



The Indian Journal for Research in Law and Management

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Editor-in-Chief – Dr. Muktai Deb Chavan; Publisher – Alden Vas; ISSN: 2583-9896

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CASE COMMENTARY: ARUNA RAMCHANDRA SHANBAUG VS. UNION OF INDIA AND ORS.

~ *Ruju Shah*

CASE DETAILS:

Case Name: Aruna Ramchandra Shanbaug vs. Union of India and Ors.

Citation: WP (Criminal No.) 115 of 2011

Equivalent citation: AIR 2011 SC 1290

Date of Judgment: 7th March, 2011

Court: Hon'ble Supreme Court of India

Bench: Hon'ble Justice Markandey Katju and Hon'ble Justice Gyan Sudha Misra

Appellants: Aruna Ramchandra Shanbaug

Respondents: Union of India, Bombay Municipal Corporation, Dean - King Edward Memorial Hospital Mumbai.

INTRODUCTION:

The word 'Euthanasia' originates from two Greek words 'eu' means good and 'thanatos' means death. Therefore, the term 'Euthanasia' means 'good death' or 'mercy killing'.¹ Euthanasia is of two types: Active/voluntary euthanasia and Passive/non-voluntary euthanasia.²

¹ Somoshri Banerjee, Case Analysis: Aruna Ramchandra Shanbaug v Union of India, 2011, 5 Indian J.L. & Legal Rsch. 1, 1 (2023).

² Gauri Gupta, Aruna Ramchandra Shanbaug vs. Union of India and Others (2011), iPleaders (May 17, 2025, 2:46 PM), <https://blog.iplayers.in/aruna-ramchandra-shanbaug-vs-union-of-india-others-2011/>.

The Constitution of India under Article 21³ guaranteeing the "Right to Life", has sparked debate about whether it includes the "Right to Die" with dignity, especially given medical advancements. Concerns exist about potential misuse.⁴

A writ petition was filed before the Supreme Court under Article 32⁵ of the Constitution of India by Ms. Pinki Virani from Mumbai, a journalist and a human rights activist, on behalf of Aruna Ramchandra Shanbaug (petitioner) claiming herself to be the petitioner's 'next friend'.⁶ The petitioner was in a persistent vegetative state (PVS) after she was sexually assaulted, choked and left behind.⁷

The case of *Aruna Shanbaug vs. Union of India & Ors.*⁸ is considered as one of the landmark judgments on euthanasia or mercy killing. The Hon'ble Apex Court on March 7, 2011 delivered a judgement legalizing passive euthanasia.⁹

Though the petition was dismissed, the judgement laid down the foundation of passive euthanasia in India, differentiated it from active euthanasia and set down the rules and guidelines under which passive euthanasia can be granted.¹⁰

FACTS:

1. Aruna Ramchandra Shanbaug, the petitioner in this case, was employed as a nurse at King Edward Memorial (KEM) Hospital in Parel, Mumbai. She was attacked on the evening of November 27, 1973, by a sweeper from the same hospital, who put a dog chain around her neck and pulled her back. When the sweeper discovered she was menstruating, he sodomised her instead of raping. He tightened the chain around her neck to immobilise her.

2. A cleaner discovered her bloodied, lifeless body on the floor the next day i.e. November 28, 1973. It was alleged that the chain's asphyxiating¹¹ caused the brain's oxygen supply to stop, causing severe damage to the cortex of the brain. She sustained brain stem contusion too along

³ INDIA CONST. art. 21.

⁴ Id at 2.

⁵ INDIA CONST. art. 32.

⁶ Id at 1.

⁷ Id at 2.

⁸ *Aruna Ramchandra Shanbaug vs. Union of India and Ors.*, 2011 (4) SCC 454.

⁹ Id at 1.

¹⁰ Id at 2.

¹¹ Binita Shetty, Case Comment: *Aruna Ramchandra Shanbaug v Union of India*, 3 JLRJS 1169, 1169.

with cervical cord injury.¹² She entered a state of permanent vegetative state (PVS) as a result of this trauma.

3. She relied solely on mashed food fed by the nurses of the KEM hospital for the next 36 years.¹³

4. A petition for the case was filed under Article 32 of the Indian Constitution in the year 2009¹⁴ by an activist-journalist Pinki Virani as a next friend of Aruna stating very little chances of recovery and should thus be freed from her suffering and let to depart with passive euthanasia.

5. In response, the KEM Hospital and the Bombay Municipal Corporation filed a counter-petition.

6. Due to discrepancies, the Supreme Court assembled a group of three distinguished physicians to conduct an investigation and provide a report detailing Aruna's precise medical and mental state in order to gain a clearer understanding of the circumstances.

7. Doctors looked at her whole medical history throughout this investigation and concluded that she is not brain dead. She interprets and responds to circumstances in a unique way. There was no indication from Aruna's body language that she would be prepared to end her life. There was no negligence on the part of the hospital's nursing personnel in providing her care.¹⁵

ISSUES:

1. Whether it is lawful and permissible to withdraw life support from a person who is in a PVS?
2. Whether the living will of such a patient be respected in such cases?
3. Does the family or next of kin of the patient have the right to request the withdrawal of life-supporting systems in case the patient cannot decide the same for himself?¹⁶

¹² Tanisha Maheshwari, Case analysis of Aruna Ramchandra Shanbaug vs Union of India, Manupatra (May 17, 2025, 4:15 PM), <https://articles.manupatra.com/article-details/Case-analysis-of-Aruna-Ramchandra-Shanbaug-vs-Union-of>.

¹³ Id at 11.

¹⁴ Id at 12.

¹⁵ Id at 11.

¹⁶ Id at 2.

4. Should petitioner Pinky Virani be addressed as the next close friend/kin of the victim or should KEM Hospital, who has been treating Aruna for 37 years, be given the status of the same?¹⁷

5. Should the Right to Die fall within the ambit of Article 21¹⁸ of the Constitution?

6. Whether sections 306 and 309 of IPC be constitutionally valid?¹⁹

CONTENTIONS:

Petitioner

The journalist-activist Pinki Virani on behalf of the petitioner asked for the legalization of euthanasia so that Aruna's continued sufferings could be ended by withdrawing the medical support. The learned counsel relied on the judgement of *Vikram Deo Singh Tomar v. State of Bihar (1988)*²⁰, wherein the court observed that every individual is entitled to a quality of life which is consistent with his human personality. It was contended on behalf of the petitioner that life is not merely an "animal existence" but living a 'healthy' and dignified life which not only symbolises an absence of disease. Further, they relied on the case of *Gian Kaur v. State of Punjab (1996)*²¹ and stated that the Right to die is a part of the Right to Life with dignity under Article 21 of the Indian Constitution. The learned counsel appealed that Ms. Pinki Virani is the closest kin to Aruna as all other relatives of hers either died or abandoned her. The petitioner Pinky Virani also wrote a book on Aruna's life story. The petitioner further appealed that Aruna should be relieved of her pain and agony by granting passive euthanasia, there being no chance of recovery. Further, the counsel argued that Aruna has been blocking a bed in a hospital for 37 years in a country where medical facilities are meagre and the expenditure on her treatment seems futile.

Respondents

The respondent, i.e., KEM Hospital & BMC filed a counter-petition opposing euthanasia for Aruna Shanbaug. They stated that the staff are more than happy to take care of her for the remaining days of her life. They believed that allowing euthanasia for Aruna would put all their

¹⁷ Payodhi Daschadhari, Case Comment: Aruna Ramchandra Shanbaugh v Union of India, JCLJ 174, 176 (2022), <https://www.juscopus.com/wp-content/uploads/2022/12/205.-Payodhi-Daschadhari.pdf>.

¹⁸ Id at 3.

¹⁹ Aishwarya Agrawal, Aruna Shanbaug vs Union of India [Aruna Shanbaug Case Summary], LawBhoomi (May 17, 2025, 5:21 PM), <https://lawbhoomi.com/aruna-shanbaug-vs-union-of-india/>.

²⁰ Vikram Deo Singh Tomar v. State of Bihar, AIR 1988 SC 1782.

²¹ Gian Kaur v. State of Punjab, AIR 1996 SC 1257.

efforts down the drain. The counsel contended that Ms. Aruna Shanbaug was over 60 years of age, and thus, there was a likelihood of her succumbing to death without any intervention.²² It was also asserted on behalf of the UOI that every person has the right to live in the state in which they reside and that would be inhumane to cut off all the life support systems of a person. The learned counsel also drew the attention of the court towards the report of the Law Commission of India on euthanasia and held that euthanasia is not accepted by the Government of India. Further, he added that Indian Society is emotional, and care-oriented and yet sometimes very greedy and cunning. Hence, if euthanasia gets legalised, then there will be numerous misuses of the law rather than actual usage. He further argued that medical science may find a cure for a medical state which seems incurable today. The counsel also submitted that the petitioner has no locus standi in the matter, it is only the hospital staff who could have filed such a writ petition.²³

JUDGEMENT:

On March 7, 2011, the Honourable Division Bench of the Indian Supreme Court, rendered this crucial decision. According to the Transplantation of Human Organs Act, 1994's definition of brain death and the physicians' assessment, the Court concluded that Aruna was not brain dead. She had sensations, could breathe without the aid of a machine, and could provide the required stimuli. Despite being in a PVS, her health was steady. She was living due to the essential method of mashing her meals. In this instance, abandoning life-saving measures would have meant stopping feeding her through but the Indian legal system in no way supported depriving someone of food. Euthanasia for Aruna would be a step backwards for the years of work and care that the KEM Hospital nurses have put in.²⁴ Therefore, passive euthanasia cannot be permitted for Aruna.²⁵

The court emphasised that it was the KEM Hospital's administration and employees who had the authority and power to make decisions on her behalf, not Pinki Virani.

The court distinguished between active and passive euthanasia. When fatal chemicals are intentionally and positively administered to end a person's life, it is known as active euthanasia. This practice is usually illegal unless approved by legislation. The Indian Penal Code (IPC)

²² Id. at 2.

²³ Id. at 17.

²⁴ Id. at 11.

²⁵ Vishnu Gopal T V, Case Comment of "Aruna Ramachandra Shanbaug v. Union of India" By Vishnu Gopal T V, Journal for Law Students and Researchers (May 17, 2025, 7:21 PM), <https://www.jlsrjournal.in/case-comment-of-aruna-ramachandra-shanbaug-v-union-of-india-by-vishnu-gopal-t-v/>.

prohibited active euthanasia under sections 302(2)²⁶ and 304(3)²⁷ and 309(4)²⁸. Conversely, the term "passive euthanasia" describes the removal of medical intervention or life support. The main distinction is that although "passive" refers to not taking any action, "active" refers to taking a purposeful action to end life.

As a result, the Supreme Court legalised passive euthanasia in specific, "rarest of rare circumstances", provided that the High Court granted its permission after due process and in accordance with Article 226.²⁹ On the application filed by close relatives/close friend/ doctors/ hospital staff³⁰, the Chief Justice of the High Court should immediately form a bench consisting of at least two judges to consider whether or not to approve a request for passive euthanasia (principle of '*parens patriae*'). Prior to acting, the Bench should confer with any appropriate medical authorities or practitioners and then seek the advice of a committee composed of three esteemed physicians selected by the bench, who will thoroughly examine the patient. The High Court Bench shall then notify the State, the patient's immediate family members (parents, spouse, brothers, sisters, etc.), and, in the event that they are not present, the patient's next closest friend. The State will receive a copy of the doctor's committee report as soon as it is available. The bench of the High Court ought to provide a decision after hearing them.³¹

The court also made a recommendation to repeal Section 309 of IPC.³² (**Orbiter Dicta**)

India should adhere to the aforementioned process till the Parliament passes laws on the matter.³³

CASE ANALYSIS:

Although the landmark case provides guidelines and circumstances along with the steps required for approving passive euthanasia, the Court did not clarify whether the right to die with dignity falls within the ambit of the fundamental right to life under Article 21 of the Constitution of India. There is no clarity regarding the acceptance of living will in such cases.³⁴

²⁶ Indian Penal Code, 1860, § 302, No. 45, Acts of Parliament, 1860 (India).

²⁷ Indian Penal Code, 1860, § 304, No. 45, Acts of Parliament, 1860 (India).

²⁸ Indian Penal Code, 1860, § 309, No. 45, Acts of Parliament, 1860 (India).

²⁹ Id. at 11.

³⁰ Id. at 25.

³¹ Id. at 11.

³² Id. at 25.

³³ Id. at 11.

³⁴ Id. at 2.

Sohanlal, the accused in Aruna's case, was never charged with the charge of sodomy. He was held on the charge of attempted murder and robbery because he had stolen Aruna's watch and earrings. Though the apex court gave legal sanction to passive euthanasia, in Indian society, where social and class stratification is very rigid and is driven by corruption, the legalisation of euthanasia can open a door towards its huge misuse.³⁵

Additionally, euthanasia is not just a legal issue but also a religious and moral issue. Implementation of this concept has many contradicting views from the society which considers passive euthanasia diminishing the sanctity of human life and God is the only one who can take it away since it is his gift. However, some argue that if the constitution guarantees a person the right to life, then that person also has the right to pass away with dignity.³⁶

The court clearly defined the two types of passive euthanasia: voluntary and non-voluntary, forming one of the major features of the judgement.

Lastly, the judgement embodies a harmonious construction of the Indian Constitution and the Indian Penal Code. It carefully examined the relevant provisions of the IPC w.r.t the Art. 21 of the Indian Constitution.³⁷

CONCLUSION:

The case of Aruna Shanbaug is a landmark reference in the Indian jurisprudence on mercy killing. It tries to bring a fine balance between respecting patient autonomy and safeguarding against its abuses. The judgment pronounced by the Supreme Court went into the procedural aspects of euthanasia and the balancing of legal, ethical, and medical considerations in a sensitive issue like this. The case brought to the limelight that India needed comprehensive legislation on euthanasia and end-of-life care. It beckons us to continue pondering different ways out of the dilemma, weighing the sanctity of life against a person's right to die with dignity, working on the creation of a society concerned with the protection of the autonomy and well-being of all its citizens up to the last moment of their lives.³⁸

³⁵ Id. at 17.

³⁶ Id. at 11.

³⁷ Garvita Garg, Case Analysis on Aruna Shanbaug v/s Union of India, Legal Service India (May 17, 2025, 8:32 PM), <https://www.legalserviceindia.com/legal/article-12094-case-analysis-on-aruna-shanbaug-v-s-union-of-india-.html>.

³⁸ Ayush Shukla, Case Commentary: Aruna Shanbaug Vs. Union Of India, Lawful Legal (May 17, 2025, 8:57 PM), <https://lawfullegal.in/case-commentary-aruna-shanbaug-vs-union-of-india/>.