

AS INTRODUCED IN LOK SABHA

Bill No. 67 of 2019

THE INDIAN PENAL CODE (AMENDMENT) BILL, 2019

By

SHRI JAGDAMBIKA PAL, M.P.

A

BILL

further to amend the Indian Penal Code, 1860.

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Indian Penal Code (Amendment) Act, 2019.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Short title,
extent and
commencement.

Substitution
of new
section for
section 497.

2. For section 497 of the Indian Penal Code, 1860, the following section shall be substituted, namely:—

Adultery.

"497. Whoever has illicit and immoral relationship with a person who is and whom he knows or has reason to believe to be spouse of another person, such illicit and immoral relationship not amounting to any other offence under this code, is guilty of the offence of adultery, and shall be punished with imprisonment of either description for a term which may extend upto five years, or with fine, or with both." 5

STATEMENT OF OBJECTS AND REASONS

The object of section 497 of Indian Penal Code, 1860, was to preserve the sanctity of the marriage as the society abhors marital infidelity. According to Indian culture, marriage is considered sacred and mutual fidelity and devotion to partner are still considered to be the essence of marriage.

The Supreme Court of India *vide* judgement dated 27 September, 2018 struck down section 497 of Indian Penal Code, 1860 as unconstitutional. The previous offence of adultery could be committed by a man with the married woman only. The husband of a woman having illicit and immoral relationship with other unmarried women could not be prosecuted by the wife for adultery. This section does not penalize the illicit and immoral relationship of a married man with an unmarried woman or a widow or even a married woman when her husband consents to it. The offence of adultery is an offence committed against the husband of the wife and not against the wife. Thus, the Supreme Court struck down previous section 497 as unconstitutional being violative of articles 14, 15 and 21 of the Constitution of India.

Further, the previous law draws a distinction between consent given by a married woman without her husband's consent and the consent given by an unmarried woman. Thus there is no doubt that this section treated a woman like a man's chattel.

The Bill, therefore, seeks to amend the Indian Penal Code, 1860 with a view to provide that both the husband and the wife can prosecute the adulterer or adulteress, as the case may be, of their spouse for the offence of adultery.

Hence this Bill.

NEW DELHI;
June 6, 2019.

JAGDAMBIKA PAL

ANNEXURE

EXTRACT FROM THE INDIAN PENAL CODE, 1860

(45 OF 1860)

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Adultery.

497. Whoever has sexual intercourse with a person who is and whom he knows or has reason to believe to be the wife of another man, without the consent or connivance of that man, such sexual intercourse not amounting to the offence of rape, is guilty of the offence of adultery, and shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both. In such case the wife shall not be punishable as an abettor.

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(Shri Jagdambika Pal, M.P.)