

Adultery law weighted in favour of men: SC

The court will examine two aspects of the penal provision.

One, why does Section 497 treat the man as the adulterer and the married woman as a victim?

Two, the offence of adultery ceases the moment it is established that the husband connived or consented to the adulterous act. So, is a married woman the “property” of her husband, a passive object without a mind of her own?

“The provision [Section 497] really creates a dent in the individual independent identity of a woman when the emphasis is laid on the connivance or consent of the husband,” the court said.

“This is tantamount to subordination of a woman where the Constitution confers equal status [on women],” it declared.

Further, only a husband or the person in whose care the husband has left his wife can file a complaint under Section 497.

The petition challenges the validity of Section 198 (1) and (2) of the Code of Criminal Procedure which deems that only a husband can be an aggrieved party in offences against marriage like adultery and only he can go to court.

Arguing for the petitioner Joseph Shine, advocates Kaleeswaram Raj and Suvidutt M.S. submitted that the penal section was framed at a time when a wife was considered the husband’s property. They asked the court to annul Section 497.

Equal status

The Constitution confers equal status on man and woman. The time had come when society had to realise that a woman was equal to her husband in every respect, Chief Justice Misra recorded in the SC order.

Justice D.Y. Chandrachud paraphrased the petitioner’s argument that it amounted to a violation of a woman’s fundamental right against discrimination under Article 15. “By presuming the woman to be a victim, has the law made a patronising assumption?”

Why is prosecution under Section 497 completely dependent on the husband’s word?

So much so that a woman can enter into an adulterous relationship if her husband consents.

END

Downloaded from **crackIAS.com**

© **Zuccess App** by crackIAS.com