



8TH RGNUL NATIONAL MOOT COURT COMPETITION, 2019

Nidhi and Subodh, aged 22 and 24 respectively, are two working professionals in the city of Patiala. They have been live-in partners since 2017 and love each other. Their parents were against them marrying each other. However, both of them managed to convince their parents that this was the perfect match for them. In December 2018, Nidhi and Subodh tied the knot as per the Hindu rituals and customs.

After their marriage, the relationship took a toll and it wasn't the same as it had been prior to the marriage. The primary reason according to Nidhi was that Subodh had begun to be a more dominating figure. He would now demand intercourse as if it were a matter of right rather than it being an act of two consenting adults. He would never pay heed to the feelings of Nidhi and this was something that hurt her. When Nidhi tried to talk about this to her mother and mother-in-law, both of them had the same view that it is the duty of an Indian wife to fulfill the wishes of her husband and be a constant companion to him at any cost.

One day, Nidhi was watching a debate show on television on the topic of marital rape. A few of the panelists strongly condemned Exception II to Section 375 of the Indian Penal Code, 1860. They argued that it was based on the archaic concepts where the wife was considered as possession and property of the husband. It was further argued that marital rape also violated human rights and various rights of women under Article 21 of the constitution. They also demanded that there should not be any distinction between rape within and outside the marriage. On the other hand, the other panelists argued that Exception II to Section 375 had been inserted to preserve

the institution of marriage and criminalization of sexual intercourse between spouses had potential to wreak havoc on the society. Further, they argued that the Indian law delivers proper protection to women rights and the Legislature is well aware of the situation and demands of the Indian society.

Society for Women's Rights is an NGO that works for the development and welfare of women. It is an organization that has previously helped to bring in women-centric laws by rallying for classification and enactment of women rights via legislations and judicial intervention. Deeply moved by the debate, Nidhi finally decided to fight for her rights and what she thought was a blatant injustice against her persona. She approached Society for Women's Rights and narrated her grief to their activists. The members of the NGO decided to approach the court for seeking to eradicate the social plague of marital rape.

A Public Interest Litigation was filed by the NGO before the Hon'ble Supreme Court of India with respect to the violation of fundamental rights of married women of all ages in the form of marital rape. The PIL also challenges the constitutional validity of Exception II to Section 375 of the Indian Penal Code, 1860.

NOTE: The participants are required to identify all the relevant issues and argue the case. All the laws in force on the date of notification of this proposition shall be applicable to the case.