

Sakshi Vs Union of India (UOI) and Others

Court: Supreme Court of India

Date of Decision: Aug. 9, 1999

Acts Referred: Penal Code, 1860 (IPC) â€” Section 375, 376

Citation: (1999) CriLJ 5025 : (1999) 5 SCALE 376 : (1999) 6 SCC 591

Hon'ble Judges: A. S. Anand, C.J; Sujata V. Manohar, J; B. N. Kirpal, J

Bench: Full Bench

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

1. The attention of the Court was drawn to existing Sections 375/376 Indian Penal Code and various other Sections and it was pointed out that the

interpretation being placed by the Courts on these Sections cannot be said to be in tune with the current state of affairs existing in the society,

particularly in the matter of sexual abuse of children.

2. On 13th of January, 1998, after an affidavit had been filed by Mrs. G. Mukherjee, Director, Ministry of Home Affairs stating that the

Government of India had commenced the process for ""examination of the issues raised in this writ petition"" by referring the matter to the Law

Commission and that the report/recommendation of the Law Commission relating to amendment of the Indian Penal Code were awaited, we

requested the Law Commission, in view of the importance of the matter, to examine the issues raised in the petition and to intimate to this Court its

views and proposed action to be taken in that behalf.

3. 156th Report of the Law Commission had been submitted to the Government of India on 30th August, 1997. The Law Commission referred to

the same report and an affidavit was filed in this Court by an Additional Law Officer of the Law Commission wherein it was pointed out that 156th

Report of the Law Commission of India on amendments of the Indian Penal Code had been laid on the Table of both Houses of Parliament on 8th

June, 1998 and 9th June, 1998 and that issues raised in the writ petition had been considered therein. Reference was invited to Chapter-IX Part-V

entitled ""Child Sexual Abuse"" and to the observations of the Law Commission in para 9.59 of that Report in that behalf.

4. Mr. F.S. Nariman, learned senior counsel submits that what was contained in the 156th Report of the Law Commission was known to the

petitioners, but since according to him that Report did not deal with the precise issues raised in the writ petition, a request was made to seek

further consideration of the issues by the Law Commission and the Government of India. The submission appears to be correct. The Report had

been submitted by the Law Commission prior to the issues being referred to it. The Report of the Law Commission does not in term deal with

various aspects of the issues as raised in the writ petition.

5. At our suggestion, a note containing precise issues involved in the writ petition as well as other connected issues have now been drawn up by the

petitioners and filed in issues this Court supported by an affidavit of Dr. Hemlata, Project Co-ordinator, Sakshi.

6. We have perused the issues, as submitted for consideration by the petitioner and find prima facie that the 156th Report of the Law Commission

does not deal with most of the issues raised herein. The issues are important and concern sexual abuse of child. Keeping in view, the rise in crime

and the growing menace of sexual abuse of child, we consider it appropriate to once again request the Law Commission to examine the issues

submitted by the petitioners and examine the feasibility of making recommendations for amendment of the Indian Penal Code or deal with the same

in any other manner so as to plug the loopholes.

7. A copy of the ""precise issues"" together with appendix and the affidavit shall be sent to the Secretary, Law Commission with a request to him to

place the same before the Hon"ble Chairman of the Law Commission for his consideration. The Law Commission may, if so advised, call upon the

petitioners to assist it in whatever manner it considers it appropriate. The issues, it appears to us do need a thorough examination.

8. We are adjourning the matter by three months and hope that the Law Commission would be able to devote its attention to the issues raised in

the submission note in the meanwhile.

9. List after three months for directions.