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LEGISLATION REVIEW ON INDECENT REPRESENTATION OF WOMAN PROHIBITION ACT, 1986 (ACT NO. 60 OF 1986)

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I. Abstract

This act was enacted to regulate and prohibit the indecent representation of women. This act forbidden the obscene representation of women. It includes all the publication, figure, advertisement, representation and magazine or in any form which affects the public morality. As per the data of national criminal record bureau 895,453,141,362 cases filed under this act. This act plays a very important role in prevent the woman from indecent and improper representation.

II. Keywords: Indecent representation, woman, dignity, advertisement, prohibition.

III. Introduction

Women in India are faced so many kinds of problems. So many legislations and the acts are introduced to abolish those evils. This legislature prevents the woman from those problems. Media plays a vital role in modern era. Some magazines, ads and media are representing the woman in indecent way. It may affect their dignity, privacy and it also causes so many social problems. So government of India introduced indecent representation of woman (prohibition) act in 1986 to prohibit the indecent representation of women.

IV. Historical perspective

The bill against indecent representation of woman (prohibition) act was introduced in 1986. This bill was introduced by Margaret albert in rajya sabha. This act was become law in October 1987 to uphold the reputation and to maintain the woman's integrity this act was

introduced. In a third wave feminism that was fight for gender equality and liberty of woman to express their sexuality and sexual desires and freedom from dress code. Section 290,293 and 294 of Indian penal code penalised the obscene representation of women. Young persons (harmful publications) act, 1956 also impose punishment for harmful publications. But these acts and provisions are vague. There is a need for specific law to prohibit the indecent representation of women. Now as per the data available with the national crime records bureau a total of 895,453,141,362 cases filed under this act between 2010 to 2014.

V. Constitutionality of the Act

Maneka Gandhi versus union of India (air 1978 a/c 597)

Article 21 guarantees right to life for every Indian citizens. In this case the Supreme Court held that the ambit of right to live also includes the right to dignity. Under article 21 of Indian constitution have the right to live with dignity. So indecent representation of woman may affect the dignity of the woman. Thus, this activity violates the right to dignity which guarantees in article 21 of Indian constitution. So, to protect the dignity of women this act was introduced in India.

VI. Critical analysis of provisions

This act prohibits the indecent representation of women through advertisement or in writings, painting, advertisements and figures or in any other manner.

- Section 1

This act extends to whole of India.

- Section 2 (a)

Advertisement includes any notice, circular, label, wrapper or other document and also includes any visible representation made by means of any light, sound, smoke or gas.

- Section 2(c)

Depiction of woman, her body or any part in any manner which has the effect of being indecent or derogatory or affects the public morality is known as indecent representation.

- Section 3

No person shall publish of ad which contains indecent representation of women in any form.

- Section 4

No person shall produce or distribute or circulates or send any post, pamphlet, paper, slide, film, writing, drawing, painting, photograph, representation or figure which contains indecent representation of women in any form.

Exception:

1. The publication of which is proved to be justified as being for the public good on the ground
2. Which is kept or used bona fide for religious purposes
3. Any ancient monument within the meaning of the ancient monument and archaeological sites and remains act, 1958
4. Any film in respect of which the provisions of part ii of the cinematograph act, 1952

- Section 5

The state government have the power to enter a search and seize any advertisement or any book, paper, slide, film, representation or figure which contravenes the any of the provisions of the act. The provisions of the criminal procedure code, 1972 shall apply to the seize and search under this act.

- Section 6

Any person who contravenes the section 3 and 4 shall be punishable under this act for the first conviction they shall be punished for a term which may extend to two years and fine which may extend to two thousand rupees. For second or subsequent conviction they shall be punished for a term not less than 6 months and which may extend to 5 years and with fine not less than thousand rupees which may extend to one lakh rupees.

- Section 7

Any company committed an offence under this act shall be punished and liable according to provisions of this act. For the purpose of this act, company means anybody corporate and includes a firm or other association of individuals.

- Section 8

An offence under this act shall be bailable and cognisable.

- Section 9

No legal proceeding shall lie against state government or central government, officer of state government or central government which is done in good faith.

- Section 10

The central government may make rules to carry out the provisions of this act.

VII. Proposed amendment

- ✓ The indecent representation of women prohibition amendment bill was introduced on 2012.
- ✓ This bill widens the scope of the act and it covers new forms of communications such as internet and satellite.
- ✓ It creates the new definitions of indecent representation of women, e-form and publish.
- ✓ The definition of distribution includes all type of media such as printer and electronic.
- ✓ The penalties are enhanced in this bill for various kinds of offences.

- ✓ This act prohibits any indecent representation of women by publication or distribution of any material.

VIII. Critical analysis

Technology develops day by day. The definitions in this act must be extending to all the e-from, internet, media and satellites. The punishment in respect of this act should be enhanced. Because indecent representation and obscene representation may affect the dignity, privacy and mental health of the women. So to stop the indecent representation of women, punishment should be given severely.

IX. Case laws

A.chandra raja kumari vs police commissioner, Hyderabad

In this case, the petitioner said that the beauty contests are show women in an obscene and indecent way for the commercial purpose. He argued that the beauty contest should be held unconstitutional. Because it is violative of indecent representation of woman prohibition act, article 51A (e) of the Indian constitution and section 292 of Indian penal code. But the court held that this is an art and entertainment and violative of indecent representation of woman (prohibition) act.

B. Ajay goswami vs union of India

In this case petitioner argued that the newspapers were published obscene pictures in their newspapers. These are harmful for children. Though there is a right to press and freedom of speech this obscene representation of women is punishable under indecent representation of woman prohibition act and section 292 of Indian penal code. This section 292 of indian penal code said that a book, pamphlet, paper, writing, drawing, painting, representation, figure or any other object, shall be deemed to be obscene if it is lascivious or appeals to the prurient interest or if its effect, or (where it comprises two or more distinct items) the effect of any one of its items, is, if taken as a

whole, such as to tend to deprave and corrupt person, who are likely, having regard to all relevant circumstances, to read, see or hear the matter contained or embodied in it.

The court held that the obscene representation of woman already prohibited under the indecent representation of woman (prohibition) act, 1950 and under section 292 of Indian penal code.

C. Chandrakant kalyandas kakodar v the state of Maharashtra and ors

The supreme court held that depending on the moral standards of current society, the idea of obscenity can differ from one country to another country."

X. Meaning of section 292 of Indian penal code, 1860

Whoever-

(a) sells, lets to hire, distributes, publicly exhibits or in any manner puts into circulation, or for purposes of sale, hire, distribution, public exhibition or circulation, makes, produces or has in his possession any obscene book, pamphlet, paper, drawing, painting, representation or figure or any other obscene object whatsoever, or

(b) imports, exports or conveys any obscene object for any of the purposes aforesaid, or knowing or having reason to believe that such object will be sold, let to hire, distributed or publicly exhibited or in any manner put into circulation, or

(c) takes part in or receives profits from any business in the course of which he knows or has reason to believe that any such obscene objects are for any of the purposes aforesaid, made, produced, purchased, kept, imported, exported, conveyed, publicly exhibited or in any manner put into circulation, or

(d) advertises or makes known by any means whatsoever that any person is engaged or is ready to engage in any act which is an offence under this section, or that any such obscene

object can be procured from or through any person, or

(e) offers or attempts to do any act which is an offence under this section, shall be punished on first conviction with imprisonment of either description for a term which may extend to two years, and with fine which may extend to two thousand rupees, and, in the event of a second or subsequent conviction, with imprisonment of either description for a term which may extend to five years, and also with fine which may extend to five thousand rupees

XI. Suggestion

My suggestion is people are not aware about this act. So many women are not ready to disclose their problem and to complaint against the indecent representation. So that government should take responsibility for promotion of this act. The aware of this act should be made among the people.

XII. Conclusion

In modern era, the role of media, advertisement and the internet has been increased rapidly. There are so many benefits in the usage of media and internet. But in some way these technologies are used in a bad and wrong way. This act penalise the indecent representation of women and protect them from it. This act was enacted in 1986. Now society have been changed so many rapid modernizations are occurred. It is an old law. This law must be reviewed and strengthened by amendments.

XIII. References

A.wcd.nic.in

B.blog.ipleaders.in

C. Feminismindia.com

D.prsindia.org

E. the Indian constitution, 1950

F. Indian penal code, 1860