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Protecting Chastity of a Woman: A Revisit

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Protecting Chastity of a Woman: A Revisit

ABSTRACT

The traditional notion of sexuality has been changed with the assigned role of women as the torchbearer of virtues and morality. A woman has an individual choice which has been legally recognized and society has to respected it. In this cyber age, the making of a threat to upload a private picture or video of a woman by her acquaintance on social media would reasonably be considered to impute unchastity to the woman that would be transgressing her sexual autonomy, undermining her dignity, invading her cherished privacy, and insulting her sexual character, even though they may in a relationship for such relationship would not end on any right to bring in public domain. Revisiting the law relating to criminal intimidation to impute unchastity of a woman by examining a recent judgment of the Supreme Court of India, this paper concludes that a woman's right to privacy, dignity and bodily integrity should be respected.

KEYWORDS

Bodily integrity, Chastity, Criminal Intimidation, Dignity, Privacy.

I. INTRODUCTION

“In the age of the internet, the dignity of a person is intrinsically tied to their person and reputation as perceived online. Any private content circulated online with intent to negatively impact their reputation can be understood to cause harm to one's reputation. It also causes harm to their person by directly violating one's privacy, which is a recognised and protected right,” Justice Kotiswar Singh of the Supreme Court of India observed in the case of *Vijaykumar v. State of Tamil Nadu*, represented by the Inspector of Police.¹ In this case, a police officer, the appellant before the Supreme Court, was convicted and punished by the trial court,² for threatening to impute unchastity to the complainant by uploading or releasing her photo/video taken using his mobile phone at a time when she bathed, in the Facebook which amounts to an offence of criminal intimidation under Section 503 IPC³, punishable under Section

¹ Criminal Appeal No. 2859 of 2025. A two-judge bench of the Supreme Court of India comprising Justices Sanjay Karol and Nongmeikapam Kotiswar Singh, delivered the judgment on May 22, 2026. Justice Singh wrote the judgment for the bench.

² Sessions Judge, Magalir Neethi Mandram (Fast Track Mahila Court), Villupuram, Tamil Nadu.

³ Section 351(1), BNS, 2023.

506 IPC⁴, and he was sentenced to undergo rigorous imprisonment of three years and to pay a fine of Rs.3,000/, in default to pay the fine, to undergo simple imprisonment of three months. The offence of criminal intimidation relates to impute unchastity to a woman is considered an aggravated form of criminal intimidation and it is punishable with imprisonment for a term which may extend to seven years, or with fine, or with both.⁵ The High Court of Judicature at Madras upheld the conviction of the appellant.⁶ He then preferred the present appeal against the Judgment and Order passed by the High Court of Judicature at Madras. In this paper the authors examine the very appeal decided by a two-judge bench of the Supreme Court of India wherein the court beautifully revisited the law relating to criminal intimidation to impute unchastity of a woman. The paper concludes that a woman's right to privacy, dignity and bodily integrity should be respected.

II. CHANGING PERCEPTION OF SEXUAL AUTONOMY IN INDIA

Over the decades, Indian jurisprudence has understood chastity in different ways. During the colonial times, the courts in India, primarily following traditional Hindu law, linked unchastity with a woman's sexual conduct, even going to the extent of holding that if a woman was living in adultery or was leading a life of unchastity, she stood disqualified from inheriting property, as was held in *Minor Ramaiya Konar @ Ramasami Konar v. Mottayya Mudaliar*.⁷ This ruling reigned and continued till 1999, as the said precedent was approved by the Supreme Court in the case of *Velamuri Venkata Sivaprasad (Dead) by LRs v. Kothuri Venkateswarlu (Dead) by LRs and Others*.⁸

The Bench observed that there has been a paradigm shift in recent times with the gendered approach to chastity and differentiation of sexuality based on gender. It was noted that the Supreme Court finds it prudent to lay out an evolved understanding of chastity in *Joseph Shine v. Union of India*,⁹ holding the offence of adultery under Section 497 IPC,¹⁰ which makes the sexual freedom of the wife depended upon the consent of the husband and treating the wife as the property of her husband was held to be unconstitutional. The Bench noted that the changed perspective in the traditional notion of sexuality with the assigned role of women as the torchbearer of virtues and morality can be

⁴ Section 351(3), BNS, 2023.

⁵ Section 506 IPC, analogously section 351(3), BNS, 2023.

⁶ CrI. A. No. 325 of 2017, by its order dated 28.02.2024.

⁷ AIR 1951 Mad 954.

⁸ AIR 2000 SC 434.

⁹ (2019) 3 SCC 39.

¹⁰ No offence of adultery is included in the new BNS, 2023.

observed in the aforesaid decision of Joseph Shine (*supra*) in the following words: "Patriarchy has permeated the lives of women for centuries. Ostensibly, society has two sets of standards of morality for judging sexual behaviour. One for its female members and another for males. Society ascribes impossible virtues to a woman and confines her to a narrow sphere of behaviour by an expectation of conformity... Anachronistic conceptions of 'chastity' and 'honour' have dictated the social and cultural lives of women, depriving them of the guarantees of dignity and privacy, contained in the Constitution."

The changed perception of the sexual autonomy of women was further noticed in *Pawan Kumar v. State of H.P.*,¹¹ wherein the Supreme Court observed that: "[T]he right to live with dignity as guaranteed under Article 21 of the Constitution cannot be violated by indulging in obnoxious act of eve-teasing. One is compelled to think and constrained to deliberate why the women in this country cannot be allowed to live in peace and lead a life that is empowered with dignity and freedom. It has to be kept in mind that she has a right to life and entitled to love according to her choice. She has an individual choice which has been legally recognised. It has to be socially respected. No one can compel a woman to love. She has the absolute right to reject. In a civilised society male chauvinism has no room. A man should not put his ego or, for that matter, masculinity on a pedestal and abandon the concept of civility. Egoism must succumb to law. Equality has to be regarded as the summum bonum of the constitutional principle in this context."

The Bench stated that there can be no doubt that what is alleged to have been video-recorded is not any particular act or activity of the prosecutrix involving a sexual act, so as to impute unchastity under the traditional notion of chastity. However, while it may not be a scene that involves overtly sexual acts, recording of a woman in a naked condition in the modern context can create heightened vulnerability in the digital world. Such a content in the possession of another person can immediately be distorted and altered to create sexual connotations in a manner where the victim will not be in a condition to control the narrative around it. The judge observed that unchastity, as opposed to chastity, though not defined under the Indian Penal Code,¹² is certainly a feminine attribute, and imputing unchastity would involve casting aspersions on the woman's virtue and modesty, particularly with reference to her sexual behaviour and conduct. The judge further observed that chastity, accordingly, is not to be considered purely from a moral perspective focused on virtue alone; it has to be seen from the prism of dignity and autonomy of the individual woman to decide her sexual preferences and

¹¹ (2017) 7 SCC 780.

¹² Now replaced by the Bharatiya Nyaya Sanhita, 2023.

habits, and empowering her to reprobate what is not desirable and approbate what is acceptable to her. This autonomy to decide what is acceptable or not is to be based on inner self-determination and not dictated by external societal norms which had been the determining factor for centuries. Chastity, thus, has to be determined not only by societal values but also based on her individual sensitivities as regards her sexuality. The judge opined that chastity of a woman should be understood as a person's control over their own sexual choices, in light of freedom of self-determination. It is the ability to determine one's own sexual choices and one's own sexual relationships without interference from another. It would encompass the ability to freely decide who to establish a sexual relationship with on their own terms without any undue pressure or interference, the judge continued.

Referring to ratio held in the case of *K.S. Puttaswamy v. Union of India*,¹³ wherein it was ruled that privacy of the individual is an essential aspect of dignity and the ability of the individual to protect a zone of privacy enables the realization of the full value of life and liberty, the learned judge observed that any consensual sexual act is one that an individual, more particularly a woman would reasonably want to keep private and retain autonomy over, and is, therefore, an act that deserves protection. He continued that 'unchastity' should then be read also as an action that interferes with the privacy and autonomy of one's own consensual sexual activities. Any such interference would be a violation of the constitutional understanding of both privacy and dignity under Article 21. Any unwarranted interference with such sexual autonomy can be said to impute unchastity, insofar as it prevents the affected person from controlling the information and choices that she chooses to make with respect to her sexual life. Such a reading protects the dignity of all persons, regardless of their sexual history. It also causes harm to their person by directly violating one's privacy, which is a recognised and protected right.

III. THE REVISIT OF THE LAW RELATING TO IMPUTE UNCHASTITY OF A WOMAN

Examining threat to impute unchastity in the present case in hand, the learned judge observed that chastity is not to be seen from the narrow perspective of sexual behaviour cloistered by traditional moral values only, but also from the vantage point of dignity and autonomy associated with the sexual autonomy of a woman. Any such reprehensible act which seeks to lower or tarnish the dignity of a woman relating to her sexual autonomy and identity, which she seeks to jealously guard, can be said to be an assault on her chastity amounting to imputing unchastity to the

¹³ (2017) 10 SCC 1.

woman. It is natural that a person would have a reasonable expectation of privacy when disrobing in a bathroom, and any publication of images depicting nakedness taken in the bathroom would violate the privacy and dignity of the individual and thus sully her chastity. Therefore, there can be no doubt that such a video as is alleged to exist and the making of a threat to upload it on Facebook would reasonably be considered to impute unchastity to the prosecutrix by publication, as it would amount to transgressing her sexual autonomy, undermining her dignity, invading her cherished privacy, and insulting her sexual character, even though they may in a relationship for such relationship would not end on any right to bring in public domain. Referring to the section 53-A of the Indian Evidence Act,¹⁴ the judge observed that any unwarranted interference with such sexual autonomy can be said to impute unchastity, insofar as it prevents the affected person from controlling the information and choices that she chooses to make with respect to her sexual life. Such a reading protects the dignity of all persons, regardless of their sexual history.¹⁵ It was further observed that the threat to the reputation of the prosecutrix and thus to her chastity must be understood in the context of the dignity of individuals. It also referred to the dictum laid down in *Charu Khurana v. Union of India*,¹⁶ wherein the Supreme Court ruled that dignity is the quintessential quality of a personality and a human frame always desires to live in the mansion of dignity, for it is a highly cherished value.¹⁷

The judge went further to consider whether such a threat was meted out by the appellant with the intent to cause the prosecutrix to omit to do any act which she is legally entitled to do, as a means of avoiding the execution of such threat. It is true that the charge against the appellant was that when the prosecutrix telephoned him, the appellant threatened her, saying that if she made any further phone calls to him, he would tarnish her chastity by releasing her photo, taken when she was bathing, on the Facebook. The judge opined that that the execution of the threat has to be examined primarily from the perspective of the victim, rather than of the accused, and as to how the victim perceived such a threat. However, whether such a threat could actually be carried out or not may not be so relevant in considering this offence. What is important is that the threat must have been issued to cause injury to a person or

¹⁴ Section 53-A of the Indian Evidence Act (now Section 48 of the Bharatiya Sakshya Adhiniyam, 2023) states that a person's previous sexual experience is not relevant to the prosecution of sexual offences.

¹⁵ The Bench stated that we must borrow from this provision the principle that a sexually active person is no less deserving of their dignity being protected than someone who is not sexually active. See also *State of Jharkhand v. Shailendra Kumar @ Pandav Rai*, AIR 2022 SC 5393.

¹⁶ (2015) 1 SCC 192.

¹⁷ *Id* at para 33.

reputation, and the same must be issued with the intention to cause alarm. Similarly, if the threat is made to make a person to do or omit to do certain things which he would not have done or omitted but for the threat, it would amount to criminal intimidation, it was also pointed out. The judge further observed: "A person can be said to be "alarmed" when one is seized with panic, fear, apprehension, fright, or gets terrified. Thus, if, because of a threat issued to that person, he is visited with any such mental condition and if such a threat is made to cause such a condition, the person issuing the threat can be said to have committed the offence of criminal intimidation. Thus, if an alarm is intentionally caused to another person by issuance of a threat, it would amount to criminal intimidation. For this, what is required to be established is the factum of issuance of a threat and also to prove that it was intended to cause alarm, and if alarm had indeed been caused, the offence of criminal intimidation is established."¹⁸ It was also observed that "in the present case, the mere threat that the appellant would upload the video of the prosecutrix in a nude state on social media is quite a distressing and frightening proposition for a woman. If acute shame, distress, and embarrassment are visited upon a woman due to fear that her nude picture would be displayed to the public, there can be no doubt that such an act would certainly be a cause for alarm, which is what Section 503 IPC speaks of and to the extent, the ingredient for the offence under the first part of Section 503 IPC is clearly made out and that the said threat was intended to prevent her from communicating with the appellant at the disturbing prospect of the video being uploaded, it can be said that criminal intimidation was committed by the appellant, which will come under the second part of Section 503 IPC."¹⁹

It is true that the prosecution fails to produce the mobile phone alleged to have been used by the appellant to record the naked picture of the prosecutrix while she was taking bath. Regarding the non-recovery of the mobile phone used by the appellant, the Bench held that non-recovery of the same will not be fatal to the prosecution case if there are other credible evidence to prove the existence of such object of crime/material, and it would depend on the peculiar facts obtaining in the case. This observation was made by the judge by referring to the dictum made in the case of *Goverdhan v. State of Chhattisgarh*,²⁰ wherein the Supreme Court held that it is now well settled that non-recovery of the weapon of crime is not fatal to the prosecution case and is not sine qua non for conviction, if there are direct reliable witnesses available. In the present case, there is no doubt that the oral deposition of the prosecutrix before the Trial Court relating to the recording of the video by the appellant

¹⁸ Para 48 & 49 of the judgment.

¹⁹ Id at para 50 & 51.

²⁰ (2025) 3 SCC 378.

while she was taking a bath, and the threat made by the appellant in her presence and knowledge, is not hearsay evidence and is therefore admissible in law. There can also be no doubt that her testimonial evidence is relevant to the said issue. Another important factor the Bench found very relevant was that “the appellant was in an intimate and physical relationship with the prosecutrix for a fairly long period of about two years is a fact which stands established as found by the Trial Court concurred by the High Court. This is the foundational fact which stands established, on which the allegation qua the third charge is built. In such circumstances, the allegations made by the prosecutrix that the appellant recorded the video of the prosecutrix while taking bath, cannot be brushed aside as improbable and as a product of fictional imagination of the prosecutrix. Therefore, ascertain to that effect by the prosecutrix cannot be rejected offhand.”²¹ Further, there was nothing to discredit or fundamentally shake the prosecutrix's testimony nor any endeavour was made to impeach the credibility of the prosecutrix by the appellant.

Again, when the appellant/defence was asked whether he would like to lead any evidence in his defence or say anything concerning the case, he declined to examine any defence witness and merely stated that the allegations are false. Thus, he chose not to utilise the full opportunity granted to him to defend himself by examining himself or any other witness in his defence. Therefore, there is no reason to disbelieve the evidence of the prosecutrix and the failure of the appellant to discredit the evidence of the prosecutrix in any manner known to law, the allegation of the prosecutrix against the appellant of making criminal intimidation after the prosecutrix insisted on continuing the relationship cannot be disbelieved as fabricated or concocted, the judge remarked. The testimony of the prosecutrix was also supported by other prosecution witnesses. Finally, after scrutinizing on the crucible of the statutory provisions to test the veracity and credibility of the oral testimonial evidence of the prosecutrix, the Bench was satisfied that the evidence of the prosecutrix has successfully passed the test of “beyond reasonable doubt.”

IV. CONCLUSION

The judge observed that in the light of the changed perspective of women's sexuality, the act of video-recording the victim in a naked state while she was taking a bath and the threat to upload it on digital social media can be construed to be an act amounting to a threat to impute unchastity within the meaning of Part II of Section 506 IPC. Thus, the bench of the Supreme Court upheld the finding rendered by both the courts below that the offence of under Section 503 IPC punishable under

²¹ Supra note 18 at para 68.

Section 506 IPC against the appellant has been proved beyond reasonable doubt and dismissed the appeal and upholding the conviction of the appellant on the charge. In respect of the investigation of the case, the Judge noted a caution that in a case like the present one, where the offence involves digital evidence, it is the onerous responsibility of the IO to recover such an evidence and failure to do so may be attributable to incompetency of the IO or lack of expertise or professionalization, of which we do not wish to make any conjecture in the present case, but certainly requires to be brought to the notice of the competent authorities to ensure that the IOs do not commit such lapses. Lastly, considering the peculiar facts of the case and also the fact that the incident happened in 2015, the Bench ruled that the interest of justice will be served if the sentence is reduced to the period of custody already undergone by the appellant. It is now well settled that the right to bodily integrity as an important facet of the right to privacy guaranteed under Article 21 of the Constitution of India. It is apposite to conclude that a woman's right to privacy, dignity and bodily integrity should be respected at any cost. A woman also has the freedom to make decisions concerning these rights, free from coercion or violence. She has an individual choice that has been legally recognized and it has to be socially respected.