

## CASE COMMENTARY ON RANGARAJU @ VAJAPEYI V. STATE OF KARNATAKA

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### Abstract

In the landmark ruling of Rangaraju@Vajapeyi v. State of Karnataka, the Karnataka High Court redefined the legal boundaries concerning Necrophilia. This commentary explores the legal problem surrounding necrophilia in India, a taboo yet critical issue due to its absence from explicit legislation because it used to be put under section 377. Through this case commentary the author attempts to critically analyses whether existing provisions effectively address such acts and the impact on the dignity of the dead. The methodology used for this commentary is primary and secondary sources of data.

Through this detailed research, it has been that the judgment given in this case is particularly important because it highlights the shortfall of laws in the IPC as it do not comprehensively cover Necrophilia, leaving the dignity of the deceased at risk. The author aims to suggest new Provision in dealing with such matters or amending the existing provisions of the IPC to include such acts.

**Keywords** – Necrophilia, Section 377, Dignity, Dead, Judgement.

### Introduction

This case commentary deals with Necrophilia which is having sexual intercourse with the dead body or a sexual attraction to a dead body. It is derived from two Greek words nekros – corpse and philia – love<sup>664</sup>. It was first described by German psychiatrist Richard von Krafft-Ebing in his book <sup>665</sup>Psychopathia Sexualis in 1886. In the matter of necrophilia, no provision exists which criminalizes Particular act of Necrophilia in India<sup>666</sup>. It is often put under section 377 of the Indian Penal Code 1860 which

is unnatural offenses and section 297 which is causing 'indignity to any human corpse'.

### Background

In the present case on June 25, 2015, a 21-year-old woman was returning home after her computer class, the accused Rangaraju was charged of ambushing and murdering the 21-year-old women. Following this, he slit the woman's throat and murdered her, an offense punishable under Section 302 IPC, and after that allegedly raped her after murdering her.

After the police registered the case, they obtained a voluntary statement from the accused, following which they filed the charge sheet. Taking cognizance of the offense, the magistrate sent the matter to the sessions judge, who formed charges against the accused for offenses of murder and rape under Sections 302 and 376 IPC. While the trial court's decision to convict and sentence him to life imprisonment for murder under Section 302 of the IPC was upheld, as the learned counsel contended that <sup>667</sup>"There are no eye witnesses to the incident, there is no last seen theory and there is no motive for murder of deceased by accused and rape on the dead body. Therefore,

<sup>664</sup> Anil Aggrawal, Encyclopedia of Forensic and Legal Medicine, 2016

<sup>665</sup> Richard Von Krafft-Ebing, Psychopathia Sexualis, 1939

<sup>666</sup> Soumadip Kundu & Amit Ghosh, *Exploration of Necrophilia as an Offence: Myth or Reality*, 4 INT'L J.L. MGMT. & HUMAN. 6143 (2021).

<sup>667</sup> Rangaraju v. State of Karnataka, 2023 SCC OnLine Kar 23

that does not amount to an offence, in view of provisions of [Section 377](#) of the Indian Penal Code. Thereby, the provisions of [Section 376](#) would not attract”.

<sup>668</sup>The trial court appeal sought to overturn the conviction under sections 376 and 302 of the IPC, 1860. The central question was whether sexual acts committed on a deceased person's body fall within the purview of section 376 of the IPC, 1860. In the absence of specific laws addressing necrophilia, such acts are often categorized under sections 297 and 377 of the IPC.

Section 297 of the IPC deals with acts intended to wound religious sentiments, insult religion, or show disrespect to the deceased. It states, "Whoever, with the intention of wounding the feelings of any person, or of insulting the religion of any person, or with the knowledge that the feelings of any person are likely to be wounded, or that the religion of any person is likely to be insulted thereby, commits any trespass in any place of worship or on any place of sepulture, or any place set apart for the performance of funeral rites or as a depository for the remains of the dead, or offers any indignity to any human corpse, or causes disturbance to any persons assembled for the performance of funeral ceremonies, shall be punished with imprisonment of either description for a term which may extend to one year, or with a fine, or with both."

For an individual to be liable under this section, they must have trespassed into a burial ground with the specific intent to desecrate corpses, which may include engaging in necrophilia. Notably, there have been instances where perpetrators committed such acts without trespassing into burial grounds. One shocking case was the Nithari case, where the accused murdered 19 girls and engaged in sexual acts with their corpses in a bungalow. The court, in its observation, noted that necrophilia is a psychological disorder and does not constitute a specific offense explicitly mentioned in the

Penal Code. Action can only be pursued under section 297 if religious aspects are involved.

Section 377 of the IPC pertains to "Unnatural Offences" and states, "Whoever voluntarily has carnal intercourse against the order of nature with any man, woman, or animal, shall be punished with imprisonment for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to a fine." However, the challenge arises when applying this section to acts involving deceased persons, as the term "voluntary" presupposes consent, which is impossible in the case of the deceased. Therefore, such acts cannot be classified under section 377 of the IPC.

#### Analysis

The judgment rendered by the Karnataka High Court is appropriate. The court's decision correctly points out that the case does not fall under sections 375 and 377 of the Indian Penal Code (IPC).

Section 375 of the IPC specifically pertains to rape, which is defined as sexual intercourse with a woman against her will and consent, achieved through coercion, force, misrepresentation, fraud, taking advantage of her intoxicated state, deception, or when she is of unsound mind, and particularly if she is under 18 years of age. In this case, section 375 does not apply because the concept of rape inherently involves non-consensual acts with a living person<sup>669</sup>. Given that the person in question is deceased, the circumstances do not align with the prerequisites of this section. Rape necessitates the active resistance or lack of consent from a living person during the act of penetration.

Therefore, the Karnataka High Court's ruling appropriately recognizes that this case cannot be classified as rape under section 375 of the IPC due to the fundamental distinction between non-consensual acts with a living person and acts involving a deceased individual.

<sup>668</sup> Rangaraju v. State of Karnataka, 2023 SCC OnLine Kar 23

<sup>669</sup> Tanya Khan, Section 375 Of IPC: An Overview, Legal Services India

As mentioned earlier, the case also does not fall within the scope of section 377 of the IPC, which pertains to "Unnatural Offences." This is primarily due to the crucial element of voluntariness implied in this section. When dealing with a deceased person, the concept of voluntariness becomes irrelevant, as a deceased individual cannot provide consent or engage in any voluntary actions.

In this case, the woman was not a living person with the capacity for will or consent; she was a deceased body incapable of experiencing harm or resisting any form of sexual assault. Consequently, the application of section 377, which presupposes voluntary actions and consent, is inappropriate and incongruent with the circumstances of this case<sup>670</sup>.

The court's decision highlights a significant gap in existing laws, as necrophilia, while not explicitly addressed in the IPC, has often been categorized under sections 377 and 297. These sections do not explicitly address the issue of necrophilia, and their language does not adequately account for such situations. Therefore, the court's decision underscores the need for legislative clarification regarding acts involving necrophilia to ensure proper legal categorization and consequences

The court adequately justifies its reasoning by stating "A careful reading of Section 377 of the Penal Code, 1860-Unnatural offences define that, whoever voluntarily has carnal intercourse against the order of nature with any man, woman or animal, shall be punished with imprisonment for life or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine. A careful reading of the provisions of Sections 375 and 377 of the Penal Code, 1860 makes it clear that the dead body cannot be called a human or person. Thereby, the provisions of sections 375 or 377 of the Penal Code, 1860 would not attract<sup>671</sup>. Therefore, there is no offence

committed punishable under Section 376 of the Penal Code, 1860. The said aspect has not been considered by the learned single

Under the Indian Constitution article 21 states that "No person shall be deprived of his life or personal liberty except according to the procedure established by law". Every person has the right to live with Dignity<sup>672</sup>. The word "person" may not be construed narrowly as it excludes the dignity of the dead body who was a person when alive. The state has an obligation under Art. 21 of the Constitution<sup>673</sup>. This article emphasizes that the Right to Life means a meaningful life and not merely an animal existence.

The dignity of the dead must also be considered. According to Salmond "A dead person is no longer a legal entity, as soon as a person dies, he becomes incapable of enjoying or performing duties". However, the law takes into account three rights associated with a dead person

- Every person has a legal right to a decent burial as per their religious faith. Any act that amounts to the indignity of the corpse is punishable by section 297 of the IPC.
- The wishes of a dead person regarding his property must be fulfilled
- The defamation of the dead person is punishable under section 499 of the IPC<sup>674</sup>.

#### Conclusion

This case commentary emphasizes the urgency of legislative reform in India. It calls upon the central government to amend Section 377 of the IPC to explicitly include offenses against the dead body of any individual and to introduce a distinct provision addressing necrophilia.

The court's decision not to charge the accused under Sections 375 and 377 of the IPC was grounded in a careful interpretation of the law.

<sup>670</sup> Tanvitha Reddy. K, Necrophilia in India: What it is and Possible Expansion of Section 377 of IPC, Jus Corpus Law Journal, 2023

<sup>671</sup> Rangaraju v. State of Karnataka, 2023 SCC OnLine Kar 23

<sup>672</sup> Necrophilia and different perspectives of the offence, 24 JCLJ (2022) 759

<sup>673</sup> Rangaraju v. State of Karnataka, 2023 SCC OnLine Kar 23

<sup>674</sup> Nimje, Bhargavi. "Persons Under Jurisprudence - Black n' White Journal." *BnW Journal*, 2022

Section 375 pertains to sexual intercourse with a living person against their will or consent, which cannot be applied to necrophilia, as the person involved is deceased and incapable of giving consent or resisting the act. Similarly, Section 377's reference to "voluntary" acts means that it cannot be invoked when dealing with a dead person, as a dead individual cannot act voluntarily. This legal analysis is sound and recognizes the fundamental difference between a living person with rights and a deceased individual who lacks such rights.

Indian law recognizes the importance of protecting the reputation and wishes of the deceased. This includes the right to a decent burial according to religious faith, the fulfillment of property-related wishes, and the prevention of defamation. Section 297 of the IPC, for instance, addresses the indignity of corpses, reflecting the legal commitment to protecting the dignity of the deceased.

It is high time for the Central Government to maintain the right to dignity of the dead person/woman to amend the provisions of Section 377 of IPC should include a dead body of any man, woman, or animal or to introduce a separate provision as an offence against the dead woman as necrophilia<sup>675</sup>.

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<sup>675</sup> Rangaraju v. State of Karnataka, 2023 SCC OnLine Kar 23