

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 3204 OF 2019

COL. RAJNISH BHANDARI, VSM

Appellant(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

J U D G M E N T

R. F. NARIMAN, J.

Having heard learned counsel for both the parties and having perused Section 497 of the Ranbir Penal Code, 1932, applicable to the State of Jammu and Kashmir, we are of the view that, given our judgment in *Joseph Shine v. Union of India* (2019) 3 SCC 39, the *pari materia* provision contained in Section 497 of the Ranbir Penal Code be also declared as violative of Part III of the Constitution of India. The sentence "In such case the wife shall be punishable as an abettor", which does not occur in Section 497 of the Indian Penal Code, 1860, cannot stand by itself in view of the fact that the expression used is 'In such case'. The entire Section is, therefore, declared to be unconstitutional. The fact that this statement of law in the Ranbir Penal Code is the exact opposite of the statement of law, so far as the wife is concerned, of that contained in the Indian Penal

Code, 1860, is of no consequence.

We are, therefore, of the view that nothing survives against the appellant on charges relatable to Section 497 Penal Code. So far as Section 63 of the Army Act, 1950, is concerned, the appellant has already been acquitted, subject to confirmation. The Armed Forces Tribunal judgment dated 08.01.2019 is, therefore, set aside. The appeal stands allowed.

However, it is made clear that the confirmation proceedings, so far as the offence under Section 63 of the Army Act, 1950, is concerned, may go on and reach its logical conclusion.

....., J.
[R. F. NARIMAN]

....., J.
[SURYA KANT]

New Delhi;
August 02, 2019.

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Civil Appeal No. 3204/2019

COL. RAJNISH BHANDARI, VSM

Appellant(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(With IA No.40443/2019-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.40445/2019-EX-PARTE STAY and IA No.40444/2019-EXEMPTION FROM FILING O.T. and IA No.40442/2019-PERMISSION TO FILE SYNOPSIS AND LIST OF DATES)

Date : 02-08-2019 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ROHINTON FALI NARIMAN
HON'BLE MR. JUSTICE SURYA KANT

For Appellant(s)

Ms. Meenakshi Arora, Sr. Adv.
Ms. Neela Gokhale, Adv.
Ms. Sahrda Agarwal, Adv.
Mr. Elam Pradi, Adv.
Mr. R. P. Chhibber, Adv.
Ms. Kamakshi S. Mehwal, AOR

For Respondent(s)

Mr. R. Balasubramanian, Sr. Adv.
Mr. Bharat Singh, Adv.
Mr. Arvind Kumar Sharma, AOR

UPON hearing the counsel the Court made the following
O R D E R

The appeal stands allowed in terms of the signed reportable judgment.

Pending applications stand disposed of.

(NIDHI AHUJA)
COURT MASTER (SH)

(RENU DIWAN)
ASSISTANT REGISTRAR

[Signed reportable judgment is placed on the file.]