

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION
I.A. No. of 2022
In
WRIT PETITION (CIVIL) NO. 348 OF 2022
IN THE MATTER OF:

BENZEER HEENA ..Petitioner

VERSUS

UNION OF INDIA & ORS. ...Respondents

AND IN THE MATTER OF :-

BENZEER NISAR PATEL Applicant

I N D E X

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Advocate for the Petitioner: **NIRMAL KUMAR AMBASTHA**

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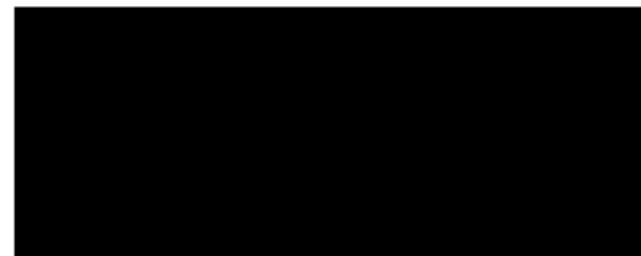
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APPLICATION FOR IMPLEADMENT AS PARTY IN THE
CAPTIONED WRIT PETITION IN VIEW OF THE FACT THAT
THE APPLICANT IS ALSO A VICTIM OF AND AGGRIEVED
BY UNILATERAL DIVORCE PROCEDURE AND HAS BEEN
DIVORCED BY HER HUSBAND BY THE DRACONIAN
PROCEDURE OF 'TALAQ-E-AHSAN"

TO,
THE HON'BLE CHIEF JUSTICE OF INDIA AND HIS
COMPANION JUDGES OF THE SUPREME COURT OF INDIA.

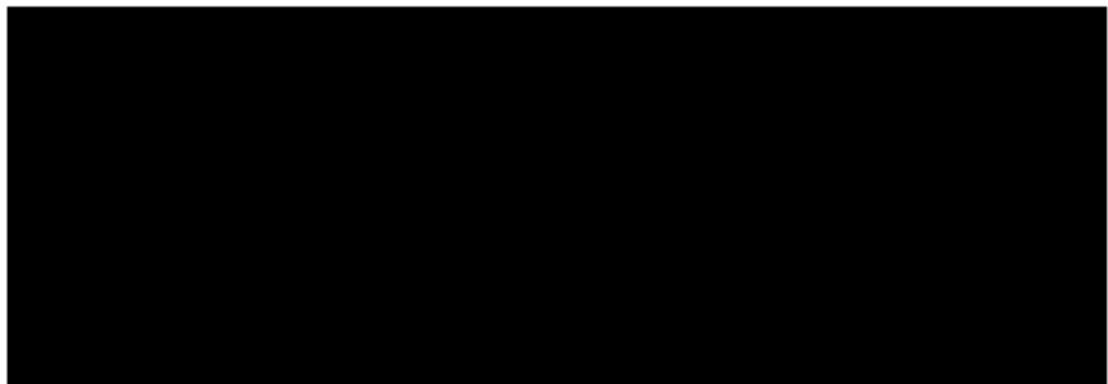
THE HUMBLE PETITION ON BEHALF
OF THE PETITIONER ABOVE NAMED

The Applicant most respectfully Showeth:-

1. That the captioned Writ Petition has been filed by a petitioner therein seeking declaration of “Talaq-e-Hasan” and all other forms of unilateral extra-judicial dissolution of marriages under Muslim Personal Laws as illegal, arbitrary, void and unconstitutional being irrational and in contravention of Articles 14, 15, 21 and 15 of the Constitution of India and also for framing of guidelines for a gender neutral and religion neutral uniform law for dissolution of marriage.
2. That all the legal grounds have been duly raised in the captioned Writ Petition, which are not being repeated herein for the sake of brevity and the applicant adopts and seeks leave of this Hon’ble Court to refer and rely upon the legal provisions and grounds mentioned in the memo of captioned Writ Petition at the time of hearing of this application also.
3. That the applicant abovenamed is an Indian Citizen and professes Islam religion, who has been divorced by her husband namely Mr. Nisar Patel, Aged about 30 years, Occupation- Service, R/O C/O 
4. The applicant is a permanent resident of the address mentioned herein above in the memo of parties. The applicant is also a victim of another form of unilateral divorce procedure “Talaq-e-Ahsan”, and since she is an educated, independent, working woman, she decided to shoulder the responsibility of fighting legal battle against this illegal, arbitrary, irrational and unconstitutional procedure for dissolution of marriage, which is effecting a large number of Muslim women, who may or may not be in a position to raise this issue before a judicial forum. Applicant’s net annual income is above Rs. 5.00 lacs per annum and she has means to

bear the consequences of the present case, if the Cost is imposed by the Hon'ble Court on finding the petition to be frivolous.

Name – Benzeer Nisar Patel



5. The respondent Nos. 1 to 5 in the captioned Writ Petition are various departments Statutory Organisations under the Union Government responsible for framing and proposing the law to be tabled before the Parliament of India and the respondent Nos. 6 to 8 are Statutory Organisations under the Union Government responsible for looking after and securing the basic right to live with dignity to every citizen of this Country. The abovenamed respondents are jointly and severally responsible for enacting laws and taking actions on the subject matter of the present Writ Petition.

6. Issues for Consideration:-

1. *Whether* the unjusticiable forms of dissolution of marriages such as “Talaq-e-Ahsan” are not violative of constitutional rights under Articles 14, 15, 21 and 25 of the Constitution of India?
2. *Whether* the Union Government is not obliged to make laws for governing the marriages, particularly which are civil contracts having no religious character, in order to provide equality to its citizens irrespective of their gender, race or religion?

3. *Whether Union Government has not failed in its duty to provide any legal procedure for enforceability of marital rights of Muslim couple in a Court of Law?*

Facts Giving Rise to the Present Application

7. That the applicant is an educated woman and an engineer by profession possessing the decree of Bachelor of Engineering from University of Pune, Pune Maharashtra.
8. That the applicant was married to Mr. Nisar Patel, now Aged about 30 years,

[REDACTED]

(Maharashtra). Despite the fact that the applicant is an educated and working woman, her parents had to shell out hefty sum as dowry and were forced to give expensive gifts to the bridegroom and his family members on the occasion of marriage.

9. During the first few weeks of marriage, the applicant lived happily in her matrimonial home. But, her husband and her family members gradually started demanding money from the applicant out of her own earnings as well as started asking her to bring money from her parents.
10. That initially, the applicant did not think much about all these demands and was happily giving money to her husband and his family members under the impression that she is contributing towards the expenses of the family. However, the magnitude of demands gradually increased and they started demanding lakhs of rupees at once for spending on their lavish and luxurious life styles.

11. That when the applicant realized that she is being used by her husband and his family members as a money vending machine for satisfying their greed, she started objecting to the heads of expenses which were told to her as reason for their demands and further refused to give any amount for certain purposes like unnecessary purchases of newly launched Apple i-phone, new laptops of highest configuration, etc.
12. That the objections raised on stated expenses and refusal to give money by the applicant first led to verbal altercations with her husband. But later on, all the family members also started to intervene in such altercations and they even started to threaten with physical violence also.
13. That since applicant did not want a matrimonial discord, sometime she gave money unwillingly and tried to counsel her husband on such expenditures later on. But, applicant's husband and family members never realized that her true intention was to save money which may be utilized by the family in the time of need and exigencies.
14. That however, applicant was assaulted and driven out of her matrimonial home during two years of her marriage on several occasions only for the reason that she was unwilling to meet all the demands of money by her husband and his family members. She was driven out of her matrimonial home at least on 6 occasions and was forced to stay at her parents' home for some period and could return to her matrimonial home only after intervention of respected members of the society and relatives.
15. However, the applicant was divorced by her husband by "Talaq-e-Ahsan" procedure by sending a letter through Speed Post after being driven out of her matrimonial home after she refused to pay

them money for down payment for purchasing a new car and to avail loan for making payment of the balance amount and repay the same in full on her own.

16. That as per the customs and procedure, “Talaq-e-Ahsan” requires pronouncement of Talaq once followed by abstinence from conjugal relation for three lunar months or 90 days and thereafter, if the parties to the marriage do not resume their conjugal relationship with 90 days, the marriage is dissolved.
17. That the applicant’s husband sent her letter of divorce on 17.06.2022 through Speed Post leveling various baseless and untrue allegations against her in the said letter holding the applicant herself thereby responsible for the divorce and the applicant has no forum or Court to challenge or rebut those allegations against her.
18. That the petitioner tried to approach the local police against the atrocities and harassment by her husband and in laws and also against the unilateral dissolution of marriage, but the local police did not register the case on the ground that “Talaq-e-Ahsan” is a recognized process for dissolution of Muslim marriages.
19. It is submitted that applicant became aware of the pendency of the captioned Writ Petition before this Hon’ble Court through media reports. That the applicant also came to know through media reports that a large number of such unilateral dissolution of Muslim marriage through different forms of Talaq are reported regularly and in most of the case, the woman is not in a position to initiate any legal proceeding for various reasons.
20. It is submitted that this Hon’ble Court was pleased to direct institution of a Writ Petition for examining the gender

discrimination against Muslim women and to issue notices to the learned Attorney General and National legal Services Authority.

21. It is submitted that this Hon'ble Court, in the Civil Appeal No. 7217 of 2013 titled "Prakash & Ors. Vs. Phulwati & Ors." decided on 16.10.2015, was pleased to observe that laws concerning marriage and succession are not related to religion and same is required to change and internal treaties and covenants may be referred to for examining validity and reasonableness of such a provision of law.
22. In several judgments such as Civil Appeal No. 7217 of 2013 titled "Prakash & Ors. Vs. Phulwati & Ors." decided on 16.10.2015, Javed Vs. State of Haryana (2003) 8 SCC 369, Sarla Mudgal Vs. Union of India ((1995) 3 SCC 635, this facts has been observed that polygamy is injurious to public morals and State can prohibit it like any other such practice causing public nuisance and infringing rights under Article 21 of the Constitution of India.
23. In the case of Khursheed Ahmad Khan Vs. State of Uttar Pradesh (215) 8 SCC 439, this Hon'ble Court had taken a view that practices permitted or not prohibited by religion are not necessarily religious practices. In this view of the matter, it is submitted that unilateral forms of divorce like Talaq-e-Ahsan must be judicially declared illegal in the interest of granting equal rights and dignity to Muslim Women.
24. That in the case of Shayara Bano Vs. Union of India & Ors. (2017) 9 SCC 1, this Hon'ble Court had categorically recorded the submission of learned Attorney General that Talak-e-Hasan and Talaq-e-Ahsan may also be declared unconstitutional on the same reasons as Talaq-e-Biddat and on query by the Court regarding unavailability of any procedure for divorce to Muslim men,

learned Attorney General had made a statement that Parliament may enact law in this regard within no time. The relevant part of the judgment reads as under:-

“237. It is also necessary for us to recount an interesting incident that occurred during the course of hearing. The learned Attorney General having assisted this Court in the manner recounted above, was emphatic that the other procedures available to Muslim men for obtaining divorce, such as, ‘talaq-e-ahsan’ and ‘talaq-e-hasan’ were also liable to be declared as unconstitutional, for the same reasons as have been expressed with reference to ‘talaq-e-biddat’. In this behalf, the contention advanced was, that just as ‘talaq-e-biddat’, ‘talaq-e-ahsan’ and ‘talaq-e-hasan’ were based on the unilateral will of the husband, neither of these forms of divorce required the availability of a reasonable cause with the husband to divorce his wife, and neither of these needed the knowledge and/or notice of the wife, and in neither of these procedures the knowledge and/or consent of the wife was required. And as such, the other two so-called approved procedures of divorce (‘talaq-e-ahsan’ and ‘talaq-e-hasan’) available to Muslim men, it was submitted, were equally arbitrary and unreasonable, as the practice of ‘talaq-e-biddat’. It was pointed out, that submissions during the course of hearing were confined by the Union of India, to the validity of ‘talaq-e-biddat’ merely because this Court, at the commencement of hearing, had informed the parties, that the present hearing would be limited to the examination of the prayer made by the petitioners and the interveners on the validity of ‘talaq-e-biddat’. It was contended, that the challenge to ‘talaq-e-ahsan’ and ‘talaq-e-hasan’ would follow immediately after this Court had rendered its pronouncement with reference to ‘talaq-e-biddat’. We have referred to the incident, and considered the necessity to record it, because of the response of the learned Attorney General to a query raised by the Bench. One of us (U.U. Lalit, J.), enquired from the learned Attorney General, that if all the three procedures referred to above, as were available to Muslim men to divorce their wives, were set aside as unconstitutional, Muslim men would be rendered remediless in matters of divorce? The learned Attorney General answered the querry in the affirmative. But assured the Court, that the Parliament would enact a legislation within

no time, laying down grounds on which Muslim men could divorce their wives. We have accordingly recorded the above episode, because it has relevance to the outcome of the present matter.

238. Mr. Tushar Mehta, learned Additional Solicitor General of India, endorsed all the submissions and arguments, advanced by the learned Attorney General. On each aspect of the matter, the learned Additional Solicitor General, independently supported the legal propositions canvassed on behalf of the Union of India.”

25. It is submitted that all the procedure for dissolution of marriages like Talaq-e-Ahsan and others are available to Muslim men only as an extra judicial unilateral procedure for dissolution of marriage, which is neither harmonious to modern day principles of gender equality nor an essential religious practice. It is learnt that a number of Islamic nations have prohibited such procedure for dissolution of marriages, but same is prevalent in Indian Society and it causes great sufferings to women and children, particular belonging to economically weaker sections.
26. It is submitted that such unilateral procedure for dissolution of marriages by men is not available to people observing Hinduism, Christianity or Zoroastrianism in the Country and dissolution of their marriage is subject matter of various governing statute, but same right has been denied to Muslim Women for no good reason causing them immense mental agony as well as loss of opportunity of leading a dignified life.
27. In the case of State of Bombay Vs. Narsu Appa Mali AIR 1952 Bombay 84, Hon'ble High Court of Bombay has clearly distinguished religious faith and belief on one hand and religious practices on other and had held that State protects religious faith and belief, but the religious practices running contrary to the public order, morality, health or a social welfare policy must give way to the betterment of people. This view has been approvingly referred

in the case of Khursheed Ahmad Khan Vs. State of Uttar Pradesh (215) 8 SCC 439.

28. In the case of Daniel Latifi (2001) 7 SCC 740, this Hon'ble Court was pleased to observe that while interpreting provisions in respect of matrimonial relationship, social conditions prevalent in the society is to be considered in view of great disparity of economic resourcefulness between men and women, whether in majority group or minority group, since our society is male dominated both economically and socially and women are assigned dependent roles in society irrespective of the class of society they belong to. It was further observed that solution to societal problems of universal magnitude pertaining to horizons of basic human rights, culture, dignity, decency of life and social justice should invariably be left to be decided on considerations other than religion or religious faith, beliefs, sectarian, racial and communal constraints.
29. It is submitted that Muslim Personal Law (Shariat) Application Act 1937, by providing application of Muslim Personal Law in matters relating to marriage between the Muslims, conveys a wrong impression that law sanctions the practices of unilateral extra judicial forms of dissolution of marriage such as Talaq-e-Ahsan, which infringed fundamental rights of Muslim married women and Articles 14, 15, 21 and 25 of the Constitution of India and UN Conventions. Accordingly, it is submitted that Muslim Personal Law (Shariat) Application Act 1937, which is subject to the Constitution of India, is illegal so far as it recognizes and validates the practices of unilateral extra judicial forms of dissolution of marriage such as Talaq-e-Ahsan.

30. That is submitted that Constitution neither absolutely protects the unjust and arbitrary personal laws of any community nor exempts them from jurisdiction of legislature or judiciary. On the contrary, List III Entry 5 of the 7th Schedule empowers the legislature to amend and repeal the existing laws or pass new laws in all such matters (including marriage and divorce), which were governed by personal laws on 15.08.1947.
31. That freedom of conscience and free profession, practice and propagation of religion and religious beliefs guaranteed under Article 25 of the Constitution of India is not absolute, but subject to public order, morality and health and other provisions of Part III thereof. Constitutional morality has been expounded by this Hon'ble Court in the case of Manoj Narula Vs. Union of India (2014) 9 SCC 1 observing that the Constitution is a living instrument and the principle of constitutional morality essentially means to bow down to the norms of the Constitution and to not act in a manner arbitrary and in violation of rule of law. It was also observed by the Hon'ble Court that the traditions and conventions have to grow to sustain the value of such morality and democratic values can survive and succeed when the people at large are strictly guided by constitutional parameters, as commitment to the constitution is a facet of constitutional morality.
32. That the legislature has failed to ensure the dignity and equality for women in general and Muslim women in particular especially in the matter of marriage, divorce and succession. Despite frequent observations by this Hon'ble Court, Uniform Civil Code is still an elusive constitutional goal, which the legislature has been dispassionately ignoring and Courts have been reluctant to enforce. However, it is evident that law relating to marriage and

divorce are not part of religion and need to change with changing social, economic and cultural scenario. It is further submitted that this Hon'ble Court has already observed that issue of gender discrimination against Muslim women under Muslim Personal Law, particularly lack of safeguard against the second marriage by husband during subsistence of first marriage notwithstanding the guarantees under the Constitution of India needs to be examined. This Hon'ble Court had declared the practice of Talaq-e-Biddat (Triple Talaq) as illegal, but other such practices like Talaq-e-Ahsan still subsists and applicant is one of the victims of the same.

33. That in view of change in law in Islamic countries restricting extra judicial Talaq in any form as well as development of international laws, this Hon'ble Court is sole hope of Muslim women as well as Muslim community suffering on account of Personal law, still existing despite being in violation of fundamental rights guaranteed by the Constitution of India.
34. Article 3 of the Universal Declaration Human Rights provides that everyone has right to life, liberty and security of person and Article 7 provides that everyone is equal before law and entitled without any discrimination to equal protection of law. Since the adoption of Universal Declaration of Human Rights, it has been specifically recognized that women's human rights are part of universal human rights and on the ground of violating women's dignity, UN Human Rights Committee considered polygamy as a destruction of international covenants on civil and political rights and recommended that it be made illegal. Thus, it is submitted that polygamy is internationally recognized as an infringement on dignity of women.

35. That International Covenant on Civil and Political Rights as well as International Covenant on Economic, Social and Cultural rights both prohibit gender discrimination and guarantee equality between men and women in enjoyment of rights covered by the Covenant. However, discrimination and inequalities can appear in different manners including through laws or policies restricting, preferring or distinguishing between various groups of individuals. Therefore, in order to achieve actual equality, the underlying reasons for discrimination against women must be addressed as it is not enough to only guarantee equal treatment with men.
36. That UN Economic and Social Council's Committee on Economic, Social and Cultural Rights explained in its General Comment No. 16 of 2005 that parties to International Covenants on Economic, Social and Cultural Rights are obliged to eliminate not only direct discrimination, but also indirect one, by refraining from engaging in discriminatory practices, ensuring that third parties do not discriminate in a forbidden manner directly or indirectly, and taking positive action to guarantee women's equality. It is thus submitted that failure to eliminate such direct or indirect discrimination infringes women's rights envisaged in such international treaties and covenants. It is submitted that not only the extra-judicial divorce practices like Talaq-e-Ahsan be declared illegal and unconstitutional, but the actions of religious groups, bodies and leaders permitting and propagating such practices must also be declared illegal and unconstitutional.
37. The language used in Articles 32 and 226 is broad, and this Hon'ble Court's and High Court's powers include issuing orders, writs, or directions, including writs in the nature of habeas corpus,

mandamus, quo warranto, prohibition, and certiorari, as may be deemed necessary for the enforcement of fundamental rights and, in the case of the High Courts, for other purposes. There is no need to return to the procedural complexities of writs in English Law in light of the express provision of the Constitution. The Court may make and issue orders in the nature of these prerogative writs in appropriate cases and in appropriate manners, so long as the fundamental principles governing the exercise of jurisdiction in the matter of granting such writ are followed [**T.C. BASAPPA v. T. NAGAPPA, AIR 1954 SC 440**]

38. An application under Article 32 should not be dismissed simply because the appropriate direction or writ was not requested. Thus, where an order in the nature of mandamus is sought in one form, nothing prevents the Court from granting it in another. Article 32 allows for a great deal of leeway in framing the writ to meet the needs of specific cases. [**CHARANJIT LAL CHOWDHURY AIR 1951 SC 41**]. Even if the petitioner has asked for broader relief that the Court cannot grant, the Court can grant the relief to which the petitioner is entitled [**RAMBHADRIAH, AIR 1981 SC 1653**]. This Hon'ble Court has the authority to grant consequential relief in order to provide full and complete justice, even in the case of individuals who are not before the Court or have not filed a petition with the Court [**PRABODH VERMA AIR 1985 SC 167**]
39. For the protection of fundamental rights and the rule of law, the Court may grant jurisdiction to a body or authority under this article to act beyond the scope of statutory jurisdiction or function, regardless of the question of limitation prescribed by the statute. In exercising this power, this Hon'ble Court entrusted the NHRC with certain matters, with the direction that the Commission would

function in accordance with its direction, and that all authorities would be bound by it. The NHRC was declared to be unconstrained by any conditions and given free rein, resulting in an act *sui generis* conferring special jurisdiction. The NHRC was declared to be unconstrained by any conditions and given free rein, resulting in an act *sui generis* conferring special jurisdiction.

[PARAMJIT KAUR, AIR 1999 SC 340]

40. The existence of a remedy in the form of Article 226 for filing a writ in High Court does not preclude or bar an aggrieved person from approaching this Hon'ble Court directly under Article 32. It is true that the Court, in its wisdom, has imposed a self-restraint on the exercise of jurisdiction where the aggrieved party has an effective alternative remedy in the form of Article 226. This rule, however, which requires the exhaustion of alternative remedies, is a rule of convenience and discretion rather than a rule of law. It does not preclude the Court from exercising its jurisdiction under Article 32. **[MOHAMMED ISHAQ (2009) 12 SCC 748]**
41. This Hon'ble Court has the authority to evolve the New Principles of Liability in order to make the guaranteed remedy for enforcing fundamental rights real and effective, and to provide complete justice to the aggrieved party. It was determined that the court was not helpless, and that the broad powers granted to the Court by Article 32 of the Constitution, which is a fundamental right, imposes a constitutional obligation on this Hon'ble Court to forge such new tools as may be required for doing complete justice and enforcing the fundamental rights guaranteed in the Constitution, which allows for the award of monetary compensation in appropriate cases where that is the only redress available. When invoked by have-nots who lack the wherewithal to enforce their

right in private law, the remedy in public law must be more readily available, even if its exercise is tempted by judicial restraint to avoid circumvention of private law remedies, which are more appropriate. Under Article 32, the Court may issue appropriate orders to provide complete justice to the parties even if it is determined that the petition filed is not legally maintainable.

[Saihba Ali, (2003) 7 SCC 250]

42. In the case of *Madhu Kishwar & Ors. Vs. State of Bihar & Anr.* (1996) 5 SCC 125, while deciding on the Constitutional validity of provisions of the Chotanagpur Tenancy Act, 1908 on the principle that the provisions are discriminatory & unfair against women and therefore, ultra vires the equality clause in the Constitution, this Hon'ble Court was pleased to hold as under:-

“20. ...Article 14 ensures equality of law and prohibits invidious discrimination. Arbitrariness or arbitrary exclusion are sworn enemies to equality. Article 15(1) prohibits gender discrimination. Article 15(3) lifts that rigour and permits the State to positively discriminate in favour of women to make special provision, to ameliorate their social, economic and political justice and accords them parity. Article 38 enjoins the State to promote the welfare of the people (obviously men and women alike) by securing social order in which justice — social, economic and political — shall inform of all the institutions of national life. Article 39(a) and (b) enjoin that the State policy should be to secure that men and women equally have the right to an adequate means of livelihood and the ownership and control of the material resources of the community are so distributed as best to subserve the common good. Article 38(2) enjoins the State to minimise the inequalities in income and to endeavour to eliminate inequalities in status, facilities and opportunities not only among individuals but also amongst groups of people. Article 46 accords special protection and enjoins the State to promote with special care the economic and educational interests of the Scheduled Castes and Scheduled

Tribes and other weaker sections and to protect them from social injustice and all forms of exploitation. The Preamble to the Constitution charters out the ship of the State to secure social, economic and political justice and equality of opportunity and of status and dignity of person to everyone..”

“22. ..Article 1(1) assures right to development — an inalienable human right, by virtue of which every person and all people are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development in which all human rights and fundamental freedoms can be fully realised. Article 6(1) obligates the State to observe all human rights and fundamental freedoms for all without any discrimination as to race, sex, language or religion... ...Appropriate economic and social reforms should be carried out with a view to eradicate all social injustice..”

“23. Human rights are derived from the dignity and worth inherent in the human person. Human rights and fundamental freedom have been reiterated by the Universal Declaration of Human Rights. Democracy, development and respect for human rights and fundamental freedoms are interdependent and have mutual reinforcement. The human rights for women, including girl child are, therefore, inalienable, integral and indivisible part of universal human rights. The full development of personality and fundamental freedoms and equal participation by women in political, social, economic and cultural life are concomitants for national development, social and family stability and growth, culturally, socially and economically. All forms of discrimination on grounds of gender is violative of fundamental freedoms and human rights. Vienna Convention on the Elimination of all forms of Discrimination Against Women (for short ‘CEDAW’) was ratified by the UNO on 18-12-1979. The Government of India who was an active participant to CEDAW ratified it on 19-6-1993 and acceded to CEDAW on 8-8-1993 with reservation on Articles 5(e), 16(1), 16(2) and 29 thereof. The Preamble of CEDAW reiterates that discrimination against women violates the principles of equality of rights and respect for human dignity; is an obstacle to the participation on equal terms with men in the political, social, economic and cultural life of their country; hampers the growth of the personality from society and family and makes it more difficult for the full

development of potentialities of women in the service of their countries and of humanity... ”

“24. Parliament has enacted the Protection of Human Rights Act, 1993. Section 2(d) defines human rights to mean “the rights relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in the International Covenants and enforceable by courts in India”. Thereby the principles embodied in CEDAW and the concomitant Right to Development became integral parts of the Indian Constitution and the Human Rights Act and became enforceable. Section 12 of Protection of Human Rights Act charges the Commission with duty for proper implementation as well as prevention of violation of the human rights and fundamental freedoms.”

“25. Article 5(a) of CEDAW on which Government of India expressed reservation does not stand in its way and in fact Article 2(f) denudes its effect and enjoins to implement Article 2(f) read with its obligation undertaken under Articles 3, 14 and 15 of the Convention vis-à-vis Articles 1, 3, 6 and 8 of the Declaration of Right to Development. Though the directive principles and fundamental rights provide the matrix for development of human personality and elimination of discrimination, these conventions add urgency and teeth for immediate implementation. It is, therefore, imperative for the State to eliminate obstacles, prohibit all gender-based discriminations as mandated by Articles 14 and 15 of the Constitution of India. By operation of Article 2(f) and other related articles of CEDAW, the State should by appropriate measures including legislation, modify law and abolish gender-based discrimination in the existing laws, regulations, customs and practices which constitute discrimination against women.”

“26. Article 15(3) of the Constitution positively protects such Acts or actions. Article 21 reinforces “right to life”. Equality, dignity of person and right to development are inherent rights in every human being. Life in its expanded horizon includes all that gives meaning to a person's life including culture, heritage and tradition with dignity of person. The fulfilment of that heritage in full measure would encompass the right to life. For its meaningfulness and purpose every woman is entitled to elimination of obstacles and discrimination based on gender for human development. Women are entitled to

enjoy economic, social, cultural and political rights without discrimination and on footing of equality. Equally, in order to effectuate fundamental duty to develop scientific temper, humanism and the spirit of enquiry and to strive towards excellence in all spheres of individual and collective activities as enjoined in Article 51-A(h) and (j) of the Constitution of India, not only facilities and opportunities are to be provided for, but also all forms of gender-based discrimination should be eliminated. It is a mandate to the State to do these acts. Property is one of the important endowments or natural assets to accord opportunity, source to develop personality, to be independent, right to equal status and dignity of person. Therefore, the State should create conditions and facilities conducive for women to realise the right to economic development including social and cultural rights.”

”37. ..The public policy & constitutional philosophy envisaged under Articles 38, 39, 46 and 15(1) and (3) and 14 is to accord social and economic democracy to women as assured in Preamble of the Constitution. They constitute the core foundation for economic empowerment and social justice to women for stability of political democracy. In other words, they frown upon gender discrimination and aim at elimination of obstacles to enjoy social, economic, political and cultural rights on equal footing. ...If law is to adapt itself to the needs of the changing society, it must be flexible and adaptable...”

43. In *Vishakha Vs. State of Rajasthan* (1997) 6 SCC 241, this Hon’ble Court was pleased to frame guidelines for prevention of sexual harassment of women at workplace in order to ensure their right to work in safe environment with full dignity and equality, relevant paragraph of which read as under:-

“7. In the absence of domestic law occupying the field, to formulate effective measures to check the evil of sexual harassment of working women at all workplaces, the contents of international conventions and norms are significant for the purpose of interpretation of the guarantee of gender equality, right to work with human dignity in Articles 14, 15, 19(1)(g) and 21 of the Constitution and the safeguards against sexual

harassment implicit therein. Any international convention not inconsistent with fundamental rights and in harmony with its spirit must be read into these provisions to enlarge the meaning and content thereof, to promote the object of the constitutional guarantee. This is implicit from Article 51(c) and enabling power of Parliament to enact laws for implementing the international conventions and norms by virtue of Article 253 read with Entry 14 of the Union List in Seventh Schedule of the Constitution. Article 73 also is relevant. It provides that the executive power of the Union shall extend to the matters with respect to which Parliament has power to make laws. The executive power of the Union is, therefore, available till Parliament enacts legislation to expressly provide measures needed to curb the evil.”

“15 .In Nilabati Behera v. State of Orissa[(1993) 2 SCC 746 : 1993 SCC (Cri) 527] a provision in the ICCPR was referred to support the view taken that “an enforceable right to compensation is not alien to the concept of enforcement of a guaranteed right”, as a public law remedy under Article 32, distinct from the private law remedy in torts. There is no reason why these international conventions and norms cannot, therefore, be used for construing the fundamental rights expressly guaranteed in the Constitution of India which embody the basic concept of gender equality in all spheres of human activity”.

44. That in the case of Anuj Garg & Ors. Vs. Hotel Association & Anr. (2008) 3 SCC 1, this Hon’ble Court disapproved even the gender based protective discrimination against women, while examining the provision under excise laws in employment of women as Bar tender, relevant part of which reads as under:-

“36. Women would be as vulnerable without State protection as by the loss of freedom because of impugned Act. Present law ends up victimising its subject in the name of protection. In that regard the interference prescribed by the State for pursuing the ends of protection should be proportionate to the legitimate aims. The standard for judging the proportionality should be a standard capable of being called reasonable in a democratic society.”

“37. Instead of putting curbs on women's freedom, empowerment would be a more tenable and socially wise approach. This empowerment should reflect in the law enforcement strategies of the State as well as law modelling done in this behalf...”

“43 .Instead of prohibiting women employment in the bars altogether the State should focus on factoring in ways through which unequal consequences of sex differences can be eliminated. It is the State's duty to ensure circumstances of safety which inspire confidence in women to discharge the duty freely in accordance to the requirements of the profession they choose to follow. Any other policy inference (such as the one embodied under Section 30) from societal conditions would be oppressive on the women and against the privacy rights.”

“46. It is to be borne in mind that legislations with pronounced “protective discrimination” aims, such as this one, potentially serve as double-edged swords. Strict scrutiny test should be employed while assessing the implications of this variety of legislations. Legislation should not be only assessed on its proposed aims but rather on the implications and the effects. The impugned legislation suffers from incurable fixations of stereotype morality and conception of sexual role. The perspective thus arrived at is outmoded in content and stifling in means.”

45. In the case of National Legal Services Authority vs. Union of India (2014) 5 SCC 438 (Transgenders' Right and Third Gender case), this Hon'ble Court has recognized the right to gender identity as a part of right to dignity and freedom guaranteed under our constitution, relevant part of which reads as under:-

“73. Article 21 is the heart and soul of the Indian Constitution, which speaks of the rights to life and personal liberty. Right to life is one of the basic fundamental rights and not even the State has the authority to violate or take away that right. Article 21 takes all those aspects of life which go to make a person's life meaningful. Article 21 protects the dignity of human life, one's personal autonomy, one's right to privacy, etc. Right to dignity has been recognised to be an

essential part of the right to life and accrues to all persons on account of being humans.”

“74. ...The recognition of one's gender identity lies at the heart of the fundamental right to dignity. Gender, as already indicated, constitutes the core of one's sense of being as well as an integral part of a person's identity. Legal recognition of gender identity is, therefore, part of the right to dignity and freedom guaranteed under our Constitution...”

“75. Court held that personal autonomy includes both the negative right of not to be subject to interference by others and the positive right of individuals to make decisions about their life, to express themselves and to choose which activities to take part in. Self-determination of gender is an integral part of personal autonomy and self-expression and falls within the realm of personal liberty guaranteed under Article 21 of the Constitution of India.”

46. That in the case of *Pravasi Bhalai Sangathan v. Union of India & ORs.* (2014) 11 SCC 477, this Hon’ble Court has categorically held that while there is a complete vaccum in law, this Hon’ble Court has issued directions to provide for the effective enforcement of a basic human right, relevant portion of which reads as under:-

“20. This Court has persistently held that our Constitution clearly provides for separation of powers and the court merely applies the law that it gets from the legislature. Consequently, the Anglo-Saxon legal tradition has insisted that the Judges should only reflect the law regardless of the anticipated consequences, considerations of fairness or public policy and the Judge is simply not authorised to legislate law. “If there is a law, Judges can certainly enforce it, but Judges cannot create a law and seek to enforce it.” The court cannot rewrite, recast or reframe the legislation for the very good reason that it has no power to legislate. The very power to legislate has not been conferred on the courts. However, of lately, judicial activism of the superior courts in India has raised public eyebrows time and again. Though judicial activism is regarded as the active interpretation of an existing provision with the view of enhancing the utility of

legislation for social betterment in accordance with the Constitution, the courts under its garb have actively strived to achieve the constitutional aspirations of socio-economic justice. In many cases, this Court issued various guidelines/directions to prevent fraud upon the statutes, or when it was found that certain beneficiary provisions were being misused by the undeserving persons, depriving the legitimate claims of eligible persons..."

"22. ..This Court has consistently clarified that the directions have been issued by the Court only when there has been a total vacuum in law i.e. complete absence of active law to provide for the effective enforcement of a basic human right. In case there is inaction on the part of the executive for whatsoever reason, the court has stepped in, in exercise of its constitutional obligations to enforce the law. In case of vacuum of legal regime to deal with a particular situation the court may issue guidelines to provide absolution till such time as the legislature acts to perform its role by enacting proper legislation to cover the field. Thus, direction can be issued only in a situation where the will of the elected legislature has not yet been expressed..."

47. That Talaq-e-Ahsan and other similar forms of unconstitutional modes of divorce completely denied any maintenance to women. In the case of Shamima Farooqui V/s Shahid Khan, (2015) 5 SCC 705, this Hon'ble Court has held as under:-

"14...It can never be forgotten that the inherent and fundamental principle behind Section 125 CrPC is for amelioration of the financial state of affairs as well as mental agony and anguish that a woman suffers when she is compelled to leave her matrimonial home. The statute commands that there have to be some acceptable arrangements so that she can sustain herself. The principle of sustenance gets more heightened when the children are with her. Be it clarified that sustenance does not mean and can never allow to mean a mere survival. A woman, who is constrained to leave the marital home, should not be allowed to feel that she has fallen from grace and move hither and thither arranging for sustenance. As per law, she is entitled to lead a life in the similar manner as she would have lived in the house of her husband. And that is where the status and

strata of the husband comes into play and that is where the legal obligation of the husband becomes a prominent one. As long as the wife is held entitled to grant of maintenance within the parameters of Section 125 CrPC, it has to be adequate so that she can live with dignity as she would have lived in her matrimonial home. She cannot be compelled to become a destitute or a beggar. There can be no shadow of doubt that an order under Section 125 CrPC can be passed if a person despite having sufficient means neglects or refuses to maintain the wife. Sometimes, a plea is advanced by the husband that he does not have the means to pay, for he does not have a job or his business is not doing well. These are only bald excuses and, in fact, they have no acceptability in law. If the husband is healthy, able-bodied and is in a position to support himself, he is under the legal obligation to support his wife, for wife's right to receive maintenance under Section 125 CrPC, unless disqualified, is an absolute right..."

48. That in the case of State of M.P. Vs. Madanlal (2015) 7 SCC 681, this Hon'ble Court was pleased to hold that "***Dignity of a woman is a part of her non-perishable and immortal self and no one should ever think of painting it in clay...***"
49. That in the case of Supreme Court Women Lawyers' Association Vs. Union of India & Anr. (2016) 3 SCC 680, this Hon'ble Court was pleased to hold that guidelines and norms can be laid down in exercise of the power under Article 32, and such guidelines should be treated as law declared under Article 141, by observing as under:-

"5. At the very outset, we must make it clear that the courts neither create offences nor do they introduce or legislate punishments. It is the duty of the legislature. The principle laid down in Vishaka case [Vishaka v. State of Rajasthan, (1997) 6 SCC 241 : 1997 SCC (Cri) 932] is quite different, for in the said case, the Court relied on the International Convention, namely, "Convention on the Elimination of All Forms of Discrimination against Women" especially articles pertaining to violence and equality in employment and further referred to the concept of gender equality including protection from sexual harassment and right to work with

dignity and on that basis came to hold that in the absence of enacted law to provide for effective enforcement of the basic human right of gender equality and guarantee against the sexual harassment and abuse, more particularly against sexual harassment at work places, guidelines and norms can be laid down in exercise of the power under Article 32, and such guidelines should be treated as law declared under Article 141..."

50. That in the case of *Shayara Bano Vs. Union of India* (2017) 9 SCC 1, this Hon'ble Court was pleased to declare "Talaq-e-Biddat" (pronouncement of three Talaq at the same time) as illegal and injunct the Muslim men from divorcing their wives in this manner till a legislation is enacted. The relevant portion reads as under:-

"392. In view of the position expressed above, we are satisfied that this is a case which presents a situation where this Court should exercise its discretion to issue appropriate directions under Article 142 of the Constitution. We therefore hereby direct the Union of India to consider appropriate legislation, particularly with reference to "Talaq-e-Biddat". We hope and expect that the contemplated legislation will also take into consideration advances in Muslim Personal Law—"Shariat", as have been corrected by legislation the world over, even by theocratic Islamic States. When the British Rulers in India provided succour to Muslims by legislation, and when remedial measures have been adopted by the Muslim world, we find no reason, for an independent India, to lag behind. Measures have been adopted for other religious denominations (see Part IX — Reforms to Personal Law in India, above), even in India, but not for the Muslims. We would, therefore, implore the legislature to bestow its thoughtful consideration to this issue of paramount importance. We would also beseech different political parties to keep their individual political gains apart, while considering the necessary measures requiring legislation."

"393. ..Till such time as legislation in the matter is considered, we are satisfied in injuncting Muslim husbands from pronouncing "Talaq-e-Biddat" as a means for severing their matrimonial relationship. The instant injunction, shall in the first instance, be operative for a period of six months. If the legislative process commences before the expiry of

period of six months and a positive decision emerges towards redefining “Talaq-e-Biddat” (three pronouncements of “talaq” at one and the same time), as one, or alternatively, if it is decided that the practice of “Talaq-e-Biddat” be done away with altogether, the injunction would continue till legislation is finally enacted. Failing which, the injunction shall cease to operate..”

51. In the case of K. S. Puttaswamy Vs. Union of India (2017) 10 SCC 1, this Hon’ble Court emphasized upon protection of rights of individuals by striking a balance between the changing needs of the society and the protection of the rights of the citizens as and when the issue relating to the infringement of the rights of the citizen comes up for consideration, relevant portion of which reads as under:-

“525. ...The dignity of the individual encompasses the right of the individual to develop to the full extent of his potential. And this development can only be if an individual has autonomy over fundamental personal choices and control over dissemination of personal information which may be infringed through an unauthorised use of such information. It is clear that Article 21, more than any of the other articles in the fundamental rights chapter, reflects each of these constitutional values in full, and is to be read in consonance with these values and with international covenants that we have referred to. In the ultimate analysis, the fundamental right to privacy, which has so many developing facets, can only be developed on a case-to-case basis...”

“526. This right is subject to reasonable regulations made by the State to protect legitimate State interests or public interest. However, when it comes to restrictions on this right, drill of various articles to which the right relates must be scrupulously followed...”

“534.1. It is clear that the international covenants and declarations to which India was a party, namely, the 1948 Declaration and the 1966 Covenant both spoke of the right to life and liberty as being “inalienable”. Given the fact that this has to be read as being part of Article 21 by virtue of the judgments referred to supra, it is clear that Article 21 would,

therefore, not be the sole repository of these human rights but only reflect the fact that they were “inalienable”; that they inhere in every human being by virtue of the person being a human being;..”

“547. ..It is, therefore, the duty of the courts and especially this Court as sentinel on the qui vive to strike a balance between the changing needs of the society and the protection of the rights of the citizens as and when the issue relating to the infringement of the rights of the citizen comes up for consideration. Such a balance can be achieved only through securing and protecting liberty, equality and fraternity with social and political justice to all the citizens under the rule of law...”

52. That in the case of Pawan Kumar Vs. State of Himachal Pradesh (2017) 7 SCC 780, while dealing with the case related to eve-teasing, this Hon’ble Court was pleased to emphasize upon the right of women to live with dignity, relevant portion of which reads as under:-

“47. Eve teasing, as has been stated in Inspector General of Police v. S. Samuthiram [(2013) 1 SCC 598 : (2013) 1 SCC (Cri) 566] , has become a pernicious, horrid and disgusting practice. The Court therein has referred to the Indian Journal of Criminology and Criminalistics (January-June 1995 Edn.) which has categorised eve teasing into five heads viz. (1) verbal eve teasing; (2) physical eve teasing; (3) psychological harassment; (4) sexual harassment; and (5) harassment through some objects. Present case eminently projects a case of psychological harassment. We are at pains to state that in a civilised society eve teasing is causing harassment to women in educational institutions, public places, parks, railway stations and other public places which only go to show that requisite sense of respect for women has not been socially cultivated. A woman has her own space as a man has. She enjoys as much equality under Article 14 of the Constitution as a man does. The right to live with dignity as guaranteed under Article 21 of the Constitution cannot be violated by indulging in obnoxious act of eve teasing. It affects the fundamental concept of gender sensitivity and justice and the rights of a woman under Article 14 of the

Constitution. That apart it creates an incurable dent in the right of a woman which she has under Article 15. 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.”

*“48. In a civilised society male chauvinism has no room. The Constitution of India confers the affirmative rights on women and the said rights are perceptible from Article 15 of the Constitution. When the right is conferred under the Constitution, it has to be understood that there is no condescension. 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 instant case portrays the deplorable depravity of the appellant that has led to a heart-breaking situation for a young girl who has been compelled to put an end to her life. Therefore, the High Court has absolutely correctly reversed the judgment of acquittal and imposed the sentence. It has appositely exercised jurisdiction and we concur with same.”*

53. In the case of *Navtej Singh Johar Vs. Union of India* (2018) 10 SCC 1, while deciding constitutionality of section 377 of Indian Penal Code, Constitution Bench of this Hon’ble Court was pleased to emphasize upon testing the provision on the anvil of Article 14 of the Constitution on the premise that “all like should be treated alike”, relevant portion of which reads as under:-

*“248. ..We, first, must test the validity of Section 377 IPC on the anvil of Article 14 of the Constitution. What Article 14 propounds is that “all like should be treated alike”. In other words, it implies equal treatment for all equals. Though the legislature is fully empowered to enact laws *applicable to a particular class, as in the case at hand in which Section 377 applies to citizens who indulge in carnal intercourse, yet the**

classification, including the one made under Section 377 IPC, has to satisfy the twin conditions to the effect that the classification must be founded on an intelligible differentia and the said differentia must have a rational nexus with the object sought to be achieved by the provision, that is, Section 377 IPC... ”

“268.1 ..The eminence of identity which has been luculently stated in Nalsal [(2014) 5 SCC 438] very aptly connects human rights and the constitutional guarantee of right to life, liberty with dignity. With the same spirit, we must recognise that the concept of identity which has a constitutional tenability cannot be pigeon-holed singularly to one's orientation as it may keep the individual choice at bay. At the core of the concept of identity lies self-determination, realisation of one's own abilities visualising the opportunities and rejection of views with a clear conscience that is in accord with constitutional norms and values or principles that are, to put in a capsule, “constitutionally permissible.. ”

“268.4. ...The primary objective of having a constitutional democracy is to transform the society progressively and inclusively. Our Constitution has been perceived to be transformative in the sense that the interpretation of its provisions should not be limited to the mere literal meaning of its words; instead they ought to be given a meaningful construction which is reflective of their intent and purpose in consonance with the changing times. Transformative constitutionalism not only includes within its wide periphery the recognition of the rights and dignity of individuals but also propagates the fostering and development of an atmosphere wherein every individual is bestowed with adequate opportunities to develop socially, economically and politically. Discrimination of any kind strikes at the very core of any democratic society. When guided by transformative constitutionalism, the society is dissuaded from indulging in any form of discrimination so that the nation is guided towards a resplendent future... ”

“268.5...Constitutional morality embraces within its sphere several virtues, foremost of them being the espousal of a pluralistic and inclusive society. The concept of constitutional morality urges the organs of the State, including the Judiciary, to preserve the heterogeneous nature of the society and to curb any attempt by the majority to usurp

the rights and freedoms of a smaller or minuscule section of populace. Constitutional morality cannot be martyred at the altar of social morality and it is only constitutional morality that can be allowed to permeate into the Rule of Law. The veil of social morality cannot be used to violate fundamental rights of even a single individual, for the foundation of constitutional morality rests upon recognition of diversity that pervades the society... ”

54. That in the case of Joseph Shine Vs. Union of India (2019) 3 SCC 39, while striking off Adultery as unconstitutional, Constitution Bench of this Hon'ble Court has held as under:-

“30. ...As we notice, the provision treats a married woman as a property of the husband. It is interesting to note that Section 497 IPC does not bring within its purview an extramarital relationship with an unmarried woman or a widow. The dictionary meaning of “adultery” is that a married person commits adultery if he has sex with a woman with whom he has not entered into wedlock. As per Black's Law Dictionary, “adultery” is the voluntary sexual intercourse of a married person with a person other than the offender's husband or wife. However, the provision has made it a restricted one as a consequence of which a man, in certain situations, becomes criminally liable for having committed adultery while, in other situations, he cannot be branded as a person who has committed adultery so as to invite the culpability of Section 497 IPC. Section 198 CrPC deals with a “person aggrieved”. Sub-section (2) of Section 198 treats the husband of the woman as deemed to be aggrieved by an offence committed under Section 497 IPC and in the absence of husband, some person who had care of the woman on his behalf at the time when such offence was committed with the leave of the court. It does not consider the wife of the adulterer as an aggrieved person. The offence and the deeming definition of an aggrieved person, as we find, is absolutely and manifestly arbitrary as it does not even appear to be rational and it can be stated with emphasis that it confers a licence on the husband to deal with the wife as he likes which is extremely excessive and disproportionate. We are constrained to think so, as it does not treat a woman as an abettor but protects a woman, simultaneously, it does not enable the wife to file any criminal prosecution against the

husband. Indubitably, she can take civil action but the husband is also entitled to take civil action. However, that does not save the provision as being manifestly arbitrary. That is one aspect of the matter. If the entire provision is scanned being Argus-eyed, we notice that on the one hand, it protects a woman and on the other, it does not protect the other woman. The rationale of the provision suffers from the absence of logicality of approach and, therefore, we have no hesitation in saying that it suffers from the vice of Article 14 of the Constitution being manifestly arbitrary... ”

“48. ...From the aforesaid analysis, it is discernible that the Court, with the passage of time, has recognised the conceptual equality of woman and the essential dignity which a woman is entitled to have. There can be no curtailment of the same. But, Section 497 IPC effectively does the same by creating invidious distinctions based on gender stereotypes which creates a dent in the individual dignity of women. Besides, the emphasis on the element of connivance or consent of the husband tantamounts to subordination of women. Therefore, we have no hesitation in holding that the same offends Article 21 of the Constitution... ”

“162. ...Section 497 is destructive of and deprives a woman of her agency, autonomy and dignity. If the ostensible object of the law is to protect the “institution of marriage”, it provides no justification for not recognising the agency of a woman whose spouse is engaged in a sexual relationship outside of marriage. She can neither complain nor is the fact that she is in a marital relationship with a man of any significance to the ingredients of the offence. The law also deprives the married woman who has engaged in a sexual act with another man, of her agency. She is treated as the property of her husband. That is why no offence of adultery would be made out if her husband were to consent to her sexual relationship outside marriage. Worse still, if the spouse of the woman were to connive with the person with whom she has engaged in sexual intercourse, the law would blink. Section 497 is thus founded on the notion that a woman by entering upon marriage loses, so to speak, her voice, autonomy and agency. Manifest arbitrariness is writ large on the provision... ”

“175. ...Article 15 prohibits the State from discriminating on grounds only of sex. The petitioners contend that (i) Section

497, insofar as it places a husband and wife on a different footing in a marriage perpetuates sex discrimination; (ii) Section 497 is based on the patriarchal conception of the woman as property, entrenches gender stereotypes, and is consequently hit by Article 15...”

“182. ...Implicit in seeking to privilege the fidelity of women in a marriage, is the assumption that a woman contracts away her sexual agency when entering a marriage. That a woman, by marriage, consents in advance to sexual relations with her husband or to refrain from sexual relations outside marriage without the permission of her husband is offensive to liberty and dignity. Such a notion has no place in the constitutional order. Sexual autonomy constitutes an inviolable core of the dignity of every individual. At the heart of the constitutional rights guaranteed to every individual is a primacy of choice and the freedom to determine one's actions. Curtailing the sexual autonomy of a woman or presuming the lack of consent once she enters a marriage is antithetical to constitutional values...”

“189. ...Article 15(3) encapsulates the notion of “protective discrimination”. The constitutional guarantee in Article 15(3) cannot be employed in a manner that entrenches paternalistic notions of “protection”. This latter view of protection only serves to place women in a cage. Article 15(3) does not exist in isolation. Articles 14 to 18, being constituents of a single code on equality, supplement each other and incorporate a non-discrimination principle. Neither Article 15(1), nor Article 15(3) allow discrimination against women. Discrimination which is grounded in paternalistic and patriarchal notions cannot claim the protection of Article 15(3). In exempting women from criminal prosecution, Section 497 implies that a woman has no sexual agency and that she was “seduced” into a sexual relationship. Given the presumed lack of sexual agency, criminal exemption is then granted to the woman in order to “protect” her. The “protection” afforded to women under Section 497 highlights the lack of sexual agency that the section imputes to a woman. Article 15(3) when read with the other Articles in Part III, serves as a powerful remedy to remedy the discrimination and prejudice faced by women for centuries. Article 15(3) as an enabling provision is intended to bring out substantive equality in the fullest sense. Dignity and autonomy are crucial to substantive equality. Hence, Article

15(3) does not protect a statutory provision that entrenches patriarchal notions in the garb of protecting women..”

“191. ...The law on adultery is but a codified rule of patriarchy. Patriarchy has permeated the lives of women for centuries. Ostensibly, society has two sets of standards of morality for judging sexual behaviour. [Nandita Haksar, “Dominance, Suppression and the Law” in Lotika Sarkar and B. Sivaramayya (Eds.), Women and the Law: Contemporary Problems, (Vikas Publishing House 1994).] One set for its female members and another for males. [Nandita Haksar, “Dominance, Suppression and the Law” in Lotika Sarkar and B. Sivaramayya (Eds.), Women and the Law: Contemporary Problems, (Vikas Publishing House 1994).] Society ascribes impossible virtues to a woman and confines her to a narrow sphere of behaviour by an expectation of conformity. [Nandita Haksar, “Dominance, Suppression and the Law” in Lotika Sarkar and B. Sivaramayya (Eds.), Women and the Law: Contemporary Problems, (Vikas Publishing House 1994).] Raising a woman to a pedestal is one part of the endeavour. The second part is all about confining her to a space. The boundaries of that space are defined by what a woman should or should not be. A society which perceives women as pure and an embodiment of virtue has no qualms of subjecting them to virulent attack: to rape, honour killings, sex determination and infanticide. As an embodiment of virtue, society expects the women to be a mute spectator to and even accepting of egregious discrimination within the home. This is part of the process of raising women to a pedestal conditioned by male notions of what is right and what is wrong for a woman. The notion that women, who are equally entitled to the protections of the Constitution as their male counterparts, may be treated as objects capable of being possessed, is an exercise of subjugation and inflicting indignity. 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...”

55. That it is submitted that the facts constituting Cause of Action arose on 16.07.2022, when the applicant’s husband unilaterally sent a letter of “Talaq-e-Ahsan”, an extra-judicial form of divorce,

dissolving the marriage between the parties. A true copy of the letter dated 16.07.2022 for pronouncement of ‘Talaq-e-Hasan’ sent to the applicant by her husband is being annexed herewith and marked as **Annexure A-1. [Pages 37 – 54]**

56. That it is submitted that the applicant has suffered grievous mental injury by dissolution of her marriage by unilateral extra-judicial “Talaq-e-Ahsan”, which is illegal, arbitrary, irrational and violative of Articles 14, 15, 21 and 25 of Constitution of India as well as various International Conventions, declarations and treaties.
57. That it is submitted that right to justice, right to judicial remedy, right to dignity are integral part of Article 21 of the Constitution of India, but unilateral extra-judicial “Talaq-e-Ahsan” brazenly offends them.
58. The applicant has no personal stake now left in the outcome of the captioned Writ Petition. There is no personal gain, private motive, or oblique motive for filing the present application.
59. There is no civil, criminal, or revenue litigation involving the applicant that has or could have a legal nexus with the issue raised in this PIL.
60. Applicant has not filed any representation, and there is no other recourse available to him other than a petition to this Court under Article 32 and is filing the present application for intervention.
61. That the applicant seeks leave of this Hon’ble Court to place on record additional documents, facts and grounds in the present petition subsequently, if necessary.

PRAYER

In view of the submissions made herein above, the applicant most respectfully prays that this Hon’ble Court may graciously be pleased to:

- a)** Allow this application for intervention and permit the applicant to participate in proceedings thereof; and/or
- b)** Pass such other orders as this Hon'ble Court deems fit and proper.

AND FOR THIS ACT OF KINDNESS APPLICANT AS IN DUTY BOUND SHALL EVERY PRAY.

DRAWN & FILED BY



[NIRMAL KUMAR AMBASTHA]
ADVOCATE FOR APPLICANT

Drawn on: 25.08.2022

Filed on: 27.08.2022

New Delhi

IN THE SUPREME COURT OF INDIA
(CIVIL ORIGINAL JURISDICTION)
I.A. No. of 2022

In

WRIT PETITION (CIVIL) No. 348 OF 2022

IN THE MATTER OF:-

BENAZEER HEENA

...Petitioner

VERSUS

UNION OF INDIA & ORS.

...Respondents

AND IN THE MATTER OF:-

BENZEER NISAR PATEL

...Applicant

AFFIDAVIT

I, BENZEER NISAR PATEL, [REDACTED]



Application and hence well conversant with the facts and circumstances of the case and as such am competent to swear this affidavit.

That I have been read over and explained the contents of the accompanying Interlocutory Application, which has been drafted under my instructions and have been explained to me in Vernacular, and I state that same are true and correct to the best of my knowledge and belief and rest are submissions made on the basis of legal advice rendered to me which I believe to be correct.

3. *True copy of original* [REDACTED]

VERIFICATION

I the above-named deponent, do hereby verify that the contents of the above affidavit are true and correct to the best of my knowledge and belief. No part of it is false and nothing material has been concealed therefrom.

Verified at New Delhi on this the 25th day of August, 2022.

ATTESTED
NOTARY DELHI
25 AUG 2022

TALAQ-E-AHSAN IN FAVOR

The Talaq-E-Ahsan was granted in writing on behalf of the husband in the presence of the following witnesses on According to Islamic Shari'a Law, this Talaq was given in writing by the husband before the following witness on 16.07.2022

To,

Benazir Father

1. Your and my marriage (nikah).

[REDACTED] In Pune, the Muslim religion was established according to Balirit traditions and customs. The said marriage was performed in the presence of 20 of my relatives as per the lockdown rules. The expenses of the said wedding as well as the food were borne by me and my family. On 11.07.2020, I and his family organized a Valima (Reception) at Hotel Vtel Venti One, Dehur Road, (Ravet) following the lockdown rules. 45 to 50 relatives of you and us together came in the said program. You have not given birth to any child from the said marriage.

2. Before the said marriage. On 16.02.2020 the favorite program will be watched and then you and my family's relatives will meet and discuss properly .After that the said marriage was arranged. Before marriage I and our relatives have informed you about my age, place of residence, occupation, and all the members of the household. At the time of marriage, you were given the rakkat of Maher by me. It is paid in cash at the time of marriage. At the time of marriage, you were given useful things by your father-in-law. All those things are kept in the condition

that I am in. You left my house with all your clothes and ornaments while going to your house. I am ready to provide your worldly goods whenever and wherever you ask.

3. After marriage By 18.05.2021 your in-laws have joined the family together and you have been married for five to six months till date. Your M.E. Computer Science and you have been working in different companies in Pune for about five years marriage turn around before marriage and at the time of marriage you are working in Zensor Company Kharadi, Pune and are living in Pune.
4. At the time of my marriage I had given you all the reliable information about my family. My father is retired from army and my mother is a housewife. I have a younger brother. I have a very peaceful family in my home with discipline and punctuality. At that time you had agreed to the marriage with all your thoughts. I gave you the freedom to work but after marriage you should spend some time adjusting to me and my family and understand the customs of my house. It was only after that you and I decided to get married, but due to the lockdown, the engagement was postponed and in the meantime, you had met me three to four times and on the phone. while speaking you started giving me marak from lamamushi. On 23.04.2020 I had made birthday video for you very happy I tried to call you but you blocked my number as well as call my who account your such Even though the behavior upset me, I ignored it and tried to make it to your birthday. After that you immediately told me that you have planned a sehad with your office friends next May June 2020 for my separation but you have not made any plans with your husband. If I had spoken to you, you would have insulted me and said "I am not ready for marriage". with insults. With such behavior of yours, the said marriage was in a position to break even before it took place. But your parents tried to calm the situation by saying "it won't happen again, our daughter made a mistake". At that time, I turned a blind eye to your behavior again thinking that maybe after marriage you will understand.

5. After marriage, when you were living together in the family, I had two female servants in my house from the beginning, for cleaning and rent of clothes, as the daughter-in-law of this house, I only reasonably expected you to help my mother with her own work in the kitchen. You have never accepted me wholeheartedly in this combined association or that in you never showed that love and affection between you, you only used to make practical comments with me. So I was confused. When I asked you about this, you clearly told me that "before marriage I was in love with a Hindu guy. But due to some reason I broke up, I was in depression for six months in memory of my friend, that's how you came here. So still I have decided to marry but I have given this sadar pass, so I have a different strength to match with you, even though you yourself have given me all the information about your lover, I have given you time as per your wish and it will affect the present and future. No, I explained that we are starting a new life, I did not read it again.
6. Within a few days of the marriage, you started giving me opposite answers like "I don't want to ask you to cook chapatis in the kitchen". You started arguing with me and my relatives in the house saying "I am a modern Islamic working woman and not a housewife, tell your mother I don't want to do any work" At that time, you started renting with me night after night as "I was not doing any work in my house. My mother cooks in our house, so here too your mother used to cook."
7. Since you are employed at Zensar Technology Kharadi Pune, your work is also going on from home, at that time you were not getting Corona Kavya project, there was a new proposal from the company, so that you should look for a new project, you were given a three month advance notice, during this time you were getting half salary from the company. At that time I should see you a new project, also as a husband, you will get three months time as you will get three months time, during this time you should come with me and my family and if there are any new online courses, they can be done. But if you do not listen, but "I make my own decisions." You did not think that you, as a husband, should

give him a job in the Pune city company by saying "Nenar", you are mentally disturbed by your behavior.

8. While living with in-laws, you have to sit down at 9 a.m. every morning, and you swim late every morning in breakfast for your elderly parents. It was not possible for you to make the upit, so you had to cook breakfast and food for your mother, when you did not have any physically hard work, even though there were two maids in the house, even though the daughter-in-law of the house had a reasonable expectation to feed her husband and mother-in-law with love. You have always felt mine. Actually, my mother has been doing all the cooking since before. But if you develop interest in cooking and if you don't, you need to show interest in learning, you are living like Samaritan logi boarding. They started arguing by saying the opposite. Due to your reckless behavior Bhagati's peace has been broken and everyone is living under stress. Even though you and I are newly married, you have never given me any happiness as a newly wed couple. So I have been living under constant stress since my early marriage.
9. On 06.09.2020, your grandfather (father's father) died due to Corona. At that time, there was a severe downturn, so his disorder was present. It didn't come, but even when the lockdown situation was not under control at the end of September, only because of your stubbornness, you drove to meet your parents, when it was planned to visit them for a while, but you are not here in Baramati, but suddenly you want me to stay here. Coins were lost in the bathroom when your family members were trying to convince you that you had to go to extremes. I have never seen even a fraction of Rahane. Your parents also have never told you about the four beliefs, instead they have always provoked your behaviour by thinking about your money and job. And following your unforgivable mistakes has kept me under stress.
10. On 8.10.2020, I saw a message on your mobile screen saying "You are a brave girl, don't try to commit suicide." At that time, I was very shocked. "When asked about this, you started shouting loudly at me

after giving vague answers. As a result of which the neighbouring priests would gather and the topic would be over, you deleted the message in a hurry. On that day, you immediately called your father and called him. On 11.10.2020 when you left home with your father your father said to me "don't worry we will explain her she is still mischievous she doesn't understand responsibility god let her stay home for some days on 18.10.2020 Her in-laws" said Believing in Gogan father and everything will be fine now you will come in-law on 18.10.2020 also took leave during 24.10.2020 so that we can understand each other but you deliberately did not come in-law on 18.10.2020. You came on the end of my leave on 24.10.2020. I was very hurt by your behaviour. Due to my gentle nature, I tolerated everything calmly. I did not feel any guilt about your behaviour. Understood that at this time as husband you thought it proper to inform me that you dismissed me "so that we can go to Goa even though it is difficult for me to get leave immediately again I am only for the sake of the wish of 05.11.2020 to 08.11.2020 Took leave and took you for a tour in Goa. When you and I went for a walk as husband and wife for the first time, you did not feel any love, affection or longing for me when you needed to experience a moment of solitude with me. Not interested. A sacred bond like marriage is based on love and trust, but you must live up to your standards only in practical terms, and only in your own. Work continued to give importance to the office. From this, I realized that your all inclination is the outside world, buying expensive things, staying on your mobile phone for hours and hours and you love your own office work more. Even during the said litigation you caused me a lot of mental trouble by arguing. On 2011-2020, there was a wedding ceremony in the house near Agra, and when you were going out for your work, my mother saw your crumpled clothes and told you that you are also a bride. Service is the focus of people. I begged you to follow the dress you have made for the garden, because you saw my mother dressed very badly and started talking. I'll wear whatever I feel

good about" arguing "I don't want to be here. My office is in Magarpatta, Pune, I want to stay there separately" so when I refused to stay in a family together, when I tried to socialize you also told me "If you don't want to come with me, I will stay alone, I don't need anyone. "I have guts. You have treated me with contempt. On 28.11.2020 you called your father. On that day it was my father's birthday. You did not understand your duty to wish him a simple greeting. Booked Ola cab and left with them in a hurry. Your father also didn't talk to me and my family. I noticed that you don't listen to anyone and your wife too. Then your father called me and my family and assured good behaviour on your behalf. We have made her understand that she will behave responsibly and released you on 05.12.2020. Your sister who lives in America came to visit you on 11th, as her birthday was a day before, me and my family wished her and made a cake for her at home to celebrate her birthday. On 12.12.2000, , this time 25.12.2020 I fell in the said Gugwe village, you will wait until you get married, then on 30.12.2020, since you will be your father-in-law, while it is decided that you will do good on 31st December as well as in other years, you will not be married to your father-in-law. I want to come I spoke on the basis of where your parents are staying your relatives also tried to explain to you but you were not in a mood to listen to anyone because of your hateful nature you are living my life on 4.01.2021 me and my parents came to your house. When we ask you and your family the reason for your repeated behaviour, you will always say "I am not going to be my in-laws, I don't want to cry" in your mind. At that time, hearing your words, behaviour and behaviour, my mother became worried about my future, she smelled very manic, her BP increased, she suddenly had to take medication from the nearby hospital. But even at that time, seeing my mother's condition, you entered the house instead of doing your daughter-in-law's duty, saying "Yeh Sab Natak Hai". I am very mentally disturbed due to the insult done by you and your family. When I myself tried to convince you through my family and relatives, you did

not try to reconcile. Since you were proud of the job and money you had from the beginning, you never thought relationships were important. On 06.01.2021, your mother, father and maternal uncle came with Shri Gurum Tumhara, when your in-laws came again, your cow Shri. Yunus and your mother My village Kutubiani begged for forgiveness and Badilani told me that we have paid for it. She will act responsibly. Won't say the opposite. Take her to the padar" At that time you Gaya Yani begged me to have a good start to the new year. At that time you believed the tree on the word of your parents and Gama. But then 15 your original nature came out. You quarreled, shouted and shouted at the people around you. Collecting, kicking my heels, coming on me and beating me with hands, etc. The in-laws have not come, only your family has always forced you, but your in-laws have always pushed you against your heart, so every time you have caused me mental distress by your angry and obstinate behaviour.

11. As I was helpless due to your frequent fights and your irresponsible behavior, I called your father and told him about this. He came on 31.01.2021 and took you to your relative in Kondhwa. We are taking her to a Maulana in Kondhwa, Pune, you also called my mother Vadilara to Kondhwa as she is thought to be possessed by a demon. When my mother and father went there at that time so that my father would not be hurt, you saw my parents there and screamed "Why did you call them here?" When Maulana and Noom explained that the answer is that the relatives should not accept your responsibility, you should respect the word of said Maulana and come back on 01.02.2021.
12. On 11.02.2001 in the morning while you were making breakfast, you named Mobai and you put something in it with a loud voice. Called your relative brother Mr. Awej and his younger brother residing in Pune and went with them to their house after which you came to Maher Baramati on 12.02.2021. After that, you went to your house for two months. You and your parents did not call me or my family to inquire about what happened.

13. At that time, my father finally said that through his relative, he is coming to discuss this matter by sending a message to your relatives. On 04.04.2021 I and my family and Maulana Shri Anwar from our Jamaat came to see you at Baramati when you Maulana from your Jamaat your uncle Shri Yunus Bhai your parents your uncle and your sister were present. While negotiating in front of him, you noticed a stark difference in your demeanor, you assured everyone that "I will behave responsibly from now on". But in view of the above developments I was not very sure of your conduct, so I proposed that you should give a written guarantee, but at that time When it was explained to me that the in-laws should be responsible for the in-laws and parents, you respected the word of the said Maulana to that extent and came on 01.02.2021.
14. On 21.02.2021 in the morning you left it when you were still young and you put something in it with a loud noise My mother both the gas is on and the mobile phone was requested for some time to the maid because of the anger of this you broke up the fight your relatives living in Kondhwa, Pune, called brother Mr. Avej and Sthan Dhakta brother and went with him to their house after which you. On 12.02.2021, Maheri went to Baramati without realizing that for two months after that you became your wife and no one from my parents called me or my relatives or inquired about what happened. At that time you did not make any effort to come to terms.
15. At that time finally my father sent a message to you and the family through his relative and said that he is coming to discuss this matter. At that time on 04.04.2011 me and my family and Maulana Shri Anwar of our Jamaat all came to your Paheri Baramati at that time you Maulana of your Jamaat. Your uncle Mr. Yunus Bhai, your parents, your uncle and your sister were present when you were talking and you noticed a difference in your behavior. You assured everyone that "I will no longer act responsibly". But as I am not very sure of your conduct in view of the above events, I proposed that you should give a written guarantee,

but Dahama Pani explained to me "You will not feel love at all by writing. She has given her word. B is no more responsibility so I should believe in game alone. You yourself take 15 days leave from office work and I will take care of my essence first and then my work will work in the office. You came to Samaria on 06.04.2021 when you were forced to keep it.

16. You started your office work from home in 45 days. Even so, no one took any objection to you. It was your birthday on 23.04.2021 but in Yatkawa my parents showed symptoms of ifts and even though their health was not good, I celebrated your birthday with great enthusiasm at home.

On 25.04.2021, the report of my mother, father and brother all came to Corona. At that time you refused to take your Kona test when requested for examination. At that time you clearly stated "I have no symptoms, I will not do the test" My parents had to be admitted because their health had worsened. Also me and my brother we both were home quarantined. At that time, even when you were at home, you did not even once cook and feed my brothers, in fact, you did not even do a simple inquiry. You spend all your time sitting in a room doing your office work. I am very sorry that you did not even ask simple questions as a daughter-in-law and wife. I had to order food from outside everyday for my brother for whole days during home quarantation period. When my birth mother and father are in the hospital due to deadly diseases like Corona, I am very sad and in tension when I am facing financial crisis when there is a situation like lockdown. Contrary to what Devanako Vika's father did, my parents were tired of eating til phalakan and when they tried to make a simple portion of khichdi, they deliberately sent it late.

17. On 70.05.2021 My mother and father will get dishware and as the doctor has asked for complete relief from the life-threatening illness, it is your duty to behave with great responsibility on the wife's holiday and do yoga on occasion and make arrangements for your family to get

proper food and prepare nutritious meals. So how do you know when you are on duty and asking for lunch and dinner from outside, when I told you "I understand that mother will cook for some days, till then it is your responsibility. On 12.05.2021, you quarrelled with me and said, "Your mother is here. Now Pari asked her to cook. On the day it was my parents' wedding anniversary, but you did not wish them well. At that time people from the society came to our house with the sound of your screams and they explained to you that how you should behave responsibly, how did you sit quietly at that time, I am very mentally troubled by your behaviour.

18. On 18.05.2021, when you asked to order food from outside, I also ordered food for you, but parents make hot water in the house, they don't like cold vata chapati outside." Mother started to be kind to father, abandoned them, insulted them and abused them in the village. When I called my sister and brother myself, they also tried to socialize you, but you are not alone and you left abroad without any common reason. Dila but you didn't care about anyone not only at home but also on the streets by fighting and trying to defame me and my family elsewhere in our society while I was explaining to you you threatened them with false police complaints. You have done things like yelling at me, getting on my body, teasing me. I always had to keep calm for no reason because of your behavior. But all these have caused me such extreme psychological trouble that I will never recover and my dream of married life has been shattered.
19. You have been brought up in a pampered family since childhood and you are very proud of your work and money. You don't consider any relationship more important than money. You have married me only because of your parents' advice and against their wishes, and you are trying to drag me out somehow. Since before marriage, you have been away from your family for many years alone due to your job. So you have become a lifestyle of living alone as a paying guest, ordering food out, taking care of your job and your friends and family. So you don't

want any other responsibility. In reality you yourself were not and are not interested in any love feelings post marriage responsibilities home life. So far my mental and physical condition has deteriorated after marriage, I have no hope of improvement from you in future. You have done nothing but defame my Kutubiya and cause unnecessary trouble.

20. At the time of the song situation above 20, when I did not receive any samsar gu from you, even though I did not continue to believe that Men Gumhi was definitely Nadal, I tried to save my samsar by discussing with you and your father and those other family members. grain and acknowledged and hoping that if we get a written guarantee from you, our world will be happy because of your conduct, duly sent you a draft for getting a written guarantee on 09.07.2011. Suddenly, according to the wrong advice of some known lawyers or legal scholars, I was given. Compromise by mail dated 13.07.2021 is set aside. At the same time you have also sent me a text message that you don't need your husband and family and demanded to bring your marital relationship with me. I had a big question about how to deal with you in such a situation. At that time, if I wrote you a letter of guarantee properly, I would be ready to serve you, and it was legal and necessary for me to get your parents' consent and guarantee. Actually you have committed many unforgivable mistakes and irresponsible behavior while sleeping with me. I have corroborated the whole idea by calling all other relatives including your family from time to time. You have already informed me about this. On 07.07.2011, considering the message sent by Texts Messagedar, I as per your demand and wish I give notice to you that it would be beneficial to negotiate a Talaq-E-Ahsan by mutual consent, if you are ready to do so in a peaceful place in the environment of Kheimeto. A legal notice was duly sent on 058 2021 dt. 05.08.2021 Rajanchi Potos Tumhas Givyavar you and your family requested my lawyers to call my notices through your lawyer and get Giting. At that time you were ready to write me a bond of good behavior under the pretense that you wanted to live honestly.

21. Accordingly, on 08.10.2021 you sent me Home. Written and recorded a bond of good behavior before a notary and d. On 08.10.2021 you came to dance in my together family. On 0810 2021, after your in-laws arrival, I and my family were fine for four or five days, but after that you started quarreling for trivial reasons and started talking against each other. Within eight days, you started hiring as "I want to join the job". Even as a housemaid in the real house, you end up messing around in the kitchen, deliberately keeping it untidy, because "I can't do" even the superficial tasks of helping you with a little cooking. When I explained this to you, you said to my mother, "I can do this kind of work. If you don't like it, do the work yourself. I won't do it, I can't." Apaga Nausarsin is facing such reasons Give mental rest to all members of the family.
22. On 18.10.2021 you quarreled over drinking water pot and I will arrest you with domestic violence case against me and my family members by threatening and yelling that I will start my office work from dawn. I will live my life. They started threatening to leave. In the meantime, you kept quarreling daily in the house due to the fee and I have no time to do any work in the house, so I will spend my time on mobile and chatting and quarreling with me on a regular basis. Trying to defile me by talking bad about my mother, humiliating me repeatedly. Hating my parents, eating with mouth full while staying at home, suddenly crying loudly, calling me for a trivial reason while I am in a meeting while I am in the office, yelling at me to come home immediately, when I come home tired from the day's work, you mama - without asking for water. Because I talked to my mother first, fighting with me and then waking me up night after night, teasing me as a mamma's boy has caused me a lot of physical and mental pain. It was written and recorded in the undertaking to remove differences and live happily together in the house. But you quarreled without realizing anything and did not even listen to your parents. After my phone conversation with your parents and your lawyer, they explained to you and then you calmed down. On

23.10.2021 Gee, Gaze's parents and you went for a walk in Best Aid Mall, Aur Pune while you and I were walking, suddenly I noticed that you were walking barefoot in the mall. When I asked you that you had left your slippers in a store, this time when I was explaining to you, you did not hear anything, then while you were shopping for clothes in a store, you went to change your clothes in the trial room, and you lost your shoes in the store room. You noticed when the person in brought the bet himself. But you ignored your irresponsibility and started arguing with me and started crying loudly in the mall. At that time, when my parents asked what happened, they calmed you down, but your behavior has caused me mental trouble. Then within two days you started fighting saying, "I want to join a job", firing the housekeeper, acting like you're alive and fighting, "If you expect me to work, I'll file a 498 and domestic violence case against you and He started threatening to throw you in*. Then I noticed that you secretly started your own office work without telling me. At that time, you started locking the bedroom and sitting with your daily threats and irresponsible behavior. On 24th 14.11.2021 when you cooked breakfast in the morning, you immediately started telling me "Bhi will not clean the kitchen waste, ask your mother to clean the kitchen waste". "It's not right for me to say that to my mother. If you don't want to do it now, I would have made you understand that you should do it later," you told me, "If you don't listen to me, I don't want to be in this house." Why did you start complaining, why is the world, why did you shout loudly, "I couldn't stay in jail for years, so you went to the bedroom and started banging yourself. Seeing the rudeness you did, after calling your parents, they talked to you. No one should see your anger and frustration. After thinking about it, your family decided that I should leave you, you and your mother and father decided to get married on 29 November 2021 by completing the legal process and getting married by mutual consent.

23. On that day, you filled your two bags and took your laptop and sat in the car. At that time, I and my father left the house on the advice of your

parents. On 14.11.2021 I left at around 12.30 pm when I went to HP petrol pump at Wakad. When the gas car was parked, you suddenly said "I feel nauseous" and got out of the car with your laptop and bag in hand. At that time, you did not go towards the washroom, before I could understand, you suddenly went away and sat in an aye. At that time, I called you but you did not pick up the call. On that day, you informed me at Wakad police station that you had left in such a manner and informed your parents about it. At that time, the police called you and your parents to the police station, and on the said day at 5.30 pm, you appeared at the Wakad police station along with your parents. At that time, the police said to you, "You have learned so much Why is this?" While explaining about this, you ignored it and started taking photos and videos of the police in the police station. At that time, when the police named you in possession of your mobile phone, you admitted that you did not take any fake photos. When it was noticed that 5/7 photos and videos of all the police there were taken, Palomino asked you about this and asked you to take action regarding your illegal behavior, your parents apologized to the police for your misbehaviour and immediately after that you and your father took all your belongings from my car and you and your mother Your wife and father are gone. You behaved so rudely and insulted me by suddenly running away, disappearing for 5 to 6 hours and not giving any idea where you went. No.

24. Even after that you have given me extreme mental trouble by phone and text messages. Even though you have decided to get a Talaq-E-Ahsan with proper consent as written in the undertaking letter, you have started giving me more mental trouble by avoiding to implement it. You are going to my office and taking the mobile number of my colleagues and you are harassing them by calling them as well. Looking at the job and money you have, your behaviour, your behavior, your living conditions and your strange nature, you never listen to anyone. You don't consider

any relationship more important than money. It has come to my attention.

25. You have not only used me for your own selfish gain which will get you in a marriage in the society but you are trying to take any responsibility in the married life and you have despised me by treating me with disdain. As per the provision I had asked you not to send the draft Talaq-E-Ahsan decree for permanent termination of marriage with you and send it to me in writing but you have actually sent me a reply to my notice dated 21.03.2022 falsely accusing me and my family. Indirectly continued to harass Hon. In reply to your said notice, I have sent a reply to the notice dated 04042027 to your lawyer and to you. But you are deliberately harassing me and you are threatening me directly and indirectly by threatening me with police calls and trying to roam around my house and now your parents are involved and they are also warning you to do the same as written in Hamipat. By not acting, you and your parents have threatened to kill me. You have tried to malign us by coming to my office and my home in my absence on the advice of your parents. You are conniving with the police and threatening me and forcing me to visit the police station repeatedly. Due to the warning given by you and your parents, I have duly issued a legal notice to your parents as well. Sent through advocates on 17.05.2022. Actually by mutual consent d. 17 11.2021 in bond dated you and I all and your and my witnesses As per the decision of the committee, when the Talaq-E-Ahsan decree was to be prepared and the legal process was completed, but you and your parents have strictly avoided to act accordingly and your parents will continue to encourage them to do the same. The station court is trying to implicate Habit in connivance with you and your connivance and in view of your illegal conduct, in view of your unforgivable wrong conduct, in view of your parents' support for your misbehavior, I cannot maintain your marital relationship with you. Even though you know for sure, you have refused to complete the

entire paperwork as per the undertaking, even after informing you repeatedly and threatening me with the police.

After the marriage ceremony on 25.10.2020, you first performed caste as per the domestic custom. But after that you d. On 11.10.2020, Maheri left the house after renting it. On 24.10.2020, he explained and brought his father-in-law, after which you d. Even when you left home on 28.11.2020, In-laws came on 05.12.2020 immediately after that d. On 21.12 2020, when Maheri left, I and my family went to pick you up. On 04.01.2021, when you came to Maheri, you humiliated me and my family by refusing to sleep. Even so, d. On 06.01.2021 when your family sent you to me by force, I trusted you and tried to have a happy marital relationship with you. But you again d. 31.01. After arguing on 2021, your relatives went to their relatives in Pune and as the Maulana there explained to you, the mother-in-law left immediately after that. Dismissed for cause on 11.02.2021, Vinay I, my family, your family, yours and also through the intermediary of the tribe, came to the children on 04.04.2021 and within a month. On 18052022, after a quarrel, he left again when I got corona after fighting. On 0810 2021 you came to Naina by giving written undertaking of good behavior but dt. On 14.11.2021 again the police threatened me and my family and left: You have caused me immense mental distress by showing your true nature by showing your true nature and by fighting again by showing that you have temporarily reformed yourself by leaving home like this. In the last one and a half to two years, you have never stayed with me as my wife even for a month in peace, happiness and contentment. In between 7 to 8 times I tried to reconcile you.

26. SABBA I have made many attempts on my behalf to come together to mediate through Namur, Jamaat people, relatives, lawyers, as per the tradition of Muslim theology and custom as per prevailing law, but due to your misbehaviour and not even listening to the mediators, the people and dignitaries of the society have withdrawn from mediation and The rest of the arbitrators have informed you that they are no longer willing

to mediate on your behalf due to the intimidation of you and your relatives. So I also sent notices through lawyers and demanded settlement of consensual Talaq-E-Ahsan as promised but even after receiving all the notices you have deliberately conspired to harass me only. 30. Ever since you and I got married, there was and still is a huge difference in ideological differences, diet and outings. In spite of this, you and I should walk the world together today or tomorrow because your behavior will make a difference Scroll. I hope I know you well, but for this reason many times you have dismissed me.

27. It is not possible for you and I to come together in the situation as mentioned on 31. It wouldn't do any good to come together, so I don't condone your cookery behavior. You and I have been living apart for the last six months and have decided to dissolve the marriage bond by discussing the marital relationship with relatives after deliberation.
28. Sabab Hali's written talaq I face west around one o'clock in the afternoon by talaq ul sunnah method talaq ai ehsan method first talaq according to Muslim theology and custom tradition and law with the intention of you "Benazir maine tujhe talaq diya, aaj se tumhare saath kisi bhi kism ka vasta nahi hoga. Tum Mere Liye Haraam Honge," wrote the first Talaq. Given on 16.06.2022. To make you aware of the same, the current copy of Talaq has been sent to you by registered post. You have also been given such a notice through the lawyers in this regard. Sent on 17.06.2022. Sabab today On 16.07.2022 at around 12.30 PM facing West by Talaq ul Sunnat method Talaq ai Ehsaan by way of Waddiya (second) Talaq according to Muslim theology and tradition and law to you "Benazir maine tujhe talaq diya, aaj se tumhare saath kisi bhi" Kisme ka vasta nahi hoga, tum mere liye haram honge, please note and take note that the current copy of Talaq is being sent to you by registered post. However, since you have been separated from me for more than 7 to 8 months, there is no need to observe this period. In the mean time you and I are not having relationship as husband and wife. You are highly educated and earning so I don't need to pay you any such

amount. But to avoid any technical problem. Less than ₹2000/- has been sent by order each copy of the said jaggery has been signed by a witness of total age of 125 years.

29. In this way, I Talaq-E-Ahsan you once and for all in the presence of two Muslim witnesses and permanently dissolve your marriage bond, and you and I are no longer husband and wife. You and I no longer have any rights and interests against each other. The dowry amount is paid to you in cash at the time of settlement.
30. The above text is true and correct to the best of my knowledge and belief
In witness whereof I have hereunto signed the following two wise Muslims. Two thousand people have come to testify. This Talaq-e-Ehsaan was not written by the said Talaq. Talaq is not banned by the Supreme Court.

Take note of this.

Signature

16.07.2022

