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Sexual Orientation Discrimination

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Why is in news?

The tarnishing of the image or destruction of the self-esteem and self-respect of a hypersensitive person would amount to abetment to suicide if the accused persons have consistently irritated or annoyed a victim by words or deeds, **the Karnataka High Court has ruled while refusing to quash a criminal case against three senior executives of a private firm over the death of a Dalit worker belonging to the LGBT community.**

What is the court said?

A single judge bench of the Karnataka HC **dismissed a plea by three executives** of the apparel firm, Lifestyle International Private Limited, **for quashing of an abetment to suicide case registered against them** over the death of a 35-year-old visual merchandising executive.

"If the accused by their alleged acts have played an **active role in tarnishing or destroying the self-esteem of a hypersensitive person or even their self-respect**, would **definitely become guilty of commission of abetment to suicide** if the accused have kept on irritating or annoying the deceased by words or deeds, provoking them and driving them to the wall, would also become circumstances that would be ingredients of abetment, all prima facie," Justice M Nagaprasanna has ruled.

"The deceased, in the case at hand, is one **belonging to the LGBT community**. The sensitivity of them being ostracised pervades in their psyche. Therefore, **such people must be treated with all love and affection** and not point at the infirmity that they have no control of. If every citizen would treat such citizens with all love and care, as is done to a normal human, precious lives would not be lost," he said.

Sexual orientation discrimination:

Sexual orientation discrimination (also known as sexualism) is **discrimination based on sexual orientation** and/or sexual behaviour.

Sexual orientation discrimination happens when a person is treated less favourably than another person in a similar situation because that person has a sexual orientation towards: persons of the same sex, or persons of a different sex, or persons of the same sex and persons of a different sex.

Measures to prevent Sexual Orientation Discrimination:

Establish clear policies that prohibit discrimination

The employers should provide employees-especially supervisors and managers-with discrimination prevention training.

Make sure that you have a plan in place for investigating claims of sexual orientation discrimination and that you follow through with disciplinary action.

To ensure your workplace is respectful to your employees' gender identity, aim to be consistently gender neutral.

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Important Supreme Court verdict related to LGBTQ rights:

Naz Foundation v/s Government of NCT Delhi case 2009:

The Delhi High Court **declared Section 377 of the Indian Penal Code (IPC)**, which criminalized consensual homosexual acts as "unnatural offences", to be **unconstitutional and violative of Articles 14, 15 and 21** of the Constitution, which guarantee the rights to equality, non-discrimination and life with dignity.

The court held that sexual orientation is an innate and immutable aspect of one's identity and that criminalizing it amounts to stigmatizing and oppressing a vulnerable minority group.

Suresh Kumar Koushal v/s Union of India 2013:

The progressive judgment made in the Naz Foundation case was overturned by the Supreme Court, in the Suresh Kumar Koushal v/s Union of India case.

The court **reinstated Section 377** and dismissed the arguments of LGBTQ petitioners as "infinitesimally small" and "minuscule".

The court also **held that Section 377 does not violate any fundamental rights and that it is up to the Parliament to amend or repeal it.**

NALSA v/s Union of India 2014:

In 2014, in the National Legal Services Authority (NALSA) v/s Union of India case, the Supreme Court **recognized transgender people as a third gender and affirmed their right to self-identify their gender identity**.

The court also extended all fundamental rights to transgender people and directed the central and state governments to take measures to ensure their welfare, education, employment, health care and social inclusion.

The court relied on the principle of constitutional morality, which requires that constitutional values prevail over societal norms and prejudices.

Justice K S Puttaswamy v/s Union of India 2017:

A nine-judge bench of the Supreme Court unanimously held that the **right to privacy is a fundamental right** under Article 21 of the Constitution, in the case of Justice K S Puttaswamy v/s Union of India.

The court observed that privacy includes "at its core the preservation of personal intimacies, the sanctity of family life, marriage, procreation, the home and sexual orientation".

The court **also overruled its previous judgments that upheld Section 377 and stated that "sexual orientation is an essential attribute of privacy.**

Navtej Singh Johar v Union of India 2018:

The Supreme Court **struck down Section 377 as unconstitutional and decriminalized homosexuality** in India.

The court held that Section 377 violates Articles 14, 15, 19 and 21 of the Constitution and that LGBTQ people are entitled to equal citizenship, dignity, autonomy, expression and protection from discrimination.

The court also recognized that LGBTQ people have suffered centuries of oppression and marginalization and that they deserve an apology from society for denying them their basic human rights.

Challenges Faced by LGBTIQ+ Community:

The problem of sexual orientation and gender identity **leads to fighting and family disruption**. Lack of communication and misunderstanding between parents and their LGBTQ children increases family conflict.

LGBTQ suffers from the socio-economic inequalities in large part due to **discrimination in the workplace**.

Criminalisation of homosexuality leads to discrimination and results in LGBTQ people **getting poor or inadequate access to services within the health system**.

They **gradually develop low self-esteem and low self-confidence** and become isolated from friends and family. These people mostly get addicted to drugs and alcohol

Way Forward:

The government can **create supportive policies and laws that protect LGBTQIA+ individuals** from discrimination, hate crimes, and violence.

This can include laws that protect the rights of transgender individuals and policies that ensure access to healthcare that is sensitive to the needs of the LGBTQIA+ community.

Aiming for Better Parenting: Human society is just a sphere around us, our parents are at closest vicinity, they must be open to accepting their children's identity so that society as a large can embrace diversity and accept each child's uniqueness.

It is important to **create an open and accessible forum for LGBTQIA+ youth** to interact, share, and collaborate. Platforms like Gaysi and Galaxy have helped create these spaces.

The **Pride Month and Pride Parade Initiative** should be promoted at all levels through these platforms.

From Special Treatment to Equal Treatment: There is a need to understand that people with LGBTQIA+ identities aren't aliens, they're not sick, and their sexual preference is innate. Homosexuality is a normal phenomenon, not a disability.

They deserve to be treated equally, not specially and once they are included in Indian society as equals, they will get fully blended in collective development.