

Decriminalization of sec 497 of IPC

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Abstract

In our country India, marriage is consider as sacred relationship not merely a formal or contractual relationship. The law has inflicted section 497 in order to protect this pure bliss. Section 497 of the Indian Penal Code 1860 which provides the punishment to the husband who are engaged in the adultery. Adultery is being considered as anti-social and illegal act, so section 497 is absolutely considered arbitrary in nature.

Keywords: Sec 497, Adultery, Marriage.

Introduction

A lame reading of the sec 497 of the Indian penal code reflects that this section is bias against the man because it shows that only a man will be held is guilty if he commits adultery with the married woman without her husband's consent. The main intent of the section shows that the only male offender will be held liable who is the third person in respect of his wife. Recently the apex court of India has declared the year's old law on adultery as unconstitutional which treats a husband as a master.[1]

Impact on Marriage

As in our Indian society on one hand marriage is being considered as a pure foam of relation on the very other hand its value is diminishing because adultery is being committed. Adultery diminish the importance of the marriage where woman is engaged with the other man and on that man is held liable for the same not the woman. With this there arises question should adultery be decimalized. Adultery is being considered as a criminal offence not the civil offence the reason behind it is that it is the wrong against the society as whole and state should take action accordingly. The insertion of the section 497 in IPC is to protect the importance of the marriage because in Hindu culture marriage is considered the purest union of a male and the female which extend to several lives of them. There are many vows taken by the married couple at the time of

their marriage, those vows are to ensure and to perform their obligatory duties to remain faithful to each other throughout the marriage and maintain that pure relation with utmost care and responsibility.

Decriminalization of sec 497

S. 497 – Adultery – “If a man has sexual intercourse with a woman who is, and whom he knows or has reason to believe to be the wife of another man, without the consent or connivance of that man, such sexual intercourse not amounting to the offence of rape, the man and the woman are guilty of the offence of adultery, and shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both”. [2]

The above sec reflects that there if there is any sexual intimacy between the man and other person's wife without the consent of her husband that it will tends to adultery .there were several arguments were being made for against of this issue and finally in the year 2017 a nine judge bench declare right to privacy as a fundamental right under Article 21 which states that “sexual privacy is considered as an integral part of privacy”. The Supreme Court of India thereby decriminalized section 497 being considered it as the violation of the principle of the natural justice.

Conclusion

The supreme court of India has changes the prolong history of sec 497 and pave the way to every individual that they have the liberty and the freedom to lives peacefully by considering it under the head of privacy. Thus it's a great move from the judiciary for each and every citizen of the India.

REFERENCES

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- [2] “THE INDIAN PENAL CODE,” in *A Text-book of Medical Jurisprudence and Toxicology*, 2013.

