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## CASE COMMENTARY ON

# PRATIBHA RANI V. SURAJ KUMAR & ANR. AIR 1985 SC 628

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BY *ANOUSHKA TALUKDAR*<sup>1</sup>

### I. FACTS

Mrs. Pratibha Rani, the appellant, filed a lawsuit at the Court of Chief Judicial Magistrate of Ludhiana against her husband and her in-laws. She had been married in accordance with all Hindu rituals, and her husband's family had asked for dowry from her parents throughout the entire wedding as payment for the union. This demand was granted, and a dowry of jewellery valued at Rs.60,000 was provided. Even yet, the respondent continued to mistreat the appellant and eventually isolated her.

Later, when the appellant sought the given articles as part of her "Stridhan", the respondent refused to give them back, claiming they were part of her dowry. The appeal was dismissed by both the lower court and the Punjab & Haryana High Court on the grounds that the case did not fall within Section 405 of the Indian Penal Code because the husband's management of the articles did not amount to an assignment as defined by the law. The High Court supported its position by citing the *Vinod Kumar Sethi v. State of Punjab* case.<sup>2</sup>

### II. ISSUES

- A. Whether the husband possess any entitlements to the "Stridhan"?
- B. Whether there is a legal partnership established between spouses as a result of jointly owning the "Stridhan" property?
- C. Whether a husband's refusal to return the "Stridhan" property to his wife upon request constitute a criminal breach of trust under Section 405 of the Indian Penal Court?

### III. RULES

- Section 405 of the Indian Penal Court- "Criminal breach of trust- Whoever, being in any manner entrusted with property, or with any dominion over property, dishonestly misappropriates or converts to his own use that property, or dishonestly uses or disposes

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<sup>2</sup> *Vinod Kumar Sethi v. State of Punjab*, AIR 1982 P H 372.

of that property in violation of any direction of law prescribing the mode in which such trust is to be discharged, or of any legal contract, express or implied, which he has made touching the discharge of such trust, or willfully suffers any other person so to do, commits “criminal breach of trust”.<sup>3</sup>

- Section 14 of the Hindu Succession Act- “Property of a female Hindu to be her absolute property- Any property possessed by a female Hindu, whether acquired before or after the commencement of this Act, shall be held by her as full owner thereof and not as a limited owner.”<sup>4</sup>
- Section 27 of the Hindu Marriage Act- “Disposal of property- In any proceeding under this Act, the court may make such provisions in the decree as it deems just and proper with respect to any property presented, at or about the time of marriage, which may belong jointly to both the husband and the wife.”<sup>5</sup>

#### IV. RATIO

The ratio of the judgement was 2:1.

##### Majority:

As per the majority viewpoint, given by Justice Fazal Ali and Justice Mukharji, in Hindu tradition, a married woman possesses full authority over her “Stridhan” property and can utilize it at her discretion under Section 14 of Hindu Succession Act.<sup>6</sup> Section 27 of the Hindu Marriage Act also comes into play.<sup>7</sup> Ordinarily, the husband lacks entitlements to it, except in dire circumstances like famine or illness, but he is morally obligated to give it back or its equivalent when possible. It was further emphasized that the husband's joint possession of the “Stridhan” does not establish any formal partnership or co-ownership. In order to prevent the application of Section 405 Indian Penal Code, the property of a married woman doesn't automatically become jointly owned by both spouses upon her moving into her marital residence. The Supreme Court stated that failing to return the “Stridhan” property would amount to a criminal breach of trust under Section 405 of the Indian Penal Code.<sup>8</sup> They also critiqued the high court's decision, indicating that it appeared to be

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<sup>3</sup> Indian Penal Code, 1860.

<sup>4</sup> Hindu Succession Act, 1956.

<sup>5</sup> Hindu Marriage Act, 1955.

<sup>6</sup> Hindu Succession Act, 1956, § 14.

<sup>7</sup> Hindu Marriage Act, 1955, § 27.

<sup>8</sup> Indian Penal Code, 1860, § 405.

influenced by a biased perspective that favored exempting the husband from criminal liability simply because his wife chose not to live in their marital home.

Minority:

This minority opinion, given by Justice Vardarajan, contends that given the current legal framework, there is no distinct agreement or a clear concept of specific ownership. Consequently, it becomes challenging to establish whether the property was entrusted to the husband for simple protection or for full ownership.

Therefore, it would be unjust to invoke the stringent penal provision, especially when there are more lenient civil remedies available to address such cases. Additionally, he advocated that if a case of this nature is pursued through a civil avenue, there remains room for potential resolution between the parties. However, applying such a strict criminal provision would likely eliminate that possibility, potentially harming the fundamental unit of society, the relationship between husband and wife.

## V. JUDGEMENT

The court held that a straightforward entrustment of 'Stridhan' only confers the husband with the right to hold the items and does not grant him the power or right to use them against his wife without her consent.

It was determined that the accused had violated Section 405 of the Indian Penal Code by dishonestly misappropriating the articles that were given to them in a fiduciary role and committing criminal breach of trust.<sup>9</sup>

## VI. ANALYSIS

In the given judgement with context to the first issue, it discusses that "Stridhan" pertains to gifts of an affectionate nature bestowed upon a woman during her wedding. She possesses full ownership of these gifts and holds the authority to use them as she deems fit. Neither the husband nor her relatives possess the right to utilize or dispose of these items without the woman's consent. It is only in situations of extreme hardship, such as famine, illness, or imprisonment, that the husband may temporarily make use of the "Stridhan" for his personal needs, but ultimately, he must reimburse the value of the "Stridhan". In this specific case, upon reviewing the list of items given to the appellant as "Stridhan", the judges determined

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<sup>9</sup> Indian Penal Code, 1860, § 405.

that the ornaments, sarees, and other articles were not meant for the husband's use and had to be returned to the appellant. Despite repeated notices to the respondents to return the items, which rightfully belonged to the appellant, they failed to do so. The court also underscored the significance of Section 14 of The Hindu Succession Act, which establishes women as absolute owners of property, including "Stridhan".<sup>10</sup> Therefore, the court effectively addressed the question of a woman's absolute ownership of property.

In the second issue the Court stated that even though certain items were intended for joint use by the husband and wife, mere shared use and enjoyment does not grant the husband joint authority and ownership over the "Stridhan" articles. The High Court had classified the "Stridhan" items based on whether they were exclusively used by the woman. It emphasized that items exclusively used by the woman grant her an absolute right over them. However, in cases where both the husband and wife use the items, ownership would be jointly held.

In the third issue the Court ruled that a matrimonial home is not exempt from criminal charges against either party. Offenses committed within the matrimonial home are subject to punishment, just like they would be elsewhere. Regarding "Stridhan" property, the woman retains ownership of the items. If the husband or relatives use the "Stridhan" property and fail to return it to the woman, they would be guilty of committing a criminal breach of trust, as defined in Sections 405 of the Indian Penal Code. The Court applied practical reasoning, stating that when a newlywed woman moves into her matrimonial home for the first time, it's impractical for her to keep all her personal belongings locked away under her constant supervision. This would imply a lack of trust in her husband and his relatives. Therefore, she would entrust her "Stridhan" to her husband's care. However, this custody does not signify a transfer of ownership or joint ownership of the wife's "Stridhan". In this case, the Court concluded that the respondent committed a criminal breach of trust under Section 405 of the Indian Penal Code by not returning the appellant's "Stridhan" when she requested it and deemed the High Court's judgment regarding the inapplicability of Section 405 to be mistaken.

## VII. PERSONAL ANALYSIS

The judgment in **Pratibha Rani v. Suraj Kumar & Anr.** gives women an unequivocal right to ownership, allowing them full authority over the property they possess. They have the freedom to make decisions regarding its disposal, whether through sale or gift, without

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<sup>10</sup> Hindu Succession Act, 1956, § 14.

requiring their husband's consent. This ruling instills a sense of security in women regarding their property and shields them from potentially hostile members of their marital households.

However, while it offers reassurance to women regarding their property, this judgment also poses challenges to marital reconciliation. In civil cases, there is room for negotiation between the parties. Conversely, the strict implications of a criminal provision leave little room for compromise, potentially leading to the dissolution of the marriage. While this case may empower women in terms of property, it may also diminish their chances of reuniting with their husbands. They may regain their assets, but the possibility of reconciling with their spouses may be forfeited.

Apart from criminal remedies under the Indian Penal Code, women also have civil remedies against the misappropriation of their “Stridhan” under the Protection of Women Against Domestic Violence Act of 2005, where such deprivation or misappropriation is covered under economic abuse. By virtue of the appointment of protection officers under this act and the option of interim relief available through orders by the magistrate, mediation, and conciliation are regularly used procedures to resolve such cases. However, where the case of dowry is made out, criminal procedures becoming essential.

