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**CASE ANALYSIS OF ARUNA RAMCHANDRA SHANBAUG V. UNION OF INDIA**- Palak Yadav<sup>1</sup>**Name of the Case-** Aruna Ramchandra Shanbaug v. Union of India**Citation-** (2011)4SCC454**Petitioner-** Aruna Ramchandra Shanbaug**Respondent-** Union of India and Others**Coram-** Justice Markandey Katju and Justice Gyan Sudha Mishra**Introduction**

Euthanasia<sup>2</sup> has been derived from the Greek words, *Eu* meaning well and *Thanatos* meaning death, translating to *well death*. It refers to the process of putting someone painlessly to death, so that they don't have to continue suffering due to their current medical condition. The medical condition can include some disability, or a prolonged illness which does not have a cure, and the person has to suffer until the pain of the disease kills them. The idea behind the practice of Euthanasia is to provide a quick and painless death to someone so that the person will not have to succumb to the pain of their illness and die in a slow, agonizing manner. Euthanasia has been further classified into two types, Active and Passive. Active euthanasia is when the doctor directly does something that ends the life of the patient, usually by injecting the patient with a lethal drug. This is also often known as, aggressive euthanasia. Passive euthanasia on the other hand is when the doctor does not directly end the life of the patient, but rather, removes the life support, and intentionally lets the patient die. This life support could either be a feeding tube or a

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<sup>2</sup>Euthanasia- the painless killing of a patient suffering from an incurable and painful disease or in an irreversible coma.

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ventilator, which were installed to keep the patient alive and breathing. These classifications are further divided into Voluntary and Involuntary euthanasia. Voluntary euthanasia is when the patient voluntarily, by their own choice requests the doctor to end their life. Involuntary euthanasia is when the patient is in such a state of pain and suffering that they cannot give consent, and therefore, the doctor decides to end their life, even if the patient has not requested it. This is also known as *Mercy killing*<sup>3</sup>, as the doctor, takes sympathy on the condition of the patient, and to relieve the patient of their suffering, ends their life. Samuel Williams<sup>4</sup>, in the 1870s, was the first person to put forward the idea of Euthanasia, through which he suggested using anaesthetics and morphine to intentionally end the life of a patient. Since then the debate over the moral principles behind Euthanasia has continued, and the legality of such a practice has been debated over the years.

One side argues that it goes against the right to life of an individual and that it reduces the sanctity of human life. This side is against the practice of Euthanasia and believes that it should not be legalised as it is immoral in nature. It stresses upon the loopholes in the provisions of euthanasia and how there are no specified guidelines that would regulate it. The main aim of the medical profession is to heal and save lives, however, this practice makes doctors go against their morals by killing their own patients. People against the practice also argue that the practice highlights the importance of some lives over others, and how some people should be saved while others killed. They believe that if killing a person is accepted as the solution to every terminal illness, then the search for new cures and antidotes will never progress, and eventually the treatment of the terminally ill will be stopped.

On the other hand, the advocates of Euthanasia believe that it is an act of humanity, that helps relieve those suffering from terminal illnesses and diseases. This side argues that a patient has the right over their life and therefore, if they feel that they want to end it as they know that their illness cannot be cured, then their wishes should be respected and the patient should be euthanised. Euthanasia does not kill a person before their time, it just prevents a long painful death. Supporters of euthanasia believe, that the quality of life of a person suffering from an

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<sup>3</sup>Mercy Killing- Intentionally ending a person's life in a painless manner because the condition they are suffering from is incurable

<sup>4</sup>Samuel Williams- In 1870, Samuel Williams first proposed using anesthetics and morphine to intentionally end a patient's life.

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incurable disease eventually becomes so low, that the only option available is death because healing is not possible.

The idea of Euthanasia became highlighted in India, through the Aruna Shanbaug case. Currently, India does not have any specific laws that legalise euthanasia and lay down the procedure for the same, however, we use this case as a landmark precedent to understand the practice. It was through this case that the Supreme Court declared passive euthanasia to be legalised, and recognised the right to die with dignity, as a fundamental right<sup>5</sup> under Article 21<sup>6</sup> of the Indian constitution. However, the practice of Active euthanasia is still prohibited and is punishable as a crime by the law.

### **Background of the case**

- Facts of the case

The petitioner, Aruna Ramchandra, was a nurse working at King Edward Memorial Hospital, in Mumbai. On 27th November 1973, she was attacked by a sweeper who also worked at the hospital. He assaulted her by wrapping a dog chain around her neck and yanking her with the aim of inflicting grievous injuries. He then attempted to rape her but found that she was menstruating, so he sodomized her, which further resulted in grave injuries. The next day, on 28th November 1973, a cleaner found her, lying unconscious on the floor, with blood pooling around her. When taken to the doctors it was found that the strangulation by the chain had blocked the oxygen supply to the brain, resulting in brain damage. The neurologists treating her stated that the brain injuries had also led to cervical cord injuries along with brain stem contusion, and she had gone into a coma. When the petition was filed, Aruna Ramchandra had already spent 36 years in such a state. She was 60 years old and had been in an unimaginably

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<sup>5</sup>Fundamental Rights have been stated in part III of the Indian constitution and are the basic freedoms and entitlements that are guaranteed to citizens by a country's constitution. They are considered fundamental because they are essential for the development of individuals, their dignity, and their well-being

<sup>6</sup>Article 21 of the Indian Constitution- protects the fundamental right to life and personal liberty. It states that no person can be deprived of their life or personal liberty except according to a procedure established by law. This means that a person's life and personal liberty can only be disputed if they have committed a crime.

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painful condition for all those years. She had been in a *persistent vegetative state*<sup>7</sup>, which meant that other than her heart, nothing else in her body was functioning. Her condition had become extremely frail, and she had no sense of her surroundings due to which she was termed as a virtually dead individual. The only thing keeping her breathing and alive was the mashed food that she was fed through the feeding tube.

To rid her of the miserable condition she was in, her next friend, Ms Pinki Virani, filed a petition under Article 32<sup>8</sup> of the Indian constitution, pleading the Supreme Court to remove the life support of Aruna Ramchandra and let her die peacefully.

- Issues

The following issues were framed by way of writ petition-

- 1) Whether it is lawful and permissible to withdraw life support from a person who is in a permanent vegetative state?
- 2) Whether the living will of such a patient should be respected in such cases?
- 3) Does the family or next of kin of the patient have the right to request the withdrawal of the life-supporting system in cases where the patient cannot decide the same for himself?

### **Contentions by the parties:**

- **Petitioner's Contention**

The petitioner approached the Supreme Court through a writ petition, under Article 32 of the Indian Constitution. The petitioner argued that the constitution of India guarantees the fundamental right to life of dignity under Article 21 of the constitution. Therefore, it must also include the right to die with dignity. If a patient has been suffering due to a prolonged terminal

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<sup>7</sup>Persistent Vegetative State- A persistent vegetative state (PVS) is a state of severe brain damage that causes a person to be in a partial state of arousal without true awareness. It's also known as unresponsive wakefulness syndrome.

<sup>8</sup>Article 32- Ensures the fundamental right to constitutional remedies which allows citizens to approach the Supreme Court for the enforcement of their fundamental rights

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illness and has been in a permanent vegetative state, then the right to die with dignity must be made available to such patients, so that their suffering ends without any further pain or agony. Aruna Ramchandra was declared to be a Virtually dead individual because she did not have any senses regarding her surroundings, nor were most of her organs functioning. She had been bedridden for almost 36 years and had been in a persistent negative state, which means that her condition had only deteriorated over the years, and there was hardly any scope for improvement. Therefore, by removing her life support, the doctors will not be killing her, but only freeing her from her misery, and letting her die with respect and dignity. The petitioner used some landmark judgements to back their arguments. In the case of *Vikram Deo Singh Tomar Vs. State of Bihar (1988)*<sup>9</sup>, the court had held that every individual had the right to a quality life consistent with their human personality under the ambit of Article 21, implying that Article 21 includes the right to live with dignity and respect. Relying on this judgement, the counsel argued that a person's life becomes devoid of any dignity when the person is living in a state where he has no control over their senses or any awareness about their surroundings.

The counsel for the petitioner also argued that none of her family members or her relatives looked after her or took care of her, proving that she was looked at as a burden and nothing more. Only the nurses and the doctors of KEM Hospital took care of her and fed her.

- **Respondent's Contention**

The respondent's side comprised the counsel representing the KEM hospital and the municipal corporation of Bombay. They were against the request of Euthanasia for Ms Aruna Shanbaug. The respondents stated that the nurses and the doctors of KEM Hospital had been looking after Ms Aruna Shabaug very diligently for the last 36 years. Despite her deteriorating condition, they had made it their priority to take care of her with the utmost responsibility and care. They believed that Euthanasia would amount to the act of killing and that Ms Aruna should not be euthanised. They said that she had crossed 60 years of age, therefore, she should be allowed to succumb to death in a natural manner. Withdrawing life support would mean that the efforts and the

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<sup>9</sup>1988 AIR 1782

contributions made to keep Ms Aruna alive by the hospital nurses and doctors are being undermined. The respondents also submitted that the act of Euthanasia can be called inhumane and cruel, and can amount to the offence of abuse, and the violation of Article 21 of the Indian constitution. The attorney general, representing the Union of India, also added that including euthanasia and the right to die with dignity under the ambit of Article 21 might lead to several innocent deaths because people may try to conspire with doctors to get a particular patient killed to inherit the patient's property. The respondents also emphasised how it was essential to highlight the connection between Ms Aruna and the nurses who had taken care of her for 37 years, and how agonised they will feel if the life support for Ms Aruna is removed.

Furthermore, the Respondents' knowledgeable legal counsel continued to voice their worries regarding the consequences of legalizing euthanasia in Indian culture. Indian society is highly individualistic and focused on providing for the requirements of each individual. The attorney said that legalizing euthanasia would allow for abuse and damage the social norms that Indian society attaches to providing care.

### **Summary of the Judgement:**

The division bench of the Supreme Court, comprising Justice MarkandeyKatju and Justice Gyansudha Mishra, delivered the landmark judgement for this particular case. The bench first highlighted the difference between Active and Passive Euthanasia. It stated that the practice of Active euthanasia is considered a crime worldwide unless it is legalised by a particular provision in specific states, and in India, the practice would be a clear violation of sections 302<sup>10</sup> and 304<sup>11</sup> of the Indian Penal Code. The bench also stated that the practice of Physician-assisted suicide would violate section 309<sup>12</sup> of the IPC, which mentioned attempting suicide to be a criminal offence. The bench observed that the main difference between active and passive euthanasia is the distinction of the act that is done. In Active euthanasia, an act is done to end the life of the patient deliberately. However, passive euthanasia comprises something not being done. The

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<sup>10</sup>Section 302 of Indian Penal Code- Deals with punishment of murder

<sup>11</sup>Section 304 of Indian Penal Code- Deals with punishment of Culpable homicide not amounting to murder

<sup>12</sup>Section 309 of Indian Penal Code- Punishment for attempt to commit suicide

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bench then further went on to analysing statutes and provisions. It observed that there are no statutes that legalise the practice of euthanasia in the Indian constitution or that legalise the practice of removing the life support of an individual. Therefore, agreeing with the arguments put forth by the petitioner, the bench decided to legalise the practice of passive euthanasia in India. The court laid down certain guidelines and regulations that had to be essentially followed for conducting passive euthanasia. The bench stated that it could only be done in 'rarest of the rare' cases. And the close relatives of the patient, or their parents or spouse will be the ones to give consent to the practice. The Court noted during its consideration of this matter that Ms Aruna Ramchandra Shanbaug's parents had passed away and that she had not received any visits from her close family members since the assault. Additionally, the patient was receiving first-rate care from the KEM Hospital's nurses and other medical staff. The Court further stated that the High Court of the state in question must provide its approval before any decision about the cessation of life support can be made. The idea behind this was to prevent fraudulent individuals from abusing it in their quest to inherit the patient's belongings and other possessions. Article 226 would provide the High Court the authority to decide whether to remove the life support system. When an application is received, the Chief Justice of the High Court must appoint a bench and refer a committee consisting of three reputable doctors to the committee first. The patient and their condition should be thoroughly examined, and the bench should give a notification to the patient's relatives.

While making the practice of Passive euthanasia legal in the country of India, the court denied euthanasia for Ms Aruna Shabaug. This was because the court felt that the circumstances of this particular case were not fit for euthanasia. The court also said that if the nurses and the doctors of the KEM hospital, felt in the near future, the need for Ms Aruna Shanbaug to be euthanised, they could approach the High Court of the state and follow the prescribed procedure.

### **Legal Analysis**

The Supreme Court judgment of Aruna Ramchandra Shanbaug vs Union of India, was indeed a historical one, as it legalised passive euthanasia in the country. Studying this case not only

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expanded my knowledge on the topic of euthanasia but also broadened and developed my opinions on the same. After analysing the case law and understanding the legal provisions, I stand with the decision of legalising Passive Euthanasia in India.

When a person is on their deathbed, dying from a slow-painful disease, with no one around to help them, the only possible solution such people see is death. With no cure for their illness, they start to feel that they are only acting as a financial and emotional burden on their families, which further adds to the mental torture they have to go through. The continuous pain and the fear of a slow death, add to the suffocating loneliness and the person starts to believe that there is no reason for them to be alive, and for them to continue living in such conditions. This only happens in cases where the terminally ill patients are at least aware of their surroundings, however, there are also cases where patients go into permanently vegetative states and have no sense or awareness. In such cases, the patients cannot perform human functions and their quality of life diminishes. They only breathe and stay alive because of the artificial life support that hospitals provide them with. And therefore, all they can do is lay in their hospital bed, slowly and steadily succumbing to death. The only thing keeping them away from a quick death is the artificial life support they have been put on. With no cure available, they eventually have to face death, the life support only ends up prolonging the process.

The practice of Passive Euthanasia aims to cut short this prolonged and painful process of death for the patients so that they don't have to live in such painful circumstances. It includes the practice of removing the artificial life support of the patients, so that they attain death naturally, and are relieved of their suffering. Many believe that Passive Euthanasia amounts to the act of killing and goes against the fundamental right to life and personal liberty, which has been stated in Article 21 of the Indian constitution. However one should understand, that if a person has the right to a life of dignity, then they also have the right to die with dignity. The Supreme Court also upheld this in the case of Common Cause Vs. Union of India (2018), by including the right to die with dignity within the ambit of Article 21. Patients have the right to refuse medical treatment or artificial life support, which would only prolong their suffering when they know they cannot recover from their illness. I also believe, that for patients who do not have anyone visiting them or taking care of them, who are in an incurable vegetative state, and who are



suffering from immense pain, passive euthanasia only helps them escape such unbearable situations and relieves them of such state.

I believe that passive euthanasia can also help with enhancing the efficiency of medical resources. Instead of using valuable resources to keep terminally ill patients alive when there is no cure and no real benefit to the patient, these resources could be redirected to patients who have a chance of recovery. This would allow medical equipment and staff to focus on treating curable patients rather than prolonging the inevitable death of those with terminal illnesses.

While I do stand for Passive euthanasia, I also believe that the practice gives scope to dishonesty. There can be instances when the relatives or friends of a particular terminally ill patient, who cannot give consent for himself, may try to euthanise him for their own personal gains such as inheriting his property. Therefore, to avoid situations like these, I believe that proper guidelines and regulations must be laid down that help implement the practice only in the cases where it is required, to avoid any unfair means.

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