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Case Comment: *Nirmala Devi v State of Himachal Pradesh:* Murder Verdict of the Wife Who Killed Her Husband for his inability to provide Rs. 500 to her Daughter

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INTRODUCTION

'You can think about the condition of a Nation by looking at the status of its women.'

- Pt. Jawaharlal Nehru

In India, it is hard to dispute that women and men are equally entitled to just and fair treatment and there is no discrimination based on their sex. The abuse against women is one of the prominent problems prevalent in the society. Women are subjected to Gender Violence, Sexual Harassment, Female Foeticide, and Human trafficking etc. Primarily in India instances of Domestic Violence have raised serious concerns regarding the position of women in this male-dominated society. According to the data published by the National Commission for Women, there are 30,957 complaints were registered by the women against the atrocities suffered in the

society.¹ Out of these complaints, 6,986 complaints were registered for the Protection of Women against Domestic Violence. On the other side, the menace of Marital Rape is still not punishable in India. While rape is regarded as a heinous offense under the Indian penal Code, Marital Rape is not illegal. Moreover, the proportion of married women (between 18-49 years of age) who have ever faced spousal violence has increased in 5 states. In Karnataka, it has doubled, from 21% to 44%. More than a third of the married women face spousal violence in Karnataka (44%), Bihar (40%), Manipur (40%) and Telangana (37%).² The domestic violence of women at the hands of their husbands and their in-laws is very prevalent not only in rural and illiterate families but also in modern and literate families. The social attitude towards the victims of such abuse is the more serious reason as the reputation of the victim is derogated in the eyes of society without any fault. Any sort of abuse whether physical, emotional, mental, sexual, or economic abuse, harassment for dowry, or acts of threatening, etc. suffered by the women leads to drastic changes in the behavioral and emotional patterns that cause psychological trauma. Especially when such abuse is typically caused by the Intimate Partner. The battering of aggressive emotions within the women against the violence leads to the expansion of anger and frustration. It is the endurance of all the violence within the women that they are triggered to undertake severe methods to end this cycle of suffering. Ultimately such violence received by women culminates in the tendency to kill their tormentors.

In the International arena, courts through their various judgments adhered to the principle of legal defense in cases wherein the husband got killed by the wife under the impression of battered woman syndrome. They recognized that in the cases of victims of domestic violence, the harmful act done by them is a result of a 'slow burn reaction', rather than an immediate loss of self-control.³ In the case of *R v Charlton*, the court lowered the sentence of the wife from five years to three and half years who was subject to terrifying abuse from his husband.⁴ Under the ambit of Indian Laws, Battered Women Syndrome is not recognized as a legal defense for the

¹ 'Statistical Overview of Received Complaints' (National Commission for Women)

<https://ncwapps.nic.in/frmComp_stat_Overview.aspx> accessed 21 August 2023

² 'National Family Health Survey 5' (PRS Legislative Research, 28 December 2020)

<<https://prsindia.org/policy/vital-stats/national-family-health-survey-5>> accessed 21 August 2023

³ *R v Ahluwalia* [1992] 4 All ER 889

⁴ *R v Charlton* [2003] EWCA Crim 415

protection of women from the recurring abuse suffered by them through the repeated actions from their husbands. However, the Judiciary plays a fundamental role in recognizing Battered Women Syndrome as a legal defense considering the criminal act is done in the provocation of the abuse suffered by the woman under different situations. In this paper, through the lenses of *Nirmala Devi v State of Himachal Pradesh*⁵, we will try to concur whether the offense done by a woman under the severe pressure of the repeated abuse inflicted on her by her husband for several years will be covered in section 300⁶ or Section 304⁷ part I or II of the Indian Penal Code, 1860.

FACTS OF THE CASE

On the date of 26 May 2015, the accused that is Nirmala Devi informed the Police that her husband, Mast Ram had been missing the previous night. On the same day at 7:00 a.m., the accused found her husband stained in blood in the courtyard of her house. Thereafter the accused along with her Children, Son Vinod and Daughter Priyanka took the body to the room, where he died.

The Police party reached the spot and examined the scenario, then the body of the deceased was transported for medical examination and post-mortem. Afterward, a call was made to the deceased's nephew, Ghungriya Ram, informing him about the death of his maternal uncle. He reached the hospital whereupon he noticed certain marks of injuries on the head, arms, and legs of the body.

A complaint was filed by him against the accused i.e. Nirmala Devi and her son Vinod considering their strained relations and quarrelsome attitude with the deceased.

During Interrogation, it was identified that relations between the accused and the deceased were adverse as Mast Ram was violent and used to beat his family regularly. It was also found that the deceased Mast Ram fractured the leg of the appellant-accused Nirmala Devi and one

⁵ *Nirmala Devi v State of Himachal Pradesh* SLP No 9777/2022

⁶ Indian Penal Code 1860, s 300

⁷ Indian Penal Code 1860, s 304

criminal case regarding the same was also pending. So the appellant-accused along with her Children was forced to live in separate houses.

Priyanka, the deceased's daughter, demanded a sum of rupee 500 from her father to attend her NCC camp but the father refused. On the persistent refusal by the deceased, the accused had an argument with him which ultimately triggered a quarrel in which the accused gave several blows to the deceased with a stick. Due to this, Mast Ram eventually died.

A chargesheet was filed under sections 302⁸ and 201⁹ of the Indian Penal Code read with section 34¹⁰ of the Indian Penal Code. The trial court sentenced the appellant-accused to Imprisonment for life under Sections 302 and 201 of the IPC and Vinod was acquitted from all the charges. Thereafter an appeal was filed before the High Court which was also dismissed. Consequently, an appeal was filed before the Supreme Court of India against the decision passed by the trial court.

LEGAL ISSUES INVOLVED

1. Whether in the circumstances of the present case, the sentence imposed upon the appellant-accused under Section 302 of the IPC be converted into part I or II of Section 304 of the IPC.
2. Whether the conviction made under Section 302 is required to be maintained or whether the case falls under a lesser offense considering the facts of the case.

OBSERVATION OF THE SUPREME COURT

The Supreme Court vividly elucidated that the conviction of the accused i.e. Nirmala Devi by the trial court under Sections 302 and 201 of the IPC and consequently which is maintained by the High Court is solely based on the testimony of Priyanka (PW-1). The Supreme Court, relying upon the scrutiny of the testimony of Priyanka (PW-1) opined that there is a possibility that the accused-appellant, being deprived of her patience and self-control, caused the death of the death

⁸ Indian Penal Code 1860, s 302

⁹ Indian Penal Code 1860, s 201

¹⁰ Indian Penal Code 1860, s 34

under the provocation on the part of the deceased not agreeing to pay rupees 500 for her daughter. It was visible that the relations between the deceased and the other members of the family were not amiable. After referring to the testimony of Priyanka; it was evident that the accused was repeatedly subjected to the violent behavior of the deceased. Moreover, the deceased Mast Ram also fractured the leg of the accused and the case for the same is also pending. It was also analyzed that the deceased and the other three members were also residing separately as there were rigorous fights in which the deceased the Mast Ram gave regular beatings to his wife. The weapon used by the accused was a stick which could not be regarded as a deadly weapon. So the court firmly believed that it would be erroneous to convict the accused under Section 302¹¹.

DECISION

Relying on the testimony of Priyanka (PW-1), the court opined that it is essential to take into account the background in which the offense took place. Recurrent fights between the accused and the deceased also need to be taken into consideration. It was held by the court that the offense committed by the appellant-accused needs to be converted to section 304¹² IPC part I or II. The offense shall fall under Exception I of Section 300¹³. It was laid down by the court that the accused is entitled to the benefit of the doubt

ANALYSIS

The social prejudice of domestic violence is covered into two categories under the Indian Penal Code which are available as a defense of murder. Sections 76¹⁴ to 106¹⁵ of the Indian Penal Code provides general exception whereas certain statutory exceptions are laid down in Section 300¹⁶ which explains murder. However, no definite statutory provisions are available to the sufferers of Battered Women Syndrome under the Indian Criminal Law. Also, the provisions of the Indian

¹¹ Indian Penal Code 1860, s 302

¹² Indian Penal Code 1860, s 304

¹³ Indian Penal Code 1860, s 300 ex I

¹⁴ Indian Penal Code 1860, s 76

¹⁵ Indian Penal Code 1860, s 106

¹⁶ Indian Penal Code 1860, s 300

Penal Code do not provide for any explicit defense applicable to the offenders of Battered Women Syndrome. In the case of *Malliga v State By Inspector of Police*¹⁷, it was opined by the Madras High Court that in a male-dominated society, women exhibit a reluctance to take initiative for their betterment. They submit themselves to cruel depredations even to the most outrageous acts at the hands of persons, including their husbands. Every single effort made by women against the atrocities of domestic violence is suppressed by the actions and stereotypes established by society. There is a necessity to evolve the idea of private defense beyond the immediate physical threat. In the case of *Suyambukkani v State of Tamil Nadu*¹⁸, a desolate woman jumped into a well with her children. The children died but the women survived and she was charged under sections 307¹⁹ and 309²⁰. In this case, it was also opined by the Madras High Court that it was the situation of extreme distress and compelling circumstances that forced her to commit suicide. So it was held by the honourable court that the act was a result of a sustained provocation. Another important precedent established in this regard is *Smti Manju Lakra v The State of Assam*²¹, it was observed by the Guwahati High Court that the act done by the battered woman was an outcome of recurrent provocations and persistent violence done by her husband. So, she was not charged for murder but for culpable homicide not amounting to murder. Similarly, in the present case, the sustained provocations suffered by the battered woman forced her to kill her husband to protect herself from his violent attitude. So the honorable Supreme Court recognized the plight of the battered woman and it was held that said accused would not be liable for murder but for culpable homicide not amounting to murder.

CONCLUSION

In the past era, domestic violence in the prevalent in the society was not considered as a major stigma but with the passage of time and awareness, women are raising their voices against the inhumane treatment faced by them. Many initiatives in this regard have been taken by the government but their implementation has always remained in question. It is through this

¹⁷ *Malliga v State By Inspector of Police* Crim App No 42/1990

¹⁸ *Suyambukkani v State of Tamil Nadu* Crim App No 264/1984

¹⁹ Indian Penal Code 1860, s 307

²⁰ Indian Penal Code 1860, s 309

²¹ *Smti Manju Lakra v The State Of Assam* Crim App No 116/2007

landmark judgment, that the judiciary has raised the benchmark of justice, equity, and fair trial for every single victim of such menace of domestic violence. Moreover, this also brings the attention of society to the psychological condition of women in society. It is demanded that the law it should incorporate certain provisions relating to the protection of the victims suffering from such massive traumas.