

Child marital rape: SC Bench questions exception in penal law

The Supreme Court on Wednesday questioned the reason for Parliament to create an exception in the penal law declaring that sexual intercourse by a man with his minor wife is not rape.

The apex court asked the reason behind such an exception in the Indian Penal Code when the age of consent was 18 years for “all purposes.”

“We do not want to go into the aspect of marital rape. That is for Parliament to see if they want to increase or decrease the age of consent. But once Parliament decided that we have fixed 18 years as the age of consent, can they carve out an exception like this,” a Bench of Justices Madan B Lokur and Deepak Gupta asked the Centre.

“When you [the government] recognise the age of consent to be 18 for all purposes, then why this exception,” it asked.

Section 375 of the IPC, which defines the offence of rape, has an exception clause that says intercourse or sexual act by a man with his wife aged below 18 is not rape. Responding to the query, government counsel submitted that the exemption was created after due thought and consideration by Parliament.

During the hearing, the Bench referred to the aspect of child marriage and said that despite there being a law which held it illegal, the practice was still going on.

END

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