

MAN IS NOT OWNER OF WIFE'S SEXUALITY: CHANDRACHUD

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Justice D.Y. Chandrachud

Justice D.Y. Chandrachud held that a married woman can make her own sexual choices. By marrying, she has not consented to refrain from sexual relations outside marriage without the permission of her husband. A husband is not the owner of his wife's sexuality.

To be human involves the ability to fulfil sexual desires in the pursuit of happiness, Justice Chandrachud said.

Human sexuality is an essential aspect of identity. Choices in matters of sexuality are reflective of the human desire for expression. Sexuality cannot be construed purely as a physiological attribute. It links up with the human desire to be intimate with a person of one's choice. Sharing of physical intimacy is a reflection of choice.

Autonomy in matters of sexuality is intrinsic to a dignified human existence. Human dignity both recognises and protects the autonomy of the individual in making sexual choices, Justice Chandrachud held.

Section 497 denuded woman of the ability to make fundamental choices by postulating that it is only the man in a marital relationship who can consent to his spouse having sexual intercourse with another. Far from being an equal partner in an equal relationship, Section 497 subjugated a married woman entirely to the will of her spouse, he wrote.

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