

Conjugal visit, the Right of convict prisoner - A Study

RESEARCH SCHOLOR:

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ABSTRACT

The Study aims to see the prisoner's Rights mainly for family bond - This further highlights the reason why the conjugal visits of the spouse of prisoner is must and essential for the stress management among prisoners and concludes with the recommendations to provide measures for conjugal visits of prisoners.

Key words – Prisoner – Conjugal right – Constitution of India – Fundamental Right – Jail Reforms Committee – Spouse right – Conjugal stress.

Methodology

The research is based on non empirical sources of data are secondary in nature and extensive information and data has also been gathered from websites.

Introduction

Conjugal rights, the rights especially to sexual relations, regarded as exercisable in law by each partner in a marriage. Conjugal rights are rights created by marriage, i.e., right of the husband or the wife to the society of the other spouse.

Human being is a social creature. Man always needs a family as well as a society to live in. The man inside the bar or in the society needs both to share his emotions and feelings. Being a human beings, the prisoners also would like to share their problems with their life partner as well as with the Society.

Just because, the person is termed as prisoner, his right to dignity cannot be deprived.

Conjugal Stress -

Conjugal visit leads to a strong family bonds and also keep the family functional rather than the family becoming dysfunctional due to prolonged isolation and due to the lack of sexual contact.

Conjugal visit is nothing but only the extended family visits, if say in simple words, it is only a family reunion visits. Conjugal rights are created by marriage, that is, the right of the husband or the wife to the company of their spouse. In the context of prisons, conjugal visits refer to the concept of allowing a prisoner to spend some time in privacy with his spouse within the precincts of a Jail. In this article I endeavored to address the intricacies involved in prisoner's right on conjugal visits. I will also be analysing the need for conjugal visits for the convict prisoners in stress management measure for prisoners and its importance.

Whether in inside prison or outside, a person shall not be deprived of his guaranteed freedom under Indian constitution as just and fair. Various cases of HIV / AIDS in prison are prevalent, just because of sexual intercourse in between the same gender occurs in Jails. The said evil is happening in Prison because of deprivation of conjugal relationship for a Prisoner.

Supreme Court and Prisoner's Conjugal rights -

In the case of Sunil Batra Vs. Delhi Administration, Justice Krishna Iyer observed that 'visit to Prisoners by family and friends are solace in isolation fundamental rights to not flee the person as he enters the prison although they may suffer shrinkage necessitated by incarceration.

Recognition of Conjugal rights of Prisoner -

The Hon'ble Madurai Bench of Madras High Court in Habeas Corpus Petition No. 1837 of 2007, (Mrs. Meharaj Vs. State), held that the conjugal visit of the spouse of the prisoner is also the right of prisoner. The High court has allowed the 40 years old prisoner detained at Palayamkottai, Central Prison to proceed on a leave for 2 weeks for assisting his wife for the infertility medical treatment.

Neha case of Conjugal rights of prisoners -

One Neha of Gurugram Village, filed petition before the Punjab and Haryana High Court and seeking parole for her husband Gaurav, a life convict for consummation of Marriage in November 2020. The High Court directed the Punjab government to constitute a Jail Reforms committee, to be headed by former High Court Judge. This committee was to formulate a scheme for creation of an environment for conjugal and family visits for Jail inmates and to identify the categories of inmates entitled to such

visits, keeping in mind the beneficial nature and reformatory goals of such facilities.

Jails Reforms committee and conjugal rights of prisoners -

In *Jasvir Singh - Vs - State of Punjab* case, the Apex Court directed the jails reforms committee, to form a committee for suggesting methods to implement the measures for conjugal rights of prisoner.

The Supreme Court further directed Jails reforms committee to consider the possibility of providing conjugal visits and to analyse the importance of permitting for conjugal visits and to provide facility for the conjugal visit to the prisoners.

Proactive steps of Punjab Government -

In the year 2023, the Punjab Government has ordered and opened a Special rooms inside the prison for having a free mind to meet the wife of convict for conjugal visit for have the meeting for 2 hours once in 3 months. It is the proactive step for rehabilitate the convict prisoner, while hold at incarceration.

Conclusion :-

The conjugal rights of prisoner if denied then it will be the root cause for many wrongs in prison like homo sex leads to infact AIDS / HIV. The side effects due to not providing the said conjugal visit the family of the prisoner is also get be chollapsed. It must be improved to cater to the evolving nature of fundamental and human rights. Conjugal visits of the spouse of the Prisoner is also the right of prisoner. Now, this right is recognized in India.

References:-

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