

Hear marital cases in camera: SC

In a historic verdict, a three-judge Bench of the Supreme Court, with a 2:1 majority, overruled its earlier orders to conduct matrimonial disputes cases through video conferencing, saying it is very doubtful whether the emotional bond can be established in a virtual meeting during video conferencing and it may even create a dent in the process of settlement.

Chief Justice of India Dipak Misra and Justice A.M. Khanwilkar on Monday agreed that matrimonial disputes should be conducted in camera in the spirit of Section 11 of the Family Courts Act of 1984 and video conferencing would destroy the privacy of the proceedings and probably defeat the cause of justice.

“What one party can communicate with other, if they are left alone for sometime, is not possible in video conferencing... the expression of desire by the wife or the husband is whittled down and smothered if the Court directs that the proceedings shall be conducted through the use of video conferencing,” the majority judgment observed.

Describing matrimonial proceedings as “sanguinely private”, the majority judgment said chances of “reconciliation requires presence of both the parties at the same place and the same time so as to be effectively conducted”.

The majority judgment set aside a decision by a two-judge Bench of the Supreme Court led by Justice A.K. Goel on March 9, directing all high courts to issue administrative instructions to family courts across the country to open video conferencing facilities and use the technology to conduct marital disputes whenever one of the parties — husband or wife — requests for it. The court had said this would spare the parties the drudgery of appearing in person for the proceedings.

Technology as enabler

In his dissenting judgment, Justice D.Y. Chandrachud, the third judge on Chief Justice Misra’s Bench, differed with the opinions expressed in the majority verdict, saying modern technology like video conferencing is “above all a facilitator, enabler and leveler”.

“Appropriate deployment of technology facilitates access to justice,” Justice Chandrachud wrote.

The majority judgment, however, said video conferencing of marital disputes proceedings can be held if attempts at settlement fail and both the husband and wife mutually agree to it.

Justice Chandrachud however, said it is a “fallacy” that an “in camera trial is inconsistent with the usage of video conferencing techniques”.

Besides, he argued that video conferencing can come to the aid of spouses who face genuine difficulties arising from the personal or employment compulsions to attend court. “There may also be situations where parties (or one of the spouses) do not want to be in the same room as the other due to a history of marital abuse or misbehaviour of a psychiatric nature or substance abuse,” he observed.

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