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CASE COMMENTARY ON GIAN KAUR VS STATE OF PUNJAB

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ABSTRACT

The question of “**Right to Life**” was first raised in the case of **Maruti Shripati Dubal V. State of Maharashtra 1987 (1) BomCR, (1986) 88 BOMLR 589** followed by **P. Rathinam V. Union of India 1994 AIR 1844, 1994 SCC (3) 394**. Part III of Indian Constitution guarantees the basic fundamental rights to the citizens and one such right is Article 21 which includes the Right to life and Personal Liberty. In this case the court quashed Section 309³² of IPC because it was violative of Article 21 of Indian constitution and court also stated that right to life also includes right to die if one chooses or decides to end their own life and later in the following cases it was over ruled by giving judgement that right to life does not include right to die.

KEYWORDS – Right to live, Article 21, Abetment to suicide, Supreme Court, Right to die.

1.	Case Title	Smt. Gian Kaur V. State of Punjab 1996 AIR 946, 1996 SCC (2) 648
2.	Author	Hon’ble Justice J.S. Verma
3.	Judgement Date	21/03/1996
4.	Court	Hon’ble Supreme Court of India
5.	Appellant	Smt. Gian Kaur
6.	Respondent	State of Punjab
7.	Bench	Justice J.S. Verma, G.N. Ray, Faizan Uddin and G.T. Nanavati
8.	Citation ³³	1996 AIR 946 1996 SCC (2) 648 JT 1996 (3) 339

³² **Section 309 of IPC- Attempt to commit suicide**

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.

³³ <https://indiankanoon.org/doc/217501/>

		1996 SCALE (2)881
9.	Acts and Sections Involved	Constitution of India, 1950 (Article 14 and Article 21) Indian Penal Code, 1860 Section 306 and Section 309 of IPC

I. INTRODUCTION

Hon'ble Chief Justice of India Dr. D Y Chandrachud in the case of *Common Cause V. Union of India* has defined³⁴ the relationship between Life and death.

"Every moment of our lives, our bodies are involved in a process of continuous change. Millions of our cells perish as nature regenerates new ones. Our minds are rarely, if ever, constant. Our thoughts are fleeting. In a physiological sense, our being is in a state of flux, change being the norm. Life is not disconnected from death."

The case of Gian Kaur V. State of Punjab was a landmark case and judgment which was decided by a 5 judge bench in the Hon'ble Supreme Court of India. The Judgement in this case was given by overruling the judgement which was given in P. Rathinam V. Union of India AIR 1844, 1994 SCC (3) 394 which held that Right to live includes right to die and also Section 309 of IPC was held to be unconstitutional.

II. FACTS OF THE CASE

a) **Gian Kaur and her husband Harbans Singh were convicted under Section 306³⁵ of Indian Penal Code, 1860 for abetment to suicide to their daughter in law (kulwanth kaur).**

b)

- c) They were accused of ruthlessly pouring kerosene on her with an obvious intention of seeing her dead
- d) **In the trial court both were sentenced for rigorous imprisonment for 6 years and fine of Rs. 2000.**
- e) On getting aggrieved by the decision of the trial court an appeal was filed before the Hon'ble High Court. In this case High Court reiterated the lower courts decision by declaring that the appellants are rightly convicted of the said crime. Also the Hon'ble High Court reduced the rigorous imprisonment of Gian Kaur from six years to three years.
- f) Soon after the decision of High Court the appellants approached to Hon'ble Supreme Court through special leave petition under Section 136 of Indian Constitution.

III. ISSUES RAISED:

Two major issues were raised in this landmark case and the Hon'ble Supreme Court also analyzed the facts according the circumstances of these issues.

- 1) **Whether Section 306 of IPC, 1860 is constitutionally valid or not?**
- 2) **Whether Section 309 of IPC, 1860 is violative of article 14 and 21 of the Indian Constitution?**

IV. ARGUMENTS ON FAVOUR OF APPELLANT:

- a) **The counsel on behalf of the appellant contented that section 306 of IPC must be held constitutionally invalid with reference**

³⁴ <https://www.legalserviceindia.com/legal/article-5024-right-to-die-with-dignity-as-a-fundamental-right-under-article-21.html>

³⁵ **Section 306 in The Indian Penal Code**
Abetment of suicide - If any person commits suicide, whoever abets the commission of such suicide, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

to the **P. Rathinam V. Union of India case which also declared that section 309 of IPC is constitutionally not valid as it is violative of Article 21 of Indian Constitution.**

- b) Section 309 of IPC is constitutionally not valid since it violates Article 14 of the constitution on the basis of discrimination and arbitrary nature.

V. ARGUMENTS ON FAVOUR OF RESPONDENT

- a) The respondents contended that the Hon'ble Supreme Court has to uphold the decision of Trial Court and Hon'ble High Court.
- b) It was also contended that the Section 306 of IPC is constitutionally valid and it does not violate article 14 and 21 of Indian Constitution and also said that the decision given in **P. Rathinam V. Union of India 1994 AIR 1844, 1994 SCC (3) 394** should be struck down.
- c) It was also submitted by the counsel that right to life does not include right to die under Article 21 of Indian Constitution.

VI. ORDER OF THE COURT:

- a) As per the earlier judgement in cases such as **P. Rathinam V. Union of India 1994 AIR 1844, 1994 SCC (3) 394, Maruti Shripati Dubal V. State of Maharashtra 1987 (1) BomCR, (1986) 88 BOMLR 589** attempt to commit suicide is considered to be unconstitutional.
- b) In this present case the five judge bench over ruled the above mentioned cases and declared that right to life under article 21 does not include right to die or right to be killed. The death of a person should be in a natural way and not should be confused with an unnatural death.
- c) Arguments based on article 14 of the Indian Constitution were considered inconsistent with the major issues of the case.

- d) Sections 306, 309 of IPC were made constitutionally valid and declared that they are not violative of article 21 or article 14 of Indian Constitution and struck down the decision of **P. Rathinam V. Union of India 1994 AIR 1844, 1994 SCC (3) 394**.

VII. DOCTRINE OF ECLIPSE AND SECTION 309 OF IPC:

The Doctrine of Eclipse means if a law is violative of any fundamental rights then it becomes invalid or void. The doctrine of eclipse seems to be violated in the cases of **P. Rathinam V. Union of India 1994 AIR 1844, 1994 SCC (3) 394, Maruti Shripati Dubal V. State of Maharashtra 1987 (1) BomCR, (1986) 88 BOMLR 589** Since it was said by the court in the case that section 309 of IPC was violative of article 14 and 21 of Indian Constitution. The Doctrine is seen to extended to the provisions under the IPC, as observed in the cases of P. Rathinam V. Union of India AIR 1844, 1994 SCC (3) 394. Later in the case of Gian Kaur the constitutional bench over ruled the judgments and upheld the validity of section 309 of IPC. Thus the doctrine of eclipse has been removed and became operational.

VIII. CONCLUSION:

A generic definition of suicide defines it to be a reaction to the issues at one point of time cannot be solved at any cost. It is the thought of as one of the final reactions which a person makes to deal with inner emotional distress. In this case the Hon'ble Supreme Court concluded that "Right to Life" also includes right to lead a dignified life and the death of the person should be natural. But this does not apply when it comes to the case of euthanasia³⁶. The case of Gian Kaur V. State of Punjab has derived the scope of right to die and also provided the validity of Section 306 and 309 of IPC, 1860 and Articles 14 and 21 of Indian Constitution.

³⁶ Aruna Ramchandra Shanbaug vs Union Of India & Ors AIR 2011 SC 1920



The Hon'ble Supreme Court of India has recently stated that Right to live with dignity also includes right to die with dignity which means that citizens have right to live their life according to their will and when it comes to the case of suicide government has to take necessary steps to prevent from such attempts and should be protected from giving enough medical care to the person.

IX. RELATED CASE LAWS

A. *Common Cause (A Regd. Society) vs Union Of India*

B. *Naresh Marotrao Sakbre and Another vs. Union of India and others, 1895 Cr.L.J. 96*

X. REFERRED CASE LAWS

A. *Aruna Ramchandra Shanbaug vs Union Of India & Ors*

B. *P. Rathinam V. Union of India 1994 AIR 1844, 1994 SCC (3) 394*

C. *Maruti Shripati Dubal V. State of Maharashtra 1987 (1) BomCR, (1986) 88 BOMLR 589*

XI. REFERENCE

Constitution of India, 1950 - Bare Act

Indian Kanoon case study on Gian Kaur V. State of Punjab

Bare act - Indian Penal Code, 1860

