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Legislative attempt to criminalize Triple Talaq: A critical analysis of Shayra Bano's Judgement

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Abstract
The Triple Talaq, a scorching issue is set aside by the Hon'ble Supreme Court of India by the majority decision of 3:2 in August, 2017, quoting that Triple Talaq is not an integral part of fundamentals of Islamic Laws. Later, a bill named 'The Muslim Women (Protection of Rights on Marriage) Bill, 2017 had also been introduced in Lower chamber of Parliament of India by the Hon'ble Minister *Shri Ravi Shankar Prasad* (Ministry of Law and Justice) regarding the protection of rights of Muslim married woman and which criminalises the pronouncement of Triple Talaq by a Muslim husband to his wife. The researcher in this article has focused on the analysis of the Judgement of the apex court and the important clauses of the said bill respectively.

Keywords: triple talaq, islamic laws, judgement

1. Introduction

It is not a first incident that the legitimacy of Triple Talaq has been questioned in the Courts of law. The current decision resulted in culmination of overabundance of suits where this question was raised earlier [1]. But on no occasion before, the statutory validity of Triple Talaq had been examined before a Constitution Bench of which comprising five Learned Judges of the Supreme Court of India. What is mainly attractive is the difference in rationale or logic cited by the majority of the Learned Judges in the absolute deduction being the same and the detailed exploration by the minority Learned Judges. Anyone could say that, however, the supreme bench has a pure majority in deciding Triple Talaq to be unlawful, the Bench is evidently alienated over its intellect in making this decision.

One more unique feature of this case was that the minority decision introduced the pleasure (enjoyment) of Article 25 under Article 142 of the Constitution in the interest of justice [2]. This proposes that even if the Bench was divided on the fact of law, it was to a certain extent secured to terminate the earliest and invasive practice on which Islam also looks as a sinful act or an act of evil, but, yet the magnitude of scope of this decision will fetch about is in itself a question mark.

1.1 Brief Facts

Rizwan Ahmad was the husband of the petitioner (Shayara Bano) pronounced 'Talaq' thrice at a time, in the attendance of two eyewitnesses and conveyed a 'Talaqnama' which was signed on 10th of October, 2015 to Shayara Bano. The wife (Shayara Bano) challenged it in the court, urging for an order to be delivered by the Supreme Court stating "Triple Talaq" as "void ab initio" on the basis that it infringed her fundamental rights. At this moment, the statutory validity of Triple Talaq was taken into consideration as substantial question of law before the Constitution bench of the Supreme Court consist of five Learned Judges [3].

Outlining of point of disputes were as under

As the bench was formed of five Learned Judges and there were three Judgments in this case (Minority Judgments, of Hon'ble Chief Justice of India J.S. Khehar and Justice Abdul Nazeer, written by CJI Khehar, two Majority Judgments, one written by Justice Kurian Joseph and another composed by Nariman J. on behalf of himself and Lalit J.) The alphabetical listing page thoroughly lays down the issues in the said case, but for the purpose of more effective and superior logical understanding we will combine the problems and decrease them down in the easiest way as hereinafter:

i) Is Talaq-ul-Bida't or Triple Talaq in the fundamentals of Mohammedan Law?
ii) Whether the Muslim Personal Law (Shariat) Application Act, 1937 provides statutory position to the problems controlled by it or is it still protected under "Personal Law" which is not a "law" under Article 13 of the Constitution as per prior Supreme Court judgments?
iii) Is it secured by Article 25 of the Constitution?

1.2 ISSUE (I)

Is Talaq-ul-Bida't or Triple Talaq in the fundamentals of Mohammedan Law or not?

Talaq-e-biddat is an irrevocable form of assertion of Talaq or divorce either by pronouncing it thrice in one go or by a definitive pronouncement like; "I Talaq you irrevocably". A different feature of this form of Talaq is that its effect is immediate and it is irrevocable. Furthermore, Triple Talaq is a unilateral right of husband which can be pronounced by a man against his woman and not by the wife.

The Mohammedan law has mainly quad sources, specifically, The Holy Quran, Hadi'th, Ijma and Qiyas. It is the opinion of the Learned author Fyzee that The Holy Quran, being the words of Almighty is the essential source of Muhammaden law; accompanying to the same is the Tradition (Sunnah or Hadi'th); the remaining two are not significant [4]. The major

fact of argument stands up with the claim that there is no mention of three Talaq in The Holy Quran and it is pursued to be defensible by Hadi'th only. The Holy Quran on the practice of Talaq is strict but it is stricter on irrevocable and fickle form of dissolution of marriage in which a man is not bound to quote a reason of pronouncing Talaq and which also featured with the lack of reconciliation mode. Though, a parallel argument was made to clarify the legitimacy of Triple Talaq. The respondents gave reason that the Holy Quran does not provide any procedure of Talaq and consequently, if the rationale behind the petitioner's arguments is to be followed then the whole chapter of divorce could be declared unislamic. For instance, the Judgement of Kurian J.'s shows an irresistible confidence on the petitioner's reasoning that Triple Talaq is in-human, in deciding the practice of such Talaq unislamic. It is principally attention-grabbing because it does not reside upon the validity of the practice of Triple Talaq, because it is only focusing upon the matter that whether it is in the fundamentals of Islam or not or we can say that it is the part of Islam or not. Anyone can make a reasoning that the question being raised is the matter of the Quranic expert but not of the legal expert, though, Kurian J. remained on his stand by citing the ruling of the cases; Shamim Ara [5], Masroor Ahmed [6] and Zia Uddin Khan v. Anwara Begum [7] by Najarul Islam J. [8]

For the purpose of solution of the abovementioned question not with the help of legal sources but of Islamic, an effort is made hereinafter:

Ulama of Deoband and Bareilly, in locating the roots of Triple Talaq in their books concentrates on the verse 229 and 230 of Surah no.: 2 Al-Baqra of The Holy Quran which have the term, "Al-talaqu marratan", i.e., in which the *Mujtahid* is deducing the interpretation that here "It is said by Almighty that if after twice Talaq, the third one is also pronounced then the wife will become Haram (Forbidden) immediately, for the husband" [9]. The Ulama of both the institute reasons that if there is no clause in The Holy Quran of triple talaq then why the Almighty made a wife forbidden immediately for the husband after pronouncing the third Talaq [10]. They also quoted the reference of Traditions Hadi'th which provides the recognition and existence of Talaq at the time of Prophet Muhammad (Peace be upon him) as follows:

i) Narrated Sahl bin Sa`d As-Sa`idi: Uwaimir Al-`Ajlani came to `Asim bin Adi Al-Ansari and asked, "O `Asim! Tell me, if a man sees his wife with another man, should he kill him, whereupon you would kill him in Qisas, or what should he do? O `Asim! Please ask Allah's Apostle about that." `Asim asked Allah's Apostle about that. Allah's Apostle disliked that question and considered it disgraceful. What `Asim heard from Allah's Apostle was hard on him. When he returned to his family, 'Uwaimir came to him and said "O `Asim! What did Allah's Apostle say to you?" `Asim said, "You never bring me any good. Allah's Apostle disliked to hear the problem which I asked him about." 'Uwaimir said, "By Allah, I will not leave the matter till I ask him about it." So 'Uwaimir proceeded till he came to Allah's Apostle who was in the midst of the people and said, "O Allah's Apostle! If a man finds with his wife another man, should he kill him, whereupon you would kill him (in Qisas): or otherwise, what should he do?" Allah's Apostle said, "Allah has revealed something concerning the question of you and your wife. Go and bring her here." So they both carried out the judgment of Lian, while I was present among the people (as a witness). When both of them had finished, 'Uwaimir said, "O Allah's Apostle! If I should now keep my wife with me, then I have told a lie". Then he pronounced his decision to divorce her thrice before Allah's Apostle ordered him to do so. (Ibn Shihab said, "That was the tradition for all those who are involved in a case of Lian [11].

ii) Narrated `Aisha: A man divorced his wife thrice (by expressing his decision to divorce her thrice), then she married another man who also divorced her. The Prophet was asked if she could legally marry the first husband (or not). The Prophet replied, "No, she cannot marry the first husband unless the second husband consummates his marriage with her, just as the first husband had done [12].

So, devastate dependence on the Shamim Ara judgment is in my view is baseless and not prudent. Notwithstanding the decision being taken in consideration as a precedent by the Courts by discounting the point that the relevant part of the decision does not form reasoning but the opinion of the Learned Judge which is not binding. The logic and deduction in Shamim Ara, as also mentioned in this judgment, delivers that "every Talaq must be reasonable and be preceded by attempts at reconciliation". The expression "attempt at reconciliation" does not mean that reconciliation must meet between the two pronouncement of Talaq, it can be made before initiation of the process of Talaq.

Hence, it is opined that this rationale could have a better understanding to serve the solution of the question raised as it is the matter of Islamic Jurisprudence and interpretation, the base is made the quotes of the Holy Quran but not the Judicial trends.

1.3 ISSUE (II)

Whether the Muslim Personal Law (Shariat) Act, 1937 furnish statutory position to the matters controlled by it or is it still protected under "Personal Law" which is not a "law" under Article 13 of the Constitution as per preceding Supreme Court judgments or not?

Approaching the other majority Judgement in which Hon'ble Justice Nariman declares Triple Talaq to be invalid on the ground that it is unilaterally provided to the Muslim husband and can exercise it without any reasonable ground. Here is the interpretation of the decision as follows:

1. The Learned Judge is not focusing on gender equality under Article 15 but he concentrated on the arbitrary nature of law as a ground for affirming Triple Talaq to be unconstitutional, he very clearly and technically blows the mind from the main issue of Talaq, as an instrument, this is only exercisable by the Muslim husband but not by the Muslim wife, by which he made the all form of Talaq questionable without any obstacle and difficulty, which made him steer to focus on Triple Talaq.
2. The learned Judge also hold the Muslim Personal Law (Shariat) Application Act, 1937 to be a legislative regulation of Muslim divorce, collaterally, reconsidering of Narasu Appa Mali Judgment of the Hon'ble Bombay High Court which had also been afterwards re-affirmed by

lateral Supreme Court judgments [13].

Hon'ble Justice Nariman relied his judgment on the interpretation of Section 2 of the 1937 Act by restating the method that must be taken to interpret as a non-obstante section, placed in Aswini Kumar Ghose v. Aurobindo Bose [14] as follows;

"It should first be ascertained what the enacting part of the section provides on a fair construction of the words used according to their natural and ordinary meaning, and the non obstante clause is to be understood as operating to set aside as no longer valid anything contained in relevant existing laws which is inconsistent with the new enactment."

Relating this rule to the clause, only those tradition and practices which are opposing to Shariat are overturned; while, other tradition and practices which are not unreliable with Shariat and not the portion of Shariat are quiet illegitimate. A simple covering of this section does not make a sufficient mark of evidence to decide either mode. On the face of it, not in particular but a huge impression of the Judgment of Hon'ble Justice Nariman will be that, the whole statute challengeable under Constitution of India.

1.4 ISSUE (III)

Whether Treble Divorce is protected by Article 25 or not?

Here it is to be decided whether the Triple Talaq is integral part of Muhammaden Law or not, to satisfy this issue, the essentiality test is required. This test will decide that whether a custom and usage is in the fundamentals of a religion or not. The duo Judgement of the Learned Judges of minority and majority resides on this point and rely on various precedent to obtain the result. Citing the ruling of Sardar Syedna Taher Saifuddin Saheb v. State of Bombay [15], Hon'ble Chief Justice of India Shri J.S. Khehar, states that whether a custom is important or not must be determined from the ideology of the people of the particular community. However, Hon'ble Justice Nariman, expressed the ruling of the case; Commissioner of Police v. Acharya Jagdishwarananda Avadhuta [16], makes it clear that an essential practice is the practice on which core beliefs of the religion are established; a foundation upon which the elevation of the faith is constructed, substituting which the significant character of the religion would alter. It is an eternal and essential part of the religion which cannot be underestimated.

Ensuing the check placed by Hon'ble Chief Justice of India Shri Jagdish S. Khehar, a question is arising that whether Triple Talaq is recognized as an eternal part of the religion or not? Then the answer of the question may be negative because Islam consist many sects and many of them do not follows Triple Talaq as custom and usage. But, if we approach to the Sunni Hanafi sect, who are wisely in connection with this issue and considers Triple Talaq to be as essential part of the Shariat Law then we finds that they presented arguments in the light of primary sources of Muslim Law (as mentioned supra) and attempts to prove that Triple Talaq is a matter of consideration however it is a sinful practice, they admit it that it should not be practiced by the husband without any ground or arbitrarily (husband can utter Talaq with the most approved and approved from of Talaq such as Ahsan and Hasan respectively) but if the Muslim Husband had done so, then it is a matter of consideration in Shariat Law and recognized as valid. On the other hand, if the essentiality test as per Nariman J. is to be followed, there is no exertion in pronouncing Triple Talaq to be freestanding from the sphere of Article 25.

After making a thorough and detailed submission in the court as above, the one of the respondent (All India Muslim Personal Law Board) issued guidelines and drafted an updated "Nikahnama" to curb the said practice because the Hanafi Community too considers it sinful but recognizes it as a matter of law [17]. Hence it is clear that a practice which is a *sin* in religion also essential as per their belief for the community [18].

2. Critical analysis of "The Muslim Women (Protection of Rights on Marriage) Bill, 2017

In Muhammaden Law the mode of dissolution of marriage is provided by the divine words of the Almighty as mentioned in The Holy Quran. Along with the primary sources of Muslim Law and the interpretation of the verse of Quran, the jurists of Muslim law came with classification of the modes of dissolution of Muslim Marriage that is the classification of Talaq in three popular forms namely; Talaq-e-Ahsan, Talaq-e-Hasan and Talaq-ul-Bida't [19]. Amongst these three popular modes the third one is disapproved, but recognized in Islamic Law, it is also a controversial topic of discussion. But now being made invalid with the courageous struggle made by the Government of India on urgency and spontaneous basis, legislating a separate statute and criminalizing Triple Talaq as void and illegal, which is the consequence of Supreme Court Judgement in Shayra Bano Vs. Union of India flooring way to draft a bill as a legislation on the Muslim Women (Protection of rights on Marriage) Bill 2017 [20].

2.1 Causes of Formulation of the Bill

The Ministry of Law and Justice of Government of India cited the reasoning behind the proposal of the separate bill which is mentioned hereinafter as provided in the ends of the bill:

"3. In spite of the Supreme Court setting aside talaq-e-biddat, and the assurance of AIMPLB, there have been reports of divorce by way of talaq-e-biddat from different parts of the country. It is seen that setting aside talaq-e-biddat by the Supreme Court has not worked as any deterrent in bringing down the number of divorces by this practice among certain Muslims. It is, therefore, felt that there is a need for State action to give effect to the order of the Supreme Court and to redress the grievances of victims of illegal divorce.

4. In order to prevent the continued harassment being meted out to the hapless married Muslim women due to talaq-e-biddat, urgent suitable legislation is necessary to give some relief to them."

Salient features of the Bill

Initiating the comprehension of understanding the bill from the very first part of the bill that is known as either objective or preamble of a legislation which is as follows:

A bill to protect the rights of married Muslim women and to prohibit divorce by pronouncing talaq by their husbands and to provide for matters connected therewith or incidental thereto [21].

The opening of the proposed Statute strives to safeguard the rights of married Muslim women and to forbid divorce by

uttering 'Talaq' by their husband and to deliver for difficulties related therewith or incidental thereto.

At a distance, from declaring Triple Talaq invalid the statute purports to deliver survival stipend from the husband for the maintenance, protection and custody of minor children, regular auxiliary needs of the woman and dependent children.

The Preamble says to safeguard the privileges of Muslim married women, the 'safekeeping' stated in the preamble is stretched to Muslim women. To the present time, there is no legislation which is made to protect the rights of the women whose marriage is recognized under Hindu or Christian canons. Generally, the difficulties to perform the duties towards the woman ascends only after the dissolution of the marriage and question of protection of rights of woman arises but this bill provides the protection to the wedded woman.

Together with, upholding the legitimacy of the marriage and pronouncement of Triple Talaq is made void, by, The Muslim Women (Protection of rights on marriage) Bill, 2017. The Preamble has been appropriately conscripted to lodge all kinds of Talaq. Further, it recites to forbid divorce by uttering talaq by husbands and it did not curb the preamble by restricting or replacing the word 'Talaq' with 'Triple Talaq' or by uttering the 'Triple Talaq' instead of 'Talaq'.

Section 2(b) of the Muslim Women (Protection of rights on marriage) Bill 2017 provides that "'Talaq' means 'Talaq-e-Bida't' or any other related form of Talaq having…" Any other similar form of Talaq is not demarcated and the whole Muslim community, Shariat Law and the Hon'ble Supreme Court has also acknowledged only "Three Instantaneous Talaq at a time" in its judgement, where Muslim husband have unilateral right to exercise option of Talaq in the forms such as; Talaq-e-Ahsan, Talaq-e-Hasan, and Talaq-ul-Bida't or etc., all the forms of Talaq becomes irrevocable irrespective of the limit of time on the third and last pronouncement of Talaq [22].

2.2 Criminalisation of Talaq

The expression 'Talaq' is a standard word for divorce in Islam which is used for all kinds of Talaq. Section 3 grilled all the means of talaq which are approved by Muslim Law. The preamble itself blocks other manners of dissolution of marriage i.e., to defend the rights of married Muslim female, to bar divorce by pronouncing talaq by Muslim husband, and to deliver for problems connected therewith or incidental thereto [23].

There is a bar imposed by the preamble of the bill to divorce by uttering Talaq. The Preamble could bar the Muslim husband by uttering Three Talaq at a time or in single sentence or Talaq-ul-Bida't.

On the other hand, Section 4 is criminalizing the utterance of Talaq by a husband to his wife and making it illegal with punishment of detention for a period which may extend to three years and fine [24].

As we know that Muslim Marriage is a contract in which all the components of Section 10 of Contract Act, 1872 are existing here such as; duo parties (Man and Woman), competency, assent at liberty, both the wedding parties will be asked thrice and give their consent and Maher or Dower (which is the consideration for the lawful object of Marriage) and the bond composed in writing called Nikahnama is implemented by mutually i.e. husband and wife [25]. There should be at least one witness from the side of wife and one is from husband and an independent male (Vakeel) shall be present and Nikahnama should be signed by both the parties marrying. Thus Marriage under Muhammaden law is a pious contract.

The said bill primarily not recognizing Triple Talaq and later making talaq not effective which means that the word 'Talaq' if pronounced upon the wife will take no effect on the Muslim wife, it is very technical to understand that according to this provision when the Talaq has not brought about its effect then how can one be punished for no forbidden act, for the instance it is like the incident that 'a person has not committed a crime but will be liable for the same'. Similarly, this bill is making utterance of Talaq an illegal act and carrying a punishment of prolonging unto three years and fine, though it will not dissolve the marriage. Dramatically the bill is also silent on the quantum of Fine and made it the subject matter of the Jurisdiction of Magistrate of First Class.

For the instance, in Mohammed law, as *Nikah* is civil matter i.e. contract and whenever either spouse want to end it they approach the Munsif Court under Dissolution of Muslim Marriage Act. When it is a civil matter then how can it be colored with the paints of criminality [26].

2.3 Offence to be Cognizable and Non-Bailable

In respect of section 7 of Criminal Procedure Code, 1973, a confrontational clause is also drafted in this bill to give a dominant influence to certain provisions upon some opposing provisions that may be brought in front of the prudent person or either in this statute or some other statute. To evade the operation and consequence of all opposing provisions, to which this non-obstante clause has been given a dominant effect, the provisions of Criminal Procedure Code will not stand before the dominative character of this provision, as the section is empowered with the effect of cognizable and non-bailable feature [27]. Section 2 (c) of the Criminal Procedure Code, 1973 describes 'Cognizable Offences' [28].

In Lalita Kumari vs. Government of Uttar Pradesh and others

Hon'ble Supreme Court held that the police must compulsorily register the FIR on getting a complaint if the statistics of the information reveals a cognizable offence, and no preliminary inquiry is allowed in such a condition. The police cannot decline to register the case on the ground that it is either not credible or consistent [29].

In Mrs. Gurmito vs. State of Punjab and others

The Hon'ble Court held that the rejection to file FIR on the basis of the place of crime not falls within the territorial jurisdiction of the police station, amount to negligence of responsibility. Information about cognizable offence would have to be lodged and accelerated to the police station having jurisdiction [30].

Therefore, from the above rulings it is clear that mere an information either true or false that Muslim husband has pronounced 'Talaq' is sufficient to lodge or register an FIR and enables the police to arrest the Muslim husband without any preliminary inquiry or investigation similar to the cases of Murder, Rape, dacoity etc. On this instance it is also needed to

express Section 2(a) of Criminal Procedure Code, 1973 which defines the bailable offence [31].

As per ending point of the Schedule I of Criminal Procedure Code an offence in order to be bailable would have to be an offence which is carrying a punishment of imprisonment for less than three years or with fine only.

Here are some bailable offences defined with punishment of less than three years of imprisonment under Indian Panel Code, 1860 are mentioned for the instance [32];

Section 171E - Bribery

Section 290 - Public Nuisance

Section 304A - Death by Rash or Negligent Act

Section 337 - Simple Hurt

Concluding that the said bill introduced by the Ministry of Law and Justice of Government of India may not bring any instance of justice in the favor of the Muslim woman because as it is criminalizing the pronouncement of 'Talaq' by the Muslim husband.

It is actually throwing away the opportunity of the reconciliation between the spouses and enabling the complete breakage of the marriage. Also it could be result into the heinous crime against the wife because when there will be no way to dissolve the marriage between the spouses then the husband may approach the evil solution of dissolution of Marriage, the evil solution easily strikes in the mind of tensed and anxious person, and as the marriage is a spineless (sensitive) relation in which one may be provoked easily and can seek the way of evil, which need not to be mentioned as a prudent mind person can understand it clearly.

On the part of the Muslim woman, if such a condition arises that she could not able to live with her husband and it is becoming heinous, day to day, then she may not offer the divorce as "Khula" as provided by the Muhammaden law, instead of making an easy way of evading from the unpleasant marital relation this bill is making a complex on the part the woman, which may result in the total administrative failure.

3. Conclusion and Suggestion

If we throw light on the provisions of the bill, and on the basis of principles of Islam, then it is making the marriage as regular, and giving a legitimate status, even after the pronouncement of Talaq on the wife, and compelling the Muslim husband to live with the divorced spouse, which is strictly prohibited in Islam and against the spirit of Muhammaden Law.

It is advised that instead of criminalizing the dissolution of marriage by uttering 'Talaq' and giving a legitimate effect to the marriage of divorced woman, the administrative machinery could launch an awareness programme in which they should make it in the knowledge of the spouses; the best approved method of Talaq (as defined supra) and other form of Talaq in which reconciliation is possible, in order to ensure fair justice and smooth running of law and order and also to provide equal justice to the Muslim woman especially.

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9. Justice Mufti Taqi Usmani, Quran-e-Karim (English Translation), Chapter 2, Verse 229 & 230
   229. Divorce is twice; then either to retain in all fairness, or to release nicely. It is not lawful for you to take back anything from what you have given them, unless both apprehend that they would not be able to maintain the limits set by Allah. Now, if you apprehend that they would not maintain the limits set by Allah, then, there is no sin on them in what she gives up to secure her release. These are the limits set by Allah. Therefore, do not exceed them. Whosoever exceeds the limits set by Allah, then, those are the transgressors.
   230. Thereafter, if he divorces her, she shall no longer remain lawful for him unless she marries a man other than him. Should he too divorce her, then there is no sin on them in their returning to each other, if they think they would maintain the limits set by Allah. These are the limits set by Allah that He makes clear to a people who know (that Allah is alone capable of setting these limits).
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21. Preamble of "The Muslim Women (Protection of rights on marriage) Bill, 2017"
22. Sec. 2(b): "talaq" means talaq-e-biddat or any other similar form of talaq having the effect of instantaneous and irrevocable divorce pronounced by a Muslim husband;
23. Sec. 3: Any pronouncement of talaq by a person upon his wife, by words, either spoken or written or in electronic form or in any other manner whatsoever, shall be void

and illegal.

24. Sec. 4: Whoever pronounces talaq referred to in section 3 upon his wife shall be punished with imprisonment for a term which may extend to three years and fine.
25. Indian Contract Act, 1872 (Act no. IX of 1872)
26. Dissolution of Muslim Marriage Act, 1939 (Act no. VIII of 1939)
27. Section 7: Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (Act no. II of 1974) an offence punishable under this Act shall be cognizable and non-bailable within the meaning of the said Code.
28. Section 2(c) "Cognizable offence" means an offence for which, and "cognizable case" means a case in which, a police officer may in accordance with the first schedule or under any other law for the time being in force, arrest without warrant;
29. (2008) 14 SCC 337
30. 1996 CriLJ 1254 P&H
31. "bailable offence" means an offence which is shown as bailable in the First Schedule, or which is made bailable by any other law for the time being in force; and non-bailable offence" means any other offence;
32. Indian Penal Code, 1860 (Act no. XLV of 1860)