attempt to commit suicide. The survivors are provided medical help as well as societal and family support. They are certainly not sent to prisons, even for a small term.

Suicide survivors need emotional and psychiatric support. Decriminalizing attempt to commit suicide will help many of the survivors to come out and seek help, as today they may be afraid for fear of being penalized.

CONCLUSION

Right to life, with a right to live a life of dignity does not certainly mean to live a forced life. Decriminalizing attempt to commit suicide would not actually result in increase in number of suicides but would only encourage the survivors to seek help. Quoting from Law Commission Report.

"Right to live would, however, means right to live with human dignity up to the end of natural life. Thus, right to live would include right to die with dignity at the end of life and it should not be equated with right to die an unnatural death curtailing natural span of life.

Hence, a dying man who is terminally ill or in a persistent vegetative state can be permitted to terminate it by premature extinction of his life. In fact, these are not cases of extinguishing life but only of accelerating process of natural death which has already commenced. In such cases, causing of death would result in the end of his suffering."

Thus section 309 as a law should be amended suitably keeping in view the kind of people who attempt suicide. The section should be amended to punish only those who try to escape punishment due to other criminal liabilities excluding those who attempt it out of sheer frustration, depression or due to living in such circumstances that would invoke suicidal thoughts.

REFERENCES

- Cited in law Commission of India Report No.210, at 15 (2008)
- Ibid
- AIR 1996 SC 946
- Refernces from Neeraj chhabra's article
- (1846) 3 CB 437
- AIR 1994 SC 1844
- AIR 1996 SC 946