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ARUNA SHANBAUG: A CASE DENIED, A RIGHT RECOGNISED

~Aysha Shanza

The Fight To Let Go

What happens when the biggest fight of your life isn't to live, but rather to die peacefully and with dignity, words that are usually attached to living in this world? But in the decades-long fight for Aruna Shanbaug, it looked quite different. It was a fight to let go, one that our law didn't provide. What happens when the only way to survive becomes so gruesome that it might be better to die? What if the one enduring that pain or the ones close to that person find it better to relieve that person from so much suffering? What is so interesting in Aruna Shanbaug's case is the legal paradox that is so apparent: how she was not provided the relief, but it was reserved for others, and decades later, in 2026 it was used in the case of Harish Rana, drawing widespread opinions and coverage. Yet this very relief wasn't provided to the one who started it all.¹

What Happened To Aruna Shanbaug

Aruna Shanbaug was a nurse at KEM Hospital in Mumbai when she was sexually assaulted by a hospital sweeper and strangled using a dog chain which cut off oxygen supply to her brain.² She remained in a permanent vegetative state for 37 years, but she was not given relief, as she was not brain dead under the Transplantation of Human Organs Act 1994 and responded to some stimuli. This came forward to the court when Pinki Virani, a journalist, considering her as the next friend

¹ *Harish Rana v. Union of India*, 2026 INSC 222 (India).

² *Aruna Ramchandra Shanbaug v. Union of India*, (2011) 4 S.C.C. 454, ¶¶ 3-4 (India).

of Shanbaug, asked the court to let Shanbaug die by removing her life support. This is when 3 issues arose before the court: I. Does the right to life under Article 21 include the right to die? II. Do we honour the wishes of a person in a vegetative state? And III. Can the family of the patient or the next of kin request to remove the life support?

The Court's Verdict

Although the court held that the right to life did not include the right to die as laid out in *Gian Kaur v. State of Punjab*,³ the court took this up as a case of substantial concern and appointed a 3-member medical board to assess Shanbaug's condition. What started with Aruna Shanbaug went on to lay down the guidelines of passive euthanasia in India.⁴ What the Supreme Court did here was something never seen before. Although it was settled that a writ petition under Article 32 exists for the enforcement of fundamental rights and the right to die had already been denied in *Gian Kaur*, the court revisited this question. If the judgement had stopped at simply denying Shanbaug's plea, then decades later, Harish Rana would not have availed himself of the very right that was created because it was once questioned.⁵

What the Supreme Court necessarily did was apply its legislative powers in a capacity that only the honourable court could and provide relief by distinguishing passive euthanasia (the withdrawal of life support) and active euthanasia (deliberately ending one's life), holding that only the former could be held lawful in India. On issue III, the honourable court also said that the next friend of Shanbaug is not Pinki Virani but rather the nurses of KEM Hospital who took care of Shanbaug for a duration of more than 3 decades and knew her preferences. The court considered the intimate carers to be in a greater capacity to be judges of what Shanbaug wanted than the actual petitioner.

The Paradox At The Heart Of The Case

What becomes important to understand here is that Aruna Shanbaug, despite being in a vegetative state for 37 years, was not permitted passive euthanasia, yet her own case created the guidelines that others would later rely on. This observation comes from the widespread discussion around the case. Shanbaug was denied passive euthanasia because the medical board concluded that she was not in a state where she could avail herself of it. She was breathing without life support, had

³ *Gian Kaur v. State of Punjab*, (1996) 2 S.C.C. 648 (India).

⁴ *Shanbaug*, (2011) 4 S.C.C. 454.

⁵ *Rana*, 2026 INSC 222.

preferences as she was calm around fewer visitors and wasn't brain dead. So essentially, Shanbaug could not claim the very right that her case set the stage for.

But what this author wants to bring to notice is that this case, although a landmark judgement, is less about Aruna Shanbaug herself and more about Indian jurisprudence, how it evolved and how it read back on decisions once made and adapted to accommodate new questions. Our legal system did not just stop there, and the fact that parliament never took up the issue was also not unnoticed.

From Shanbaug To Common Cause: The Living Will

In *Common Cause vs the Union of India*,⁶ this very question was revisited. The points made in Shanbaug's case were revisited and taken from, and the law once laid down in *Gian Kaur* was read again. But the court also went beyond Shanbaug and laid down what is referred to as the 'living will', a document created by a person while they are alive stating whether they wish to be on life support or not in the case of a vegetative state. The court held that the right to life includes the right to die with dignity, updating the law it once created. But although this decision was laid down, it was never used for eight years, because the road to litigate isn't always available to many. Harish Rana's own family was turned away from the Delhi High Court in 2024 before gaining relief from the Supreme Court in 2026. End-of-life decisions in India still rest on the judicial decisions by the Supreme Court. And so these cases aren't just to be seen from one perspective alone. Shanbaug did not get what she asked for, but the Indian legal system gained something that would carry forward for years to come and, 15 years later, would reach someone who truly needed it.⁷

⁶ *Common Cause (A Regd. Soc'y) v. Union of India*, (2018) 5 S.C.C. 1 (India).

⁷ *Rana*, 2026 INSC 222.