



ILE

LEX SPECULUM

VOLUME 1 AND ISSUE 1 OF 2023

INSTITUTE OF LEGAL EDUCATION



ILE LEX SPECULUM

APIS – 3920 – 0036 | ISBN – 978-81-964391-3-2

(Free Publication and Open Access Journal)

Journal's Home Page – <https://ls.iledu.in/>

Journal's Editorial Page – <https://ls.iledu.in/editorial-board/>

Volume 1 and Issue 1 (Access Full Issue on – <https://ls.iledu.in/category/volume-1-and-issue-1-of-2023/>)

Publisher

Prasanna S,

Chairman of Institute of Legal Education (Established by I.L.E. Educational Trust)

No. 08, Arul Nagar, Seera Thoppu,

Maudhanda Kurichi, Srirangam,

Tiruchirappalli – 620102

Phone : +91 94896 71437 – info@iledu.in / Chairman@iledu.in



© Institute of Legal Education

Copyright Disclaimer: All rights are reserve with Institute of Legal Education. No part of the material published on this website (Articles or Research Papers including those published in this journal) may be reproduced, distributed, or transmitted in any form or by any means, including photocopying, recording, or other electronic or mechanical methods, without the prior written permission of the publisher. For more details refer <https://ls.iledu.in/terms-and-condition/>

CASE COMMENTARY – SHILPA MITTAL VS STATE OF NCT OF DELHI

AUTHOR – SUJITHA S, STUDENT OF SCHOOL OF LAW, SATHYABAMA INSTITUTE OF SCIENCE AND TECHNOLOGY

BEST CITATION – SUJITHA S, CASE COMMENTARY – SHILPA MITTAL VS STATE OF NCT OF DELHI, *ILE LEX SPECULUM (ILE LS)*, 1 (1) OF 2023, PG. 499-502, APIS – 3920 – 0036 | ISBN – 978-81-964391-3-2.

I. ABSTRACT

The juvenile system as a whole is based on the notion that society's failure to give children with a loving environment that enriches them with care and protection is the root cause of their deviance, underscoring the need for a child-friendly and socially acceptable approach to juvenile deviance rehabilitation. It is debatable whether children should be tried in adult courts. Some claim that teenagers from committing horrible crimes are not adequately deterred by the current legal system.

II. KEYWORDS

Juvenile, Adult, Crime, Heinous offences, Age.

Case Title	Shilpa Mittal Vs State Of Nct Of Delhi
Case Number	Criminal Appeal No.34 of 2020
Date of the Order	9 th January, 2020
Citation	AIR 2020 SC 405
Court	Supreme Court Of India
Quorum	<ul style="list-style-type: none"> Hon'ble Justice Mr. Deepak Gupta Hon'ble Justice Mr. Aniruddha Bose
Author of the Judgment	Hon'ble Justice Mr. Deepak Gupta
Appellant	Shilpa Mittal
Respondent	State of NCT of Delhi & Anr
Acts and Section Involved	<ul style="list-style-type: none"> Section 2(33) Section 14 Section 15 Section 19 of Juvenile Justice (Care and protection of Children Act), 2015

III. INTRODUCTION AND BACKGROUND OF JUDGMENT

In the case study, the juvenile justice act is discussed in relation to an offence that is

punishable under section 304 of the Indian Penal Code, 1860, for which the maximum penalty is either life in prison or a term of imprisonment up to 10 years and a fine in for the

first part dealt (culpable homicide not amounting to murder), and a term of imprisonment up to 10 years and a fine for the second part dealt (intention to cause death or bodily injury likely to cause death). In this case, the question of whether or not the juvenile act is criminal as an adult under the Indian Penal Code Act, 1860, is at stake.

IV. FACTS AND ISSUE

The young person is charged with a crime punishable by imprisonment under section 304 of the Indian Penal Code of 1860. The youngster was between the ages of 16 and 18 when they committed the crime. The lawsuit was dismissed in the Children's Court. The juvenile then proceeded to the Delhi High Court with his mother. According to the Hon'ble High Court of Delhi, the offence was not covered by section 2 of the Juvenile Justice Act of 2015 because no minimum term had been set or defined for it.

The deceased's sister then filed an appeal with the Honourable Supreme Court of India. Heinous, minor, and serious offences are discussed in Sections 2(33), 2(45), and 2(54, respectively).

Dreadful offences are those for which the Indian Penal Code or any other applicable law imposes a minimum sentence/punishment of 7 years in jail or more. Siddharth Luthra, the appellants' attorney in this case, draws the court's attention to the Juvenile Justice Acts' exclusion of the fourth category of offences, which includes homicide that does not amount to murder. The minimum sentence applies to cases when the maximum punishment is greater than 7 years but no minimum sentence is specified. It is especially pertinent to the offence in this case. He was successful in persuading the Hon'ble Court to eliminate the phrase "minimum" from the definition of "heinous crimes" established under section 2(33), as a result of which all offences, aside from the minor and serious ones, fell under the category of "heinous offences."The juvenile's

attorney made the case that the statute could not be altered by the court. The law could only be amended by the legislature; the court was powerless to change it. According to the respondent's attorney (Mukul Rohatgi), the legislature's aim cannot be understood solely in light of the decision to exclude the fourth category of acts from this Act.

V. ISSUES RAISED

- What does and interpreted in Section 2(33) of the Juvenile Justice (Care and Protection of Children) Act, 2015 mean?
- What ambiguity does the word "minimum" in the Statute cause, and how is it interpreted?
- How can a category of offence that is not specifically included in the law be claimed by the appellant to be included as an offence applied to a juvenile?

VI. ARGUMENTS

Contention of the Appellant:

The Act of 2015, which stipulates that the most heinous crimes are those that carry a "minimum" sentence of seven years or more, does not contest the appellant's contention that there is one sort of crime that is included in the fourth category of offence. It was asserted that the legislature had no intention of creating an excluded category. The appellant's legal counsel contended that the Act had an endless gap in it and that as a result, we were unable to comprehend or identify anything.

It was also asserted that the phrase "includes" was used to imply that the definition of "heinous offences" is inclusive and the things included in it are not specifically mentioned in the definition.

Contention of the Respondent:

The respondent's attorney contended that because the court lacks the authority to change or rewrite the legislation, it was impossible for it to determine what the legislature intended

when it came to the kind of violation that wasn't explicitly mentioned. Even if the court had to fill the Act's gap in this instance, it is not practicable.

VII. JUDGMENT

By addressing the matter and concluding that a crime that does not carry a minimum sentence of seven years cannot be considered horrible, the court dismissed the appeal. However, the Act makes no mention of the fourth category of offences, which dealt with offences where the maximum sentence is more than seven years in prison but no minimum sentence is provided, shall be treated as "serious offences" within the scope of the Act and appropriated with accordingly until Parliament makes a decision on the matter.

The court lacks the authority to change the statute's language in order to achieve the legislative goal of dealing with the issue at hand. It implies that the legislative goal and the judicial goal are not the same. The High Court was also instructed by the court to delete the child's name from the registry of children whose names contradict with the law. As a result, the matter was decided in the child's favour that was given leave.

VIII. CONCLUSION

The 2015 Act's main goal is to ensure that juvenile offenders are dealt with differently from adult offenders and not on the same level as their offences. It is evident from the Bill's objectives and justifications that the Act's purpose is to decide cases in the children's best interests. The classification of these offences under this Act was done in order to monitor the psychological development and physical capabilities of the minor offender during the commission of the offence, particularly in the case of juveniles between the ages of 16 and 18 who are considered as adults. The court lacks the authority to add, remove, or read terms that are not explicitly stated in the statute.

IX. REFERENCE

- <https://www.legalbites.in/case-analysis-on-shilpa-mittal-v-state-of-nct-delhi/>
- <https://indiankanoon.org/doc/187771162/>
- <https://lexpeeps.in/shilpa-mittal-v-state-of-nct-of-delhi/#:~:text=A%20juvenile%20X%2C%20aged,fi ne%20in%20the%20second%20part.>

X. RELATED CASE LAW

- **Sheela Barse (II) and Ors. v. Union of India (UOI) and Ors.** – The court made reference to this decision in order to highlight the history and development of the juvenile justice act in India. The court stated that the Children's Act should be replaced by a Central act that is fully enforceable and ensures uniformity in the subject matter.
- **Salil Bali v. Union of India (UOI) and Anr.** – The juvenile justice act of 2000 needed to be amended, and the court referred this case to do so. This was done in response to the social unrest that followed the Nirbhaya case, in which all of the criminals—all but the juvenile, who was only a few months away from turning 18—were given the death penalty.
- **Subramanian Swamy and Ors. v. Raju Thr. Member Juvenile Justice Board and Anr.** – The court used this ruling to demonstrate how the same court had dismissed a petition that contested the JJ Act of 2000's provisions, citing the court's limited authority to amend and legislate on matters that are solely within the legislative branch's purview.
- **Grey v. Pearson and Salmon v. Duncombe and Ors.** – The court cited these House of Lords rulings as support for rejecting the appellant attorney's request to have the word "minimum" removed from Section 2(33) of the Act, which would have included all offences

with a maximum or minimum sentence of more than 7 years in prison as "heinous crimes" as defined by that section. In support of these mentioned decisions, the court reaffirmed that a statute must be read in accordance with its language and intent unless there is absurdity or disagreement with the wordings or if the language employed is completely intrusive, in which case the Court may amend the same.

- **McMonagle v. Westminster City Council[8] and Vasant Ganpat Padave v. Anant Mahadev Sawant** - The court cited this House of Lords judgement in order to emphasise that it is only within its purview to amend a statute where the legislature's aim is clear and when the legislation's wording goes against that intent.

