

# Right to Privacy in India: Emerging Judicial Trends

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## Abstract

The most important development of the 21st century is the awareness of the human rights. The establishment of the United Nations Organisation has widened its scope in many dimensions. The right to privacy an off shoot of the industrial and technological revolutions. It is considered as an important civil and political right in the modern society. The right to privacy as a human right and fundamental right has been described. The right to privacy has been defined by Justice Louis D. Blandeis of the American Supreme Court as "The right to be let alone and most comprehensive of rights and the most valued by civilized men". It was held in *Oilstead v United States*. Thus right to privacy is an important civil and political right in a civilized society. Art, 12 of the Universal Declaration of Human Rights 1948 and Art. 17 of the Internal Covenant on Civil and Political Rights 1966 specifically mentions about this right. The right to privacy and its relationship with the modern media and technology have also been discussed in detail in this chapter. It became an important right in this age of information technology. India which became independent in 1947 has incorporated several rights in its Constitution. The basic question is how the right to privacy has been given a constitutional status by the recent judicial trend has been discussed.

## Introduction

A right means an interest recognized and protected either by the state by the rule of natural justice. Privacy means the state of being alone and not watched or of disturbed by other people, the other meaning is the state of being free from the attention of the public. In modern society a man enjoys many rights as an individual and as a citizen of a particular country.

The basic aim of any right is to give maximum satisfaction to the individuals. While enjoying the rights, men have to observe some duties. Their relationship is mutual. The right to privacy has not emerged as a separate right in India and may other developing countries. It is included in the personal liberty of a person. Many thinkers have recognized the right to privacy as a civil and political right. The right to privacy is a human right and it has been recognised by the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR).

## HUMAN RIGHTS

Broadly speaking human rights may be regarded as those fundamental and inalienable rights which are essential for life as human being. Human rights are the right which are possessed by every human being, irrespective of his or her nationality, race, religion, sex, etc. simply because he or she is a human being. Human rights are thus these rights which are inherent in our nature and without which we cannot live as human beings. Human rights and fundamental freedoms allow us to fully develop and use our human qualities, our intelligence, our talents, and our conscience and to satisfy our physical, spiritual and other needs. They are based on mankind's increasing demand for a life in which the inherent dignity and worth of each human being will receive respect and protection Human rights are sometimes called fundamental rights or a basic rights or natural rights. As a fundamental or basic rights they are the rights which cannot, rather must not, be taken away by any legislature or any act of the government and which are often set out in a Constitution. As natural rights they are seen as belonging to men and women by their very nature. They may also be described as "common right for they are rights which all men and women in the world would share, just the common law in England For example, was the body of rules and customs which, unlike the local customs, governed the whole country.

## Features of Human Rights

- They are universal.
- Internationalisation
- Morality
- Secured Rights
- An instrument of international law
- Multi-dimensional rights
- Individual and Collective Rights
- Dignity
- Inalienability
- Expanding one

## Incorporation of the human rights as a fundamental rights under the constitution of India

The Indian Constitution bears the impact of the Universal Declaration of Human Rights (UDHR) and this has been recognized by the Supreme Court of India. While referring to the fundamental rights contained in Part III of the Constitution, Sikri, C.J. of the Supreme Court, in *Kesavanand Bharti v. State of Kerala*<sup>1</sup> observed: "I am unable to hold these provisions how that rights are not

<sup>1</sup> AIR 1973 SC 1461

natural or inalienable rights. As a matter of fact, India was a party to the Universal Declaration of Rights and that Declaration describes some fundamental rights as inalienable.”

Earlier, In *Golak Nath v. State of Punjab*<sup>2</sup> the Supreme Court observed:

"Fundamental rights are the modern name for what have been traditionally known as natural rights."

The Supreme Court has also recognized the interpretative value of the Universal Declaration of Human Rights. In *Kishore Chand v. State of H.P.*<sup>3</sup> The Universal Declaration of Human Rights does not define the term human rights'. It refers them as "the equal and inalienable rights of all members of the human family." The framers of the Indian Constitution were influenced by the concept of human rights and guaranteed most of the human rights contained in the Universal Declaration. The Universal Declaration of Human Rights contained the civil and political as well as the economic, social and the cultural rights. While the civil and political rights have been incorporated in Part III of the Indian Constitution, the economic, social and the cultural rights have been incorporated in Part IV of the Constitution. The following chart is being given below to indicate the human rights which have been incorporated in the Indian Constitution.

### **Right to privacy as a Human Right and Fundamental Right and its definition**

The term "privacy" has been described as "the rightful claim of the individual to determine the extent to which he wishes to share of himself with other and his control over the time, place and circumstances to communicate with others. It means his right to withdraw or to participate as he sees fit. It also means the individual's right to control dissemination of information about himself, it is his own personal possession" Another author defines privacy as a "zero relationship between two or more persons in the sense that there is no interaction or communication between them if they so choose". The concept is used to describe not only rights purely in the private domain between individuals but also constitutional rights against the State. The former deals with the extent to which a private citizen (which includes the media and the general public) is entitled to personal information about another individual. The latter is about the extent to which government authorities can intrude into the life of the private citizen to keep a watch over his movements through devices such as telephone tapping or surveillance. This aspect also concerns the determining whether a pregnant woman has the right to abortion, or whether an HIV infected person has the right to marry or have a children. The UDHR<sup>4</sup> has mentioned at "Freedom from arbitrary interference with privacy, family, home, correspondence and attack on honour or reputation and right to protection by law against such interference. The right to effective remedy by the competent national tribunals<sup>5</sup> The International Covenant on Civil and Political rights -1966 in Article 17 mentioned that "Right of everyone not to be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence and freedom from unlawful attacks on his honour and reputation. In India, the right to privacy has not recognised as a separate fundamental right. It is implicit in Article 19(1) (a), Article 19 (1) (d) and Art.21 of the constitution of India, which will be discussed in a detailed manner in the next chapters. So, we can mention that the right to privacy is an implicit right, it is interrelated, inter acting and interdependent with other human and the fundamental rights.

### **Historic Evolution of Right to Privacy**

The human rights are the product of a given social order. In ancient period there were many willing by an eminent persons linking between natural law and natural rights. These were found in the writings of the stoics both Greeks and Romans. Hugo Grotius the founder of modern International law, and of John Milton and John Locke. The ideological architects of the English revolution of the 17th century.

John Locke classically presents the ideology of natural law as early as 1689 in his essay on "Civil Government". He states that the providing everyone an entitlement of defending his right to life freedom and property. Even though the concept of natural law was rejected by Edmund Burke and Jeremy Bentham, it was applied in 1945 at Nuremberg for the trial of the offenders of the Second World War. Ancient laws have failed to recognise any areas of individual freedom from the state interference and the codification of the rights have not been recognised.

### **Magna Carta - 1215 A.D.**

The English King John at Runnymede, accepted to grant a certain of rights to a particular section of his people. Its famous clause -39 stating that "No freeman shall be taken or imprisoned or dispossessed or outlawed, or banished or in any way destroyed, nor will we go upon him, nor send' upon him, except by the lawful judgement of his peers or by the law of the land." It has been termed as symbol of individual. Liberty for centuries to come.

### **Modern Origin**

The modern legal concept of human right however the product of a specific period of history. In Europe, it emerged under the umbrella of the philosophical, political and legal values which gained ground from the renaissance, when man or the king himself came to be recognized as an identity with an individuality of his own. The renaissance the reformation. The puritan revolt, the glorious revolution and the American Revolution all gave new meaning of the concept of human rights.

### **Purpose of the UNO and the UDHR**

The Charter also declared that the purpose of the United Nations is to achieve international cooperation in solving international problems of an economic, social, cultural or humanitarian character and in promoting and encouraging respect of Human Rights and for Fundamental Freedoms for all without distinction as to race, sex, language or religion. The Economic and Social Council, the principal organ of the UN., entrusted with the task of promotion and protection of human rights formed in 1946, a

<sup>2</sup> AIR 1967 SC 1643

<sup>3</sup> 1991 1 SCJ 68,76

<sup>4</sup> Art.12

<sup>5</sup> Art. 8 of UDHR

Commission on Human Rights, with powers to deal with any matter concerning human rights. The commission drafted the Universal Declaration of Human Rights which was adopted by the General Assembly on 10th April, 1948. While this Universal Declaration became the epitome, the Bible on the subject of human rights, it ushered in a new era of hopes and aspirations for human civilization and was also regarded as the first step towards the formulation of an "international bill of human rights", that would exert legal as well as moral force on the international community. The Declaration was primarily an enunciation of common standards to be adopted by all people and all nations in the protection and promotion of human rights."

#### **Nature of the Right to privacy under the U.S.A.**

The United States government was created as one of limited. Powers, with certain functions enumerated in a basic charter reserved to the federal government and with the remainder delegated to the states unless specifically prohibited to them. Individual rights are not given by the constitution; they result indirectly from restrictions on the federal government which have been applied to the states through incorporation the 14th amendment. Thus the 1st amendment does not give anyone freedom of speech, it merely prohibits congress from passing any law "abridging the freedom of speech" and the 14th amendment applies the same limitation to the states. With the focus on limiting the government, an American's legal rights are uninviolable of hackers interfere with his delivery of speech unless they are restricted by the government.

#### **The right to privacy in the Great Britain.**

The British constitution by contrast is unwritten government structure, limitations on political powers' and enumeration of the rights of her Majesty's subjects depend upon centuries of custom and tradition developed from court decisions and statutory law which form the ever evolving Common law. With the overriding principle of parliamentary supremacy prevailing, British Constitution of law is easy to change legally but difficult to document.

The American law on privacy has evolved faster than the law in England. One of the earliest cases in England, *Albert v. Strange*<sup>6</sup> involved the unauthorized copying of etchings made by Queen Victoria and her husband for their private amusement. The etchings, which represented members of the Royal family and matters of personal interest, were entrusted to a printer for making impressions. An employee of the printer made unauthorized copies and sold them to the defendant who in turn proposed to exhibit them publicly. Prince Albert succeeded in obtaining an injunction to prevent the exhibition.

British law recognizes no general right to privacy as laid down in *Malone v Metropolitan Police Commissioner*<sup>7</sup>. But the conditions have changed to recognize the privacy as a separate right. Recent consideration of privacy legislation in Britain was initiated by a report on privacy and the law published in early 1970 by a committee of justice. The British Section of the International Commission of Justice includes in its report draft privacy bill. The bill would create a general legal right of privacy with a right of civil action by a person whose privacy has been infringed. A similar bill was introduced by Brian Walden. It had provided the civil suits by the Private individuals against the crown and other people if their right to privacy has been infringed. Since it has authorized the suits against the government the bill was rejected by the labour government on its second reading.

#### **Features of fundamental rights in Indian Constitution**

1. A fundamental right is a right protected by the supreme law of the land. i.e. the constitution of India.
2. They are inviolable in the sense that no law, ordinances, custom, usage or administrative order can abridge or take away a fundamental right.
3. If the fundamental rights constitutes basic structure of the constitution, no constitutional amendment shall take place.
4. They are natural rights in the sense that they are essential for good life.
5. They are not absolute rights, restrictions can be imposed by the Constitution itself.
6. If the fundamental right are violated, any person can go to the Supreme Court and High Courts under Art, 32 and 226 of the constitution respectively for the judicial protection. Art 32 itself is a fundamental right.
7. There are mainly human rights.
8. Some rights like Art-21 it's available to all persons. Some rights like Art. 19(1) (a) is available only for the citizens of India.

#### **Classification of fundamental rights**

The constitution of India has classified the fundamental rights into seven categories originally. But the right to property has been taken away by the constitutional 44th amendment. It is only a legal right now. At present the constitution of India has provided the following fundamental rights.

As enumerated in Part III of the Constitution, they are:

#### **The Right to Equality**

Article 14 - Equality before law

Article 15 -Prohibition of discrimination on grounds of religion, race, caste, sex, or place of birth.

Article 16 - Equality of opportunity in matters of public employment

Article 17 - Abolition of untouchability.

Article 18 - Abolition of titles.

#### **The Right to Freedom**

Article 19 - Protection of certain rights regarding freedom of speech etc.

Article 20 - Protection in respect of conviction of offences.

Article 21 - Protection of life and personal liberty.

Article 21A -Right to Education

<sup>6</sup> 41ER 1171  
<sup>7</sup> [1979] 2 All ER 620

Article 22 - Protection against detention in certain cases.

### **The Right against Exploitation**

Article 23 - Prohibition of traffic in human beings and forced labour.

Article 24 - Prohibition of employment of children in factories etc.

### **The Right to Freedom of Religion**

Article 25 - Freedom of conscience and free pursuit of profession, practice and propagation of religion.

Article 26 - Freedom to manage religious affairs.

Article 27 - Freedom as to payment of taxes for promotion of any particular religion.

Article 28 - Freedom as to attendance at religious instruction or religious worship in certain educational institutions.

### **The Cultural and Educational Rights**

Article 29 - Protection of interests of minorities.

Article 30 - Rights of minorities to establish and administer educational institutions.

### **The Right to Constitutional Remedies**

Article 32 - Right to constitutional remedies.

### **Views of the Indian Judiciary regarding the right to privacy**

For the first time the meaning and scope of 'personal liberty' came up pointedly for consideration in *Kharak Singh v State of U.P.*<sup>8</sup> In that case validity of certain police regulations which, without any statutory basis, authorised the police to keep under surveillance persons whose names were recorded in the history-sheet maintained by the police in respect of persons who are or are likely to become habitual criminals. Surveillance as defined in the impugned regulation included secret picketing of the house, domiciliary visits at night, periodical inquiries about the person, an eye on his movements, etc. The petitioner alleged that this regulation violated his fundamental right to movement in Article 19(1)(d) and 'personal liberty' in Article 21. For determining the claim of the petitioner the Court, apart from defining the scope of Article 19(1) (d), had to define the scope of 'personal liberty' in Article 21.

Speaking for the majority Ayyangar, J. rejected that personal liberty' was confined to "freedom from physical restraint or freedom from confinement within the bounds of a prison" and held that "personal liberty" is used in the article as a comprehensive term to include within itself all the varieties of rights which go to make up the 'personal liberties' of man other than those dealt with in the several clauses of Article 19(1). In other words, while Article 19(1) deals with particular species or attributes of that freedom, 'personal liberty' in Article 21 takes in and comprises the residue. He concluded that "an unauthorised intrusion into a person's home and the disturbance caused to him thereby" violated 'personal liberty' enshrined in Article 21 and therefore the regulation was invalid insofar as it authorised domiciliary visits but the rest of it did not violate either Article 19(1)(d) or Article 21. He also held that "the right to privacy is not a guaranteed right under our Constitution and therefore the attempt to ascertain the movement of an individual which is merely a manner in which privacy is invaded is not an infringement of a fundamental right guaranteed by Part III

### **Grounds on restriction regarding Fundamental Rights.<sup>9</sup>**

- Sovereignty and integrity of India.
- The security of the State.
- Friendly relations with foreign States.
- Public order.
- Decency or morality
- Contempt of court.
- Defamation or incitement to an offence

### **Judicial trend during pre Gopalan's<sup>10</sup> period- Co-relation of Arts. 14, 19, and 21**

Supreme Court held that Article 19 has no application to laws depriving a person of personal liberty enacted under Article 21 of the Constitution. It was held that Art. 21 dealt with different subjects. Article 19 deals only with certain (six important individual rights of personal liberty and the restriction that can be them). Article 21, on the other hand, enables the State to deprive individual of personal liberty in accordance with the procedure established by law. Thus the majority in A.K. Gopalan's<sup>11</sup> case was that so long as a law of detention satisfies the requirements of Art. 22, it would not be required to meet invalidity.

### **Procedure Established by the Law -**

In *A.K. Gopalan v State of Madras*<sup>12</sup>, the petitioner A.K. Gopalan, a Communist leader, was detained under the Preventive Detention Act, 1950. The petitioner challenged the validity of the Preventive Detention Act and his detention thereunder on the following grounds: (1) that it violated his right to move freely throughout the territory of India which is the very essence of personal liberty guaranteed in Article 19. The detention under this Act was not a reasonable detention under Cl. (5) of Art. 19 and hence the Act was void, (2) that the Act was in conflict with Art.21 of the Constitution inasmuch as it provide for deprivation of

<sup>8</sup> AIR 1963 SC 1295

<sup>9</sup> Art.19(2) of the constitution of India

<sup>10</sup> *A K Gopalan v State of Madras* AIR 1950 SC 27

<sup>11</sup> *Ibid*

<sup>12</sup> *Ibid*



the personal liberty of man not in accordance with a procedure established by law. It was argued that the word 'law' in Article 21 should be understood not in the sense of an enactment but as signifying the universal principles of natural justice and a law which did not incorporate these principles could not be valid; (3) that the expression "procedure established by law" meant the same thing as the phrase "due process of law" in the American Constitution.

### **Natural justice**

In Gopalan's case<sup>13</sup> it was argued that the word 'law' in Article 21 did not merely mean an enacted piece of law but it incorporated the principles of natural justice, and a law which deprived a person of his personal liberty without complying with the rules of natural justice could not be held to be valid under Article 21. Rejecting the argument the Court held that 'law' in Article 21 must mean a law enacted by the Legislature and not the law in the abstract or general sense embodying the principles of natural justice as interpreted by the US Supreme Court.

### **Judicial Trend - Post Maneka Gandhi's Case<sup>14</sup> Era; the present view**

In Maneka Gandhi's case<sup>15</sup> the Supreme Court has overruled the view expressed by the majority in Gopalan's case<sup>16</sup> and held that Article 21 is controlled by Article 19 that is it must satisfy the requirement of Article 19 also. The Court observed:

"The law must therefore now be settled that Article 21 does not exclude Article 19 and that even if there is a law prescribing a procedure for depriving a person of personal liberty, and there is consequently no infringement of the fundamental right conferred by Article 21 such a law in so far as it abridges or takes away any fundamental right under Article 19 would have to meet the challenges of that Article (Article 19). Thus a law depriving a person of personal liberty' has not only to stand the test of Article 21 but it must stand the test of Article 19 and Article 14 of the Constitution.

### **Telephone tapping an invasion of Right to Privacy**

In a historic judgment in *People's Union for Civil Liberties v Union of India*,<sup>17</sup> popularly known as 'Phone Tapping case'. The Supreme Court has held that telephone tapping is a serious invasion of an individual's right to privacy which is part of the right to "life and personal liberty" enshrined under Article 21 of the Constitution, and it should not be resorted to by the State unless there is public emergency or interest of public safety requires.

### **Right to Privacy and Section 9 of Hindu Marriage Act, 1955**

The Andhra Pradesh High Court in *T. Sareetha v Venkata Subbaiah*,<sup>18</sup> declared Section 9 of the Hindu Marriage Act, 1955. Constitutionally void as violative of the right to privacy and human, dignity guaranteed by Article 21. The Court held the provision as a savage and barbarous remedy. The Supreme Court in *Saroj Rani v Sudarshan Kumar*,<sup>19</sup> accepted the views of the Delhi High Court and held that conjugal rights should be viewed in their proper perspective by keeping in mind its dictionary meaning. The Court explained that the only sanction against the disobedience to such a decree was attachment of property provided he or she had properties to be attached, that too when the disobedience was willful. The Court thus upheld the validity of Section 9 of the Hindu marriage Act, 1955, and said that it served a social purpose as an aid to the prevention to break-up of marriage.

It was held in *State of Andhra Pradesh v Challa Rama Krishna Reddy*<sup>20</sup> and others that even a prisoner who is convicted is entitled to all human rights including right to life under Art. 21.

In *Kaleidoscope (India) (P) (Ltd) v Phoolan Devi* the trial judge restrained the exhibition of controversial film "Bandit Queen" in India and abroad that, it violates the right to privacy of Phoolan Devi the same was confirmed by the High Court.

In *State of Maharashtra v R J Gandhi*<sup>21</sup> it was held that trial by media is an invasion of right to privacy. In *People's Union for Civil Liberties (PUCL) v Union of India*<sup>22</sup> it was held that "once a person becomes a candidate to acquire public office" there is no violation of right to privacy if he declares his criminal antecedents and assets and liabilities.

In *Sharda v Dharmpal*<sup>23</sup> it was held that the Family Court had the power to direct the couple in divorce proceedings to go for medical examination and it is not an invasion of right to privacy. In *Surjit Singh Thind v Kanwaljit Kaur*<sup>24</sup> the Punjab and Haryana High Court held that if such medical examination aims to prove the virginity of a woman it is an invasion of right to privacy.

### **Right to Privacy and women's right to make reproductive choices**

In *Suchitra Srivatsava v Chandigarh Administration*<sup>25</sup> it was held that the right to make reproductive choices is included in right to privacy and right to personal liberty under Art 21 of the Constitution of India. In this case the court referred the decision of US

<sup>13</sup> *Ibid*

<sup>14</sup> *Maneka Gandhi v Union of India* AIR 1978 SC 597

<sup>15</sup> *Ibid*

<sup>16</sup> *A K Gopalan v State of Madras* AIR 1950 SC 27

<sup>17</sup> AIR 1997 SC 568

<sup>18</sup> AIR 1983 AP 356

<sup>19</sup> AIR 1984 SC 1562

<sup>20</sup> AIR 2000 SC 2083

<sup>21</sup> AIR 1997 SC 3986

<sup>22</sup> AIR 2003 SC 2363

<sup>23</sup> AIR 2003 SC 3450

<sup>24</sup> AIR 2003 P&H 353

<sup>25</sup> AIR 2010 SC 235

Supreme Court in *Roe v Wade*<sup>26</sup> where in the right of a woman to seek an abortion during an early stage of pregnancy was included in right to privacy. In *Devika Biswas v Union of India*<sup>27</sup> it was held that “the right to health” and the “reproductive right of a person “constituting two important components of life was endangered by the sterilisation procedure and in *Ramakant Rai v Union of India*<sup>28</sup> the court had several directions to the central and state governments on sterilisation methods and accordingly the government of India published various standards in sterilisation services.

#### **Right to Privacy and privileged communication**

In *Vishal Kaushik v Family Court*<sup>29</sup> the Rajasthan High Court held that recorded conversation between petitioner and the respondent even if it is true cannot be admissible in the court of law and their voice samples cannot be compared and expert could not be asked to compare the CD's which conversation had been denied by her.

#### **Right to Privacy and disclosure of information**

In *State of Gujrat v Anirudh Singh*<sup>30</sup> the court held that the right to privacy is not an absolute right it subservient to security of state and witnesses having the knowledge of commission of crime to assist the state in giving evidence. In *Peoples Union for Civil Liberties v Union of India*<sup>31</sup> it was held that journalist or lawyer does not have a sacrosanct right to withhold information under regarding crime under the professional ethics.

#### **No right to have as many children as one chose to have**

In *Javed v State of Haryana*<sup>32</sup> the Apex Court held that Section 175(1)(q) of Haryana Panchayat Raj Act, 1994 which disqualified a person having two living children from holding the office in Panchayat Raj Institution as population explosion is an important issue and it is not violation of right to life and personal liberty.

#### **Right of a Major to live with anybody –Live in relationship**

Two adult person living together of their free will has to be termed as “Live-in-relationship”. In *Jyoti v State of UP*<sup>33</sup> ruled that a person who has attained the 18 years of age is a major under Section 3v of Indian Majority Act, 1875 was deemed to understand his welfare and he can live with anybody and no body including parents can restrain their liberty which is given under Art 21 of the Indian Constitution.

#### **Right to Privacy as a separate right**

In Justice *K.S Puttaswamy (Rtd) v Union of India*<sup>34</sup> in which government used to collect the citizen's personal information data for Aadhar Card and kept with the private operators as twelve digit biometric Unique Identification (UID) Aadhar number stored into Central Identifies Data Repository (CIDR) and the Apex Court had restricted the use if Aadhar number only for limited purpose.

#### **Conclusion**

The Constitution of India encompasses Right to Privacy under Article 21, which is a requisite of right to life and personal liberty. Stressing on the term ‘privacy’, it is a dynamic concept which was needed to be elucidated. The scope of Article 21 is multi-dimensional under the Indian Constitution. Law of torts, Criminal Laws as well as Property Laws also recognize right to privacy. Privacy is something that deals with individual privacy and also which was needed to be protected earlier before the passing of a landmark case, i.e., *K.S. Puttaswamy v. Union of India*<sup>35</sup> as it was, previously, not considered a fundamental right under the Indian Constitution. However, our Indian judiciary has, at present, carved out a distinctive precinct regarding privacy and an upshot of that is Right to Privacy, it is, now, recognized as a fundamental right, which is intrinsic under Article 21.

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<sup>26</sup> 410 US 113(1973)  
<sup>27</sup> (2009) 16 SCC 4405  
<sup>28</sup> (2009) 16 SCC 565  
<sup>29</sup> AIR 2015 Raj 146  
<sup>30</sup> AIR 1997 SC 2780  
<sup>31</sup> AIR 2004 SC 456  
<sup>32</sup> AIR 2003 SC 3057  
<sup>33</sup> AIR 2004 All 45  
<sup>34</sup> AIR 2017 SC 4161  
<sup>35</sup> *Ibid*