



Rashtra Mahila

AUGUST, 2008

Published by the National Commission For Women

Editor's Column

The recent judgement on the Mehtas' plea before the Mumbai High Court to allow them to terminate a pregnancy that had gone beyond the legal limit of 20 weeks, has triggered a country-wide debate in the medical and legal circles.

The couple's contention was that the foetus had a congenital heart block that would make its life a struggle, if it were allowed to be born.

Dismissing the application, the court observed that medical experts, did not express "any categorical opinion that if the child is born, it would suffer from serious handicaps." The court also referred to the Medical Termination of the Pregnancy Act (MTP) which states that a foetus can be aborted after 20 weeks only if there is a fatal risk to the mother and not to the foetus. It was this lacunae, the Mehtas were challenging. They sought an amendment to the MTP Act so that pregnancy could

be terminated even after 20 weeks, if the doctors believed that the child, if born, would have serious abnormalities and his quality of life would be poor.

Admittedly, the Mehtas showed unusual courage in approaching the court for its permission to abort the foetus. Because, in a country, where at least 80,000 female foetuses are aborted every year,

FOCUS

ABORTION LAWS

without any medical reason at all, the Mehtas could have easily gone for a clandestine abortion.

It is, however, unfair to expect the court to give a judgement contrary to the law of the land, especially, in view of the divergent medical opinion with regard to the Mehta case but the ruling has brought into sharp focus, the need for a public

debate on abortion laws in India, promulgated 37 years ago.

Though the Mehtas have lost the case, their petition has succeeded in bringing up many important issues. One-diagnostic methods have vastly developed since the early 70s, when the MTP Act. was framed. Now a range of foetal abnormalities can be detected, but often well beyond the 20th week, as it happened in the Mehta case.

In UK and some states of US as well as in Netherlands termination of pregnancy is allowed upto 24 weeks, whereas in Canada, there are no limits at all.

Thus, in India also, a new law in keeping with medical science advances and changing social perceptions of the quality of life, is urgently required. However, the amended law should be stringent and there should be a transparent mechanism to assess abnormalities. Otherwise, in our country, where gender bias and decided son-preference persist, the law may be abused for sex-selective abortions.

NCW seeks special relief package for women & children.

A delegation of the National Commission for Women (NCW) headed by Chairperson Dr. Girija Vyas with Member Manju Hembrom visited Ahmedabad to meet the victims of the recent serial blasts. The delegation was also accompanied by Sandhya Bajaj, member of the National Commission for Protection of Child Rights.

The (NCW) has urged the State government to ensure time-bound disbursement of rehabilitation packages to the victims of the serial bomb blasts. "Dr. Vyas said, "women and children are the most vulnerable groups when this kind of tragedy happens. They require special attention and care in the time of crisis. So, we have asked the Centre and the State government to consider a special package for women and children blast victims". After her visit to the three hospitals, where victims of the blasts were being treated, Dr. Vyas said that she has been assured by the Gujarat government that compensation to the victims of serial bomb blasts would be disbursed within a month's time.

She also talked to the State Home and Revenue Ministries and requested them to release compensation to the victims at the earliest. The government assured her that relief packages announced by the State and the Center would be disbursed among the victims within a maximum of one month's time.



Ms. Manju Hembrom (left) and Dr. Girija Vyas talking to a victim of bomb blast.

Members' Visits

- Member Yasmeen Abrar visited Sawai Madhopur in Rajasthan and held a meeting with DM and SP regarding pending cases related to women. Thereafter, she left for Kota and discussed with SP and DM about women-related cases as well as their problems. Later, she went to Jhalawar and interacted with a group of below-the-poverty line women and directed the administration to solve their problems. The same day, she inaugurated a Gram Panchayat office at Chipha Barod.
- Member Manju Hembrom visited Ranchi to attend a meeting on trafficking of women and children organized by APTEC and UNDOC. Ms. Hembrom spoke on the necessity of conducting awareness programmes on trafficking in distant villages so that tribal women were made aware of the dangers of trafficking and take steps to combat them.

Armed Forces to allow permanent commission for women

The three services of the Armed forces have given in principle approval for the induction of women as permanent officers in non-combat streams.

The Armed Forces till now have been largely male dominated, with women being inducted only as short service commission officers with a service life of less than 15 years and not rising above the rank of Lt. Colonel.

Profile in Courage

Chhayamani Mohanty of Orissa's Balasore district has done the unthinkable for a mother. Putting justice before love, she has helped the police arrest her son for allegedly raping a 35-year old married woman.

The accused had been hiding at a relative's place 50 km away in Keodanal under Kontai Police Station in West Bengal.

Unable to trace him, the police, convinced of the crime being committed by her son, sought Chhayamani's help.

Chhayamani led the police to her son's hideout from where he was arrested and jailed the next day.

As the police arrested her son, tears rolled down Chhayamani's cheeks, but at the same time, there was pride in her eyes for helping the cause of justice.

Important Decisions

Consider nature of cruelty in suicide by women : court

- The Supreme Court said that the mere fact that a woman committed suicide within seven years of her marriage and that she had been subjected to cruelty by her husband or any relative of her husband does not automatically give rise to the presumption that he or she abetted it.

The court is required to look into all the other circumstances of the case. One of the circumstances, which has to be considered is whether the alleged cruelty was of such nature as was likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health of the woman.

Under Section 113-A, the prosecution has to first establish that the woman concerned committed suicide within seven years from the date of her marriage and that her husband or any relative of her husband had subjected her to cruelty. This Section gives a discretion to the court to raise such a presumption, with regard to all other circumstances of the case, which means that where the allegation is of cruelty it must consider the nature of cruelty to which the woman was subjected, within the meaning of 'cruelty' in section 498-A IPC.

- **Violence Act can be given retrospective effect :** A city court in New Delhi observed that a legislation drafted for bringing a sense of equality and respect for women in our society has to be given retrospective effect and any perpetrator of violence upon them cannot be allowed to buy relief by claiming he could not be made accountable for an act done before the law was brought into effect.
- **False rape case punishable :** The Supreme Court upheld the three-month sentence given by a court in Madhya Pradesh to a woman who filed a false criminal report foisting rape charges against two innocent persons. The apex court observed : "The evil of perjury has assumed alarming proportions in cases depending on oral evidence, and in order to deal with the menace effectively, it is desirable for courts to use the provision more effectively and frequently".

Rashi, the-25 year old daughter of a retired bus driver used the Right to Information Act to get back her valuables from her estranged fiancée's family.

A resident of Kalyanpuri area in East Delhi, Rashi got engaged to a man in January, 2008. The groom's parents took cash, jewellery, and household items from Rashi's family and also forced them to arrange a lavish party for 200 guests on the occasion. However, the groom's family refused to announce the marriage date, saying that they first wanted a car. The distressed girls' family, unable to fulfil the dowry demands, decided to go against the marriage and approached an NGO. Counselling by the NGO, the family filed a complaint with the women's cell at Nanakpura, which asked them to file the complaint at the women's cell at Krishna Nagar. However, the police did not take any action. About 15 days later, the girl's family decided to file an RTI application, asking the Delhi police for the daily progress report in their complaint.

The power of RTI can be gauged from the fact that after filling the

application, within 2 days, the family received a call from the women's cell at Krishna Nagar. The family had only asked about the action taken by the police on their complaint but to their surprise, within a week, they got back cash, jewellery and other household items.

HC asks Bihar to enforce Domestic Violence Act

The High Court has directed the Bihar Government to initiate steps to enforce the Domestic Violence Act, 2005, which came into force on October 26, 2006 with the objective to protect women from domestic violence such as abuse or threat of abuse, harassment of any nature like physical, sexual, verbal, emotional and economic after hearing a public interest petition by a senior advocate.

The court further directed the State to appoint protection officers in every district of Bihar by November 30.

It ordered the State to make available one safe shelter in each district for women affected by domestic violence, beside arranging programmes to train the police officers to handle cases relating to domestic violence.

Educational Scheme for Muslim girls in Bihar

For providing vocational training to Muslim girls in Bihar, a new project Hunur is being launched. It will be implemented through Maktabas, Madarsas and Darul-uloom.

Under the scheme, the National Institute of Open Schooling (NIOS) will provide free skill training to about 12,000 girls studying in different schools in Bihar.

The seven courses, which have been prepared for the training, include gram sakhi, jute production, cutting and tailoring, early childhood care and education, basic technology and beauty culture.

It is envisaged that the skill training of the girls will help them in their future areas of work. NIOS will provide them free course material under this programme.

The free education scheme for SC and ST students in Bihar will be available for all students taking admission with NIOS. The funds for this will be provided by the state government and the Centre.

From the Complaint cell

- A complaint was received in the Commission regarding harassment and bigamy committed by the complainant's husband. The complainant was later deserted by her husband and was not accepted by her in-laws.

The Commission sent a letter to S.P Bundi, Rajasthan asking for an investigation into the matter

and submitting a report. The Commission duly received the report from S.P. which stated that a case has been registered under section 498-A, 406, 494 of the Indian Penal Code. Three accused persons have been arrested. Later, the case was closed by the Commission.

- A complaint was received in the Commission regarding dowry harassment and torture of the complainant by her husband and in-laws. The complainant stated that her in-laws were demanding a car and were torturing her mentally and physically.

The complaint was registered and a letter was sent to S.P. Mau, U.P. asking for an enquiry and

submitting a report to the Commission. The report stated that the girl, who was shown to the groom's family before marriage was different from the actual bride. However, the dispute was compromised, hence the case was closed.

Centre seals three Doon Clinics for violating PNDT Act

Three diagnostic clinics at Dehradun have been sealed and

issued show-cause notices for allegedly conducting sex determination tests.

The team from the national monitoring committee, Ministry of Health and Family Welfare confiscated several unregistered machines and found several irregularities in the filling up of Form under the Pre-Natal Diagnostic Techniques (PNDT) Act.

MCD plans to guard girls schools

After a nine year old girl was raped in an MCD school, the municipality decided to employ women attendants and trained civil defence guards in its schools to prevent recurrence of such incidents.

The civic agency also plans to train its girl students in martial arts and self-defence techniques.

They have decided to raise walls of the schools and place barbed wires to prevent illegal entry.

A mother stands up for daughter

A Muslim girl is all set to realize her dream of joining an engineering course much against the wishes of her conservative father, thanks to the determination and support of her mother and timely action by the Madurai bench of the Madras High Court.

When Rubinisha got admission in Electronics and Communications Engineering, on the basis of merit, she could not get her transfer certificate and Plus Two marksheet from her present college, because her father had asked the college not to return the certificates. Then her mother approached the court seeking a direction to the college to release Rubinisha's certificates so that she can join the engineering course. As the girl would lose her admission, the court directed the college to return the certificates.

Dowry cruelty conviction possible without specific charge

Court can convict an accused for dowry harassment and cruelty if there is no specific charge of that offence, the Supreme Court has held.

The Bench said : "Section 498 A was added to the Indian Penal Code in the backdrop of the growing menace of dowry-related cases in which women were subjected to cruelty and harassment and were forced to commit suicide. This section lays down that if the husband or his relative subjects a woman to cruelty, then he/she is liable to be punished with imprisonment for three years and a fine."

The judgement, pointed out that Section 304 B was inserted in the IPC to deal with cases of dowry deaths occurring within seven years of marriage. The ingredient of cruelty was common to 304 B and 498A, but the scope of the two Sections was different.

The Bench said : "Section 498 A has a wider spectrum and it covers all cases in which the wife is subjected to cruelty by her husband or his relatives which may result in suicide or grave injury or danger to life, limb or health (whether mental or physical) or even harassment caused with a view to coercing the woman or any person related to her to meet the unlawful demand for dowry of property of valuable security."

The Bench said : "An accused can be convicted of dowry offence with which he may not have been specifically charged and that an error, omission or irregularity in the framing of charge by itself is not sufficient for upsetting the conviction."

For purposes of conviction under Section 498 A, it was sufficient to prove that the woman was subjected to cruelty by her husband or his relatives.

for further information visit our website at : www.ncw.nic.in

Published by the National Commission for Women, 4 Deen Dayal Upadhyaya Marg, New Delhi-110002. Printed at Sub-Urban Press, 244/5, Gali No. 13, Than Singh Nagar, Anand Parbat, New Delhi-110 005 • Editor : Gouri Sen