

**Section 377: By referring the writ petition to another bench, SC has given love a good name**

In India, love is often treated as a transgression, unless it is practised along the right caste, class, gender and religious lines, and approved by parents, panchayats, and courts. Anti-Romeo squads correct consenting adults of such 'wrongdoing'. A man was beaten half to death and set on fire before a phone camera to make a statement against 'love jihad'. There's even a colonial-era law that makes certain kinds of love illegal. Word on the street is that love has a real bad name.

For members of the gay, lesbian, bisexual, transgender, intersex and queer (LGBTIQ) communities, Monday's observations by the Supreme Court offer hope that their fight for their right to love continues. In 2016, two writ petitions challenging Section 377 were filed separately — the first by five gay and lesbian men and women; the second, by two prominent transgender activists, one of whom identifies as a woman, and a transwoman student. Both the petitions argued that the section, which criminalises any form of intercourse that is not penile-vaginal, violated constitutionally guaranteed rights, such as the right to personal liberty, the right to privacy, the right to freedom from discrimination and the right to equality before the law.

On Monday, a three-judge bench of the Supreme Court, which included the Chief Justice of India Dipak Misra and Justices AM Khanwilkar and DY Chandrachud, issued a notice on the writ petition filed by five gay and lesbian citizens, asking the Centre to respond. The writ petition, (Navtej Singh Johar and Others vs Union of India), had asked that the court recognise the right to sexuality, sexual autonomy and choice of sexual partner as intrinsic to personal liberty. The bench alluded to the NALSA judgement of 2014, which granted third gender status to transgender individuals, and the right to privacy judgment from last year, which declared that privacy was a fundamental right. Both these judgments strike at the very heart of the matter.

Love is not simply a case of whom one chooses to marry, or to have consensual intercourse with. To be able to love whomever one wishes to is a matter of an individual's dignity and privacy. The only role that the State should play is to protect an adult individual's right to express love that is consensual. If anything must be penalised, it is uninvited interference.

After Congress MP Shashi Tharoor's private member's bill to decriminalise same sex relations between consenting adults was not even taken up for discussion in the Parliament, the central government will now have to spell out its stand on Section 377 in court. Make no mistake, the case has still to be heard. But by referring the writ petition to another bench, the Supreme Court has opened the doors to a debate on the right to love which couldn't have been more timely. The apex court has given love a good name.

END

Downloaded from **crackIAS.com**

© **Zuccess App** by crackIAS.com