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SHAYARA BANO V. UNION OF INDIA, AIR 2017 9 SCC 1 (SC)

Khushi Sharma

CASE TITLE :- Shayara Bano v. Union of India, AIR 2017 9 SCC 1 (SC)¹

CITATION: - AIR 2017 9 SCC 1 (SC)

BENCH: - Justice Jagdish Singh Khehar, J. S. Abdul Nazeer, Rohinton Fali Nariman, Uday Umesh Lalit, K.M. Joseph

COURT: - Supreme Court of India

DATE OF JUDGEMENT: - 22nd August, 2017

Parties of the case: -

Petitioner – Shayara Bano

Petitioner's lawyers – Amit Chadha, Salman khurshid

Respondents – Union of India, Ministry of Law & Justice, AIMPLB (All India Muslim Personal law Board), Riana Ahmad (Sahara's Husband).

Respondent's lawyer :- Mukul Rohatgi, Kapil Sibal, & Manoj Goel

INTRODUCTION:-

The case “Shayara Bano v. Union of India²” Also known as the “Triple Talaq case” is the turning point for women's rights in India's legal system. In the concept of Triple Talaq, the

¹ Shayara Bano v. Union of India, AIR 2017 SC 4609 (India).

² Monesh Mehndiratta, Shayara Bano v. Union of India, IPLEADERS (Oct. 21, 2022), <https://blog.ipleaders.in/shayara-bano-v-union-of-india/>, (last visited 22nd of July, 2026).

muslim husband can give divorce to his wife just by saying the word “talaq” three times. By doing this, the husband alone can decide the future of marriage, the wife has no right to say “no” to the decision of the husband. Under Muslim law, if the husband feels guilty or sorry or if he realises his mistake then he can’t re-marry his ex-wife, it would be impossible. He has to go through the process of Nikah- Halala. Nikah Halala means if the husband want to his ex-wife again then the wife needed to marry another man. Then, her ex-husband can divorce her again, & the women needs to wait for a certain period before marrying her first husband again. This practice was neither mentioned in Quran nor in Sharia. This case questioned the validity of this process. The case of Shayara Bano v. Union of India revolves around the life of “Shayara Bano”. Shayara Bano was a domestic violence & dowry harassment survivor. She was divorced by her husband on October, 2015 through the practice of triple talaq (Talaq-e-biddat). Shayara Bano filed a writ petition at the Supreme Court in February, 2016. The petitioner, Shayara Bano challenged the constitutional validity of practice of Triple Talaq (talaq-e-biddat), polygamy & nikah-halala. The case was given to five-judges bench of the Supreme Court, who considered both the sides by multiple hearings. The Bench was headed by Chief Justice J.S. Khehar & other Justices Kurian Joseph, Rohinton Fali Nariman, Uday Umesh Lalit, & Abdul Nazeer. The first hearing held on 11 May, 2017, by court directing Union of India to file its response to the petition. The Union of India, represented by Attorney General, took neutral stand by saying that it is upto the Court to decide whether Triple Talaq is constitutional or not. The AIMPLB (All India Muslim Personal law Board) supported the practice of Triple Talaq & said that it was a matter of personal law & not the community will decide. Finally, on 22nd August, 2017, the Supreme Court delivered its judgement. In a ratio of 3:2, the majority stated that the practice of talaq-e-biddat is arbitrary and unconstitutional.

BRIEF FACTS OF THE CASE³:-

- Shayara Bano, a muslim woman from Uttarakhand married in April, 2001 with a property dealer, Rizwan Ahmad.
- Rizwan Ahmad & his family tortured physically and did domestic violence on Shayara Bano, also demanded dowry and a car from her parents.
- According to her claims, she was beaten & being kept hungry in a closed room for many days.

³ Saanvi Udupa et al., Case Analysis Of Shayara Bano Vs Union Of India, INDIAN J.L. & LEGAL RES. (Aug. 18, 2025), <https://share.google/HpoegRbqFA1gKWx5p>, (last visited 23rd of July, 2026).

- In October, 2015, Mr. Ahmad divorced Ms. Bano through the practice of talaq-e-biddat (triple talaq).
- Ms. Bano filed a writ petition in supreme court in February, 2016 by challenging the grounds like talaq-e-biddat, polygamy & Nikah-Halala.
- The petitioner said that this type of divorce is the violation of her fundamental rights & these practices were not protected under Articles 25(1)⁴, 26(b) and 29 of the Indian Constitution.

ISSUES INVOLVED :-

- 1.) Whether the practice of Triple Talaq (talaq-e-biddat) is violative of fundamental rights guaranteed under Article 14, 15 & 21⁵ of the Constitution?
- 2.) Whether the practice of talaq-e-biddat an essential practice in Muslim personal law & protected under Article 25 of the Indian Constitution?
- 3.) Whether Triple Talaq is applicable under the Shariat law?

ARGUMENTS FROM THE PETITIONER⁶ :-

Amit Chadha, an advocate from the side of petitioner argued that the practice of triple talaq was never given and accepted by Muslim personal law and it clashes with the teachings of Quran directly. This practice had no real legal standing. Amit Chadha also argued that this practice violates the Articles 14 and 15 of the Indian Constitution, which guarantees equality and protection against discrimination. He argued that it should get abolished.

Advocate Salman Khurshid, from petitioner's side stated that the traditional divorce processes usually involves a three-month waiting period (Iddat) for reconciliation before the finalization of divorce. He also explained that many Islamic communities do not even view instant Triple Talaq as legitimate, making it void.

ARGUMENTS FROM THE RESPONDENT :-

Senior Advocate Kapil Sibal from the respondent's side argued that the concept of marriage under Muslim law is a private contract so the court should not interfere or should not use judicial review. He also stated that personal laws are exempt from Article 13 of the Indian

⁴ INDIA CONST. art. 25(1), 26(b), 29.

⁵ INDIA CONST. art. 14, 15, & 21.

⁶ Shayara Bano v. Union of India and Ors. AIR 2017 SC 4609, DRISHTI JUDICIARY (May 1, 2024), <https://share.google/TucxUX6MBdGR2Rxip>, (last visited on 24th of July, 2026).

Constitution. He also explained that the practice is not discriminatory in nature because women can protect their interests through demanding a higher financial settlement (Mahr) or through Special Marriage Act.

Advocate Mukul Rohatgi spoke in defense of the constitutional validity of Triple Talaq, Polygamy & Nikah Halala.

JUDGEMENT :-

On August 22, 2017, a five-judge Supreme Court bench delivered a historic 3:2 majority verdict in favour of Shayara Bano, by striking down the practice of triple talaq (talaq-e-biddat) as unconstitutional. The majority judges Justice Rohinton Nariman, U.U. Lalit, & Kurian Joseph stated that the practice violates the fundamental rights while Chief Justice J.S. Khehar and Justice Abdul Nazeer dissented, saying that the Parliament should handle the issue instead.

RULE OF LAW AND CONSTITUTIONAL ARGUMENTS :-

- **Article 14 and 15 ⁷:-**

The petitioner explained that the practice of Triple Talaq is violative of the right to equality & anti-discriminatory laws. When husbands gave divorce arbitrarily, then the wives had no reciprocal right. The court agreed on the argument by saying that any custom which violating Part III fundamental rights must be discarded.

- **Article 25⁸ :-**

The defense claimed that the practice of divorce and marriage is the personal matter of any religion then the court should not interfere. While the Court observed that the practice of Instant Triple Talaq (Talaq e-biddat) is missing from Quran, and viewed as a sin within Hanafi School, & this practice is banned in many Muslim Majority nations. Justice Kurian Joseph said that this practice is considering wrong in theology and it has no legal existence. It violates Article 14 of the Indian Constitution.

ACTION OF GOVERNMENT⁹:-

⁷ INDIA CONST. art. 14,15.

⁸ INDIA CONST. art. 25.

⁹ Vishal Menon, Shayara Bano v. Union of India, LEXPEEPS, [https://share.google/JcUitGRaa4iAtPrKp\(last](https://share.google/JcUitGRaa4iAtPrKp(last) visited on 24th of July, 2026).

Following the ruling, the Indian Parliament enacted the Muslim Women (Protection of Rights on Marriage) Act, 2019¹⁰. In this act, the practice of Triple Talaq made completely void and illegal. The law made strict penalties, and making the offense punishable by upto 3 years in prison alongside a fine. This law secured financial support rights of the wife and children, classifying the act as a cognizable and non-bailable offense.

RATIO DECIDENDI ¹¹:-

The ratio decidendi of the case is that the practice of Talaq-e-Biddat is arbitrary, unconstitutional & violative of fundamental rights (Article 14 (equality) & Article 21 (right to life & dignity)¹²). It is not an essential religious practice then it does not enjoy protection under Article 25¹³ of the Constitution.

CONCLUSION :-

Under Islamic law, men have the legal privilege to maintain upto 4 wives, whereas women are restricted to a single marital union. This rule shows how unfair is the society for women. Today, with modern science & options like adoption, IVF, the old idea that polygamy is needed to have children is no longer an excuse. Because of this, a Uniform Civil Code (UCC) is needed to give women a safer & better future. Many Muslim countries like Pakistan, Iran, & Tunisia had already banned the practice of polygamy. The issue of Triple Talaq, where a husband can end a marriage by saying the words “Talaq” three times. If a husband regrets it and wants his wife back, the women have to go through the process of Nikah-Halala. The courts banned this practice of Triple Talaq to protect the rights of the women related to equality, dignity. By introducing Muslim Women (Protection of Rights on Marriage) Act, 2019, the women get the equal status as men in society. This law made the practice of Triple Talaq entirely void & unconstitutional. This law punishes the practice with 3 years of imprisonment and fine alongside.

¹⁰ Muslim Women (Protection of Rights on Marriage) Act, No. 20 of 2019, INDIA CODE (2019).

¹¹ Triple Talaq, SUPREME COURT OBSERVER (last updated July 21, 2022), <https://share.google/yRPqMG1jEPCMzJ0H>, (last visited on 25th of July, 2026).

¹² INDIA CONST.art. 14,15.

¹³ INDIA CONST. art. 25.