

All India Council of Christian Women, Madras and the Women's Desk of the Institute for Development Education, Madras have supported and made supportive interventions.

Within the conservative Syrian Christian community, Mary is unlikely to get any support even from women, unless they have suffered under this Act. She needs and deserves the support of all women's groups struggling against discrimination. The facts of the petitions challenging discriminatory personal laws will be eagerly watched, by supporters and opponents alike. These petitions constitute a crucial aspect of the struggle of Indian women for equality.

----- AMMU ABRAHAM.

III) MANJUSHREE SARDA & SUDHA GOEL: Has justice been done to them?

On 13th October, '84, the Women's Centre held a meeting to discuss the recent Supreme Court judgements in cases which have engaged the attention of women's groups for some time. Due to lack of time only two cases - Manjushree Sarada's and Sudha Goel's - were discussed. Sujata Gothoskar reviewed the Sudha Goel case and Gayatri Singh commented on the Supreme Court judgement in Manjushree Sarada's case.

Sudha Goel, a 21 year old woman in the ninth month of pregnancy, received burns in the courtyard of her in-laws house where she was staying, on December 1st, 1980 and died the next morning. The case first attracted national attention when Delhi Additional District and Sessions judge, S.M. Aggarwal convicted Sudha's mother-in-law, husband and brother-in-law of murder and sentenced them to death. After the Shaila Latkar judgement in 1982 by the Pune Sessions judge, this was the next time that the accused in an alleged dowry-death case, were sentenced to death. Five months later, Justices R.N. Aggarwal and Malik Sharief-ud-din of Delhi High Court reversed the Lower Courts' decision completely and acquitted all three accused. The lower-court completely believed the evidence of the neighbours who said that they rescued Sudha and that she had accused all three of pouring kerosene on her and burning her. Sudha's dying declaration, (exonerating husband and in-laws and attributing her burns to boiling milk) prepared by an S.I. and a doctor late at night in the hospital was discounted because the legal procedure had not been followed. There were several thumb-prints on the paper, no magistrate was called and the doctor had not certified that Sudha was in a fit state to make a statement, though she had been administered drugs and was in such a serious state that she died in the morning. The High Court on the other hand completely discounted the neighbours' evidence and found the dying declaration absolutely convincing. The basis was that the neighbours had improved on their F.I.R. while giving

evidence in Court . According to the F.I.R. , only the mother-in-law was implicated while the evidence given in court included her husband and brother-in-law also. The contradictions in the statement of the mother-in-law and brother-in-law were ignored and the doctor's evidence accepted in-toto because he was a professional. The lower court chose elements which supported its judgement and the High Court did the same, convincing observers that in such cases it is the personal predilections of the judges that really counts.

Judges are indeed begining to get classified into pro-women ones and anti-women ones in public-consciousness. This impression has been strengthened by two recent judgements-on the Manjushree Sarda case and reversal of the Andhra Pradesh judgement on T.Sareetha's case (Restitution of Conjugal Rights) . S. Murtuza Fazal Ali of the Supreme Court was prominently involved in both .

Only in rare instances does the Supreme Court interfere with the concurrent findings of the Court below. It is supposed to be done only when gross errors have been committed. Both Murtuza Ali and Vardarajan unhesitantly state that the prosecution has failed to prove its case against Sarda beyond reasonable doubt and that hence the High Court judgement should be set aside and the accused acquitted. Mukharji agreed , but "with some hesitation and a good deal of anxiety".

Women's groups have succeeded in mobilising the State Govt. to ask for a review of the judgement . It is relevant to look at the judgement a little more colselly at this juncture. According to the judges, in case of circumstantial evidence, when two possibilities are open-one that would point to the verdict of guilty and the other that would benefit the accused - the accused should be given the benefit of doubt. This principle applies to all criminal cases and crimes against women cannot be treated as exceptional. In the Sarda case , the judges felt that the theory that ^{Manju} had committed suicide is quite plausible and therefore Sarda should be given the benefit of doubt and acquitted. The main evidence in favour of the suicide theory were letters written by Manjushree to her sister and a female friend before her death-letters submitted by her relatives as proof that Manju feared that she might be done away with . Vardharajan, one of the judges, stated that neither the letters nor the testimony of Manju's relatives and friend could be admitted as evidence.

Murtuza Ali , on the other hand, made a long statement, holding forth about what exactly are the symptoms suffered by someone with suicidal tendencies and based on the meagre information in the letters, " diagnosed " them in Manjushree. What is most striking is the immoderateness and smugness that characterise his pronouncements. Quote from the judgement : " In psychological aspect of suicide

Quote from the judgement : " The psychological aspect of suicide is an important factor to be taken into account while reappreciating the evidence. The melancholy marriage may create so much of emotional disorder resulting from frustration and pessimism one may become psychotic and develop a tendency to end his life. Persons with such psychotic philosophy or bent of mind always dream of an ideal; they possess a peculiar psychology which instils extreme love and devotion but when their ideal fails or when they are faced with disappointment or find their environment so unhealthy or unhappy, they seem to lose all the charms of life and they are driven to end their life. Ruptured personal relationship plays a major part in the clinical picture. Further, the psychologically oriented theories view that suicide is a means of handling aggressive impulses engendered by frustration. Revenge fantasies are associated with suicide. In cases of women of sensitive and sentimental nature it has usually been observed that if they are tired of their life due to the action of their kith and kin, they become so desolate that they develop a spirit of revenge and try to destroy those who had made their lives worthless and under this strong spell of revenge sometimes they can go to the extreme limit of committing suicide with a feeling that the subject who is the root cause of their malady is also destroyed. Moreover, the constant fact of wailing and weeping, feeling miserable, feelings of hopelessness about the future, suicidal thoughts etc. which show depressed mood as also factors such as fear, anxiety and worry are some of the important symptoms of an intention to commit suicide.....

.....Most of the above psychological factors and symptoms appear to have been proved as existing in the deceased both from her letters and from the evidence posed.....She was a highly emotional, sensitive and impressionate (?) sort of woman. She used to keep all her worries and troubles to herself. She neither made any serious allegation of cruelty against her husband personally, nor she expected any danger from him, nor things had reached to such a pass that catastrophe might have resulted. But due to ill-treatment by her in-laws and neglect by her husband, her dreams of a happy marriage were shattered and in reality turned into a melancholy marriage as a result of which she became lonely, dejected depressed and disappointed. A constant conflict between her mind and body was going on. She exhibited feelings of optimism and pessimism at the same time. There was thus a possibility that her emotional disorder and an aggressive impulse engendered by frustration and a feeling to take revenge on her husband by killing herself overpowered her to such an extent that she became psychotic and developed

a tendency to end her life. She had even given hint in her letters that she might not remain alive. Thus a reasonable possibility of suicide cannot be excluded!"

Mukharji's statement is much more guarded and moderate:

" Though I do not agree with the several inferences drawn by Fazal Ali, J. from the several exhibits, I agree with the inference that the deceased was extremely depressed and that there was a clear tendency resulting from her psychotic nature to end her life or commit suicide..... However, from the English rendering of the letters of the deceased, it appears that the deceased was sensing some 'Foul' (and not 'dirty') atmosphere in the appellant's house. Read in that light and in the context of other factors, this letter causes some anxiety. If the deceased was sensing foul atmosphere, why was it? But this again is only a doubt. It does not prove the guilt of the accused"

The extract referred to goes like this: "Shobhabai's 'Sadi' programme is fixed on 13th. I do not know why there is such a dirty atmosphere in the house. It is felt every moment that something will happen. Everybody is in tension. No work has been started in the house. Let it go. I am out of mind. Still I am used not to pay heed to it. Ala what about your law "

(Letter dated June 8, '82 . Perhaps the last letter from Manju to her sister Anju)

Fazal Ali concludes that the 'dirty' atmosphere' referred to is totally unrelated to anything done by the husband or of any cruel treatment by him; it merely refers to the tension prevailing in the family as the 'sadi' was fixed on June 13th, 1982. Manju was it seems , angry about the way in which arrangements were being made.

While Murtuza Ali's lyricism about the mysteries of the female psyche are dubious, what is confusing is that women's groups agitating about the judgement have not really examined the legal aspects which deal with evidence. A thorough reappraisal by women's groups seems to be called for , if, we want to defend ourselves against accusations of partiality.

Whatever the final judgement, by the Courts, Sarda stands forever accused of murder, in the eyes of all women in this country. Whether he murdered Manjushree or drove her to suicide, he stands guilty of his wife's death. The evidence of his guilt is there in Manju's heartbreaking letters. In her despair , this young, innocent and bewildered girl turned to her sister and friend Vahini for support. From beyond death , Manju speaks to all of us through her letter.

"Really Vahini, I remember you very much. Even if I am a little uneasy, I feel that you should have been near ME.....
I dare not ask him (Sarda) whether his clothes be taken for wash.
At present my status is only that of a maidservant without payes of

as of right. Why so much indifference towards me only?

Vahini , I want to weep in your arms.

Vahini , come to Poona early.

On getting up every morning I feel he will speak today, but
everyday I am hoping against hope "

Vahini, what will happen? Now there is no ray of hope "

(letter dated 23rd April, 1982)

-----AMMU ABRAHAM.

BOOK-POST



Nandita Hakson
4/9 Shantiniketan
New Delhi