
VICTIMS, NOT CRIMINALS: P. RATHINAM V. UNION OF INDIA AND THE EVOLVING APPROACH TO ATTEMPTED SUICIDE IN INDIAN LAW

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ABSTRACT

This paper critically examines the landmark Supreme Court judgment in *P. Rathinam v. Union of India*¹, which declared Section 309 of the Indian Penal Code unconstitutional for criminalizing attempted suicide. Through a victimological and constitutional lens, the analysis explores the court's reasoning, which emphasized mental trauma over criminal liability, and its alignment with international perspectives. While the judgment was later overturned in *Gian Kaur v. State of Punjab*², this paper situates Rathinam within the broader trajectory of Indian law, including the eventual decriminalization of attempted suicide under the Mental Healthcare Act, 2017. The paper also reflects on the judgment's methodological limitations and its enduring significance in shaping discourse on dignity, autonomy, and state intervention in personal suffering.

Keywords: Section 309 IPC, Attempted Suicide, Decriminalization, Right to Life (Article 21), Mental Health Law, Victimology, Constitutional Morality.

¹ *P. Rathinam v. Union of India*, (1994) 3 SCC. 394, 398 (India).

² *Gian Kaur v. State of Punjab*, (1996) 2 SCC 648 (India).

In the Supreme Court of India:

Name of the case	P. Rathinam Vs Union of India
Appellant	P. Rathinam
Respondent	Union of India
Bench/ judges	Justice B.L. Hansaria, Justice R.M Sahai.
Judgment date	26 th April 1994
Citation	(1994 AIR 1844 1994 SCC (3) 394)
Provisions Involved	Section 309 of Indian Penal Code 1860 ; Articles 14, 21 – Constitution of India; Suicide Act 1961 (of the UK)

I. INTRODUCTION

The controversy attached to this case, in simple terms, is whether a person who has attempted suicide should be considered a victim (based on mental trauma) or a criminal (as they have committed an offence under Section 309). Our penal code has historically criminalized attempted suicide, prescribing imprisonment of up to one year or a fine. From the perspectives of penology and victimology, this raises a critical dilemma: while these disciplines concern themselves with adequate relief for victims and proportionate punishments for reform, here the very identity of the person as victim or offender is contested.

This analysis focuses on the validity of Section 309 of the Indian Penal Code and the landmark judgment in *P. Rathinam v. Union of India* (1994). While the current legal position has evolved significantly since this case notably through its reversal in *Gian Kaur v. State of Punjab* (1996) and the legislative shift via the Mental Healthcare Act³, 2017 *Rathinam* remains a foundational case. It was the first in which the Supreme Court engaged deeply with the criminological and constitutional dimensions of criminalizing suicide. The court grappled with fundamental questions: What constitutes a crime? Can suicide be considered one? This paper

³ The Mental Healthcare Act, 2017, Act No. 10 of 2017, § 115 (India).

revisits Rathinam not only as a historical milestone but also as a catalyst in India's journey toward a more humane, health-oriented approach to suicide.

Scope: The analysis emphasizes the victimological aspect while also addressing constitutional validity, comparative law, and the judgment's legacy in contemporary mental health jurisprudence.

II. FACTS

- The case was heard directly by the Supreme Court of India via writ petitions filed by P. Rathinam and Nagbhushan Patnaik, challenging the constitutional validity of Section 309 of the IPC, 1860.
- The Court did not delve deeply into case-specific facts but focused on the broad question of law.
- This was the first instance where the Supreme Court substantively examined Section 309, drawing upon earlier conflicting views from the Delhi, Bombay, and Andhra Pradesh High Courts.
- The petitioners argued that the provision was draconian, penalizing individuals often the terminally ill or mentally distressed who needed care, not punishment.
- Central to the challenge was the claim that Section 309 violated Article 21's guarantee of the right to life and personal liberty, contending that the right to life implicitly includes the right to die with dignity.

III. ISSUES

Beyond sociological questions about why and who commits suicide, the legal issues framed were:

1. Whether Section 309 of the IPC is violative of Articles 14 (Right to Equality) and 21 (Right to Life and Personal Liberty) of the Constitution of India?
2. Whether Article 21 has a positive content that includes the right to die?

IV. LEGAL ARGUMENTS

1) Petitioner's Argument

Ranjan Dwivedi and R. Venkataramani represented the petitioners. The petitioners argued, in brief, that Section 309 was harsh and unreasonable since it punishes someone who is already ill, requires psychiatric counseling, and hasn't harmed anybody else. It was further argued that making an attempt at suicide is not against morals, religion, public policy, or society and that the State shouldn't become involved because it is a personal decision. They also believed that maintaining Section 309 would give the government a monopoly power to kill life, which may result in "constitutional cannibalism."

The Suicide Act of 1961's second paragraph, which reads, "The rule of law whereby it is a crime for a person to commit suicide is hereby abrogated," is one piece of documentary evidence that the petitioner submitted. Another piece of evidence is a copy of the Law Commission of India's 42nd report from 1971, which recommended that section 309 should be eliminated.⁴

2) Respondent's Argument

Shri Sharma served as the Union of India's top counsel, and his main justification for opposing suicide was that he believed it to be against national policy. He continued by saying that if a family's only source of income commits suicide, the entire family would be harmed and that a man who is still living has some sort of contribution to make to society.

In addition, the following reasons for opposition were stated:

- Suicide is an act against religion
- it is unethical
- it has negative societal implications
- it is against public policy

⁴ Law Commission of India, *Forty-Second Report: The Indian Penal Code 302-03* (1971).

- it would promote helping to facilitate suicide.

He went on to state that if a sole-bread earning member of a family commits suicide then it is not only that person but the entire family that is affected and that a man who is alive has some or the other contribution towards society and may choose to take better decisions in the future. It is contended that to keep such individuals alive strong deterrents against suicide are required to be in place.

V. RATIO DECIDENDI

The Supreme Court took into consideration some of the observations of eminent personalities on the subject matter. Some of which are:

Chief Justice of Delhi High Court Shri V.S. Deshpande after his retirement had expressed his view on the matter in his article. He observed that if and only if a narrow interpretation is adopted such that the said section only applied to such attempts to commit suicide which are cowardly in nature, then the provision would be in consonance with Article 21. He noted that this would be the most viable option as any other interpretation would result in adding insult to injury.

The second article referred to was by Justice R.A. Jahagirdar of Bombay High Court, which laid down various reasons for the unconstitutionality of the said provision (1) the jurisprudence as to what actually constitutes suicide is not defined much less attempted suicide; (2) the original concept/idea of men's rea is absent; (3) temporary insanity is a valid defence and the main reason of such acts (4) psychiatric care is required in such cases.

Observing a statement made by J.S. Mill that the only purpose for which power can be rightfully exercised over any member of a civilized community, against his will, is to prevent harm to others.⁵ In the part which merely concerns himself, his independence is, of right, absolute. Over himself, over his own body and mind, the individual is sovereign.

VI. INTERNATIONAL PERSPECTIVE

The court took into consideration two countries namely England and the United States of

⁵ John Stuart Mill, *On Liberty* 13 (Penguin Classics 1985) (1859).

America to understand their perspective on suicide. England was chosen as it is known for excellent democratic values and it has played a significant role in the codification of our Penal Code. US had been chosen as it is proven to be an advocate of Human Rights.

1) England

In England suicide was considered a serious offence to the extent that it punished not only those who survived but also those who died after committing suicide. Persons who had committed suicide were denied a Christian burial and were instead buried in a public highway. Not only this, the crown also used to forfeit their property. But this was the case before 1961. After the Suicide Act was passed it managed to legalize the attempt to commit suicide.⁶

2) United States

During the early 1970's few states of US considered the attempt to commit suicide a crime, two of which later repealed the same law. In majority States suicide was not a crime but the abatement for same was illegal and punishable. Many of the States had no mention of suicide in their penal provisions, rendering suicide legal. In today's time 22 states and 3 US territories have penalized the act of assisting suicide. None of the states of the United States has penalized attempt to commit suicide.⁷

VII. JUDGMENT

The Judgment of the Court was delivered by Justice B. L. HANSARIA. The Supreme Court held Section 309, IPC to be violative of Article 21. It was observed that in order to humanize our penal laws Section 309 will have to be removed, as it is such a provision that could inflict harm on someone who is already suffering through agony.

The Court also remarked that as per the concept of 'life' in Article 21 a person cannot be forced to enjoy a right to life to his detriment or disliking. The court also stated that by abrogating Section 309 we would be tuning our criminal laws to the global wavelength.

Further, the Court also clarified that suicide is not against public policy. An offence is

⁶ Suicide Act, 1961, c. 60, § 1 (Eng.).

⁷ See, e.g., Legislative trends in the United States regarding physician-assisted suicide versus attempted suicide, summarized in sources like the Death with Dignity National Center reports. Cf. *Washington v. Glucksberg*, 521 U.S. 702 (1997).

something committed against the society but, in the case of suicide, the person is not harming others, and therefore, the question of protecting the society does not arise.

Finally, the Court remarked that no one can claim to have a monopolistic right over human life. God alone can claim such power. Therefore, the argument that the commission of suicide damages the monopolistic power of the State to take life has no legs to stand on.

VIII. CONCLUSION

The judgment in *P. Rathinam v. Union of India* marked an important shift in how Indian law viewed attempted suicide. The Court adopted a humane and empathetic approach, recognizing that a person who attempts suicide is already suffering from severe mental pain and distress, and that punishment only adds to that suffering. By moving away from a purely preventive or punitive theory towards a rehabilitative and care-oriented approach, the Court acknowledged the need to treat such persons with compassion rather than criminal blame.

However, the judgment also had its limitations. While the Court referred to a “global view,” its comparative analysis was confined only to the United Kingdom and the United States, both of which decriminalize attempted suicide while continuing to criminalize abetment. This limited comparison weakened the claim of a truly global perspective. Further, the judgment often read more like an academic or literary discussion than a tightly reasoned judicial decision. Although it evaluated different viewpoints (thesis and antithesis), it failed to synthesise them into a strong and sustainable constitutional doctrine, which ultimately made it vulnerable to being overruled.

This vulnerability became evident in *Gian Kaur v. State of Punjab* (1996), where a Constitution Bench overruled *Rathinam*, holding that the right to life under Article 21 does not include a right to die. Despite this reversal, the humanitarian spirit of *Rathinam* did not disappear. Its core idea that persons attempting suicide are victims in need of care later found expression in legislative reform through the Mental Healthcare Act, 2017. Section 115 of the Act effectively decriminalized attempted suicide by presuming severe stress and shifting the response from punishment to treatment and support.

In this sense, *Rathinam* remains a catalyst rather than a failure. Though constitutionally overturned, it played a crucial role in transforming legal and social attitudes towards suicide,

influencing mental health jurisprudence and dignity-based interpretations under Article 21⁸. Its legacy lies not in binding precedent, but in advancing a more compassionate, victim-centred approach within India's criminal justice and mental healthcare framework.

⁸ The dignity-based interpretation of Article 21 was solidified in later cases such as *Justice K.S. Puttaswamy (Retd.) v. Union of India*, (2017) 10 SCC 1, and *Common Cause v. Union of India*, (2018) 5 SCC 1, which, while on passive euthanasia, echo the autonomy principles discussed in *Rathinam*.

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