LIFE, LIBERTY AND THE END OF PAIN: PASSIVE EUTHANASIA ON TRIAL

Sajal Veer, BA LLB (Hons.), Chanakya National Law University

ABSTRACT

Every individual in India has the right to life and personal liberty, and their life cannot be taken away except in accordance with the prescribed legal procedure. As one of the fundamental rights, *Article 21* of the Indian Constitution guarantees the protection of life and personal liberty of the individual and ensures certain legal safeguards against arbitrary deprivation of life and liberty. But sometimes, the right to die becomes an essential part of respecting someone's dignity, personal autonomy and sanity of life. However, the debate around the legality of euthanasia in not new to the Indian legal system, many cases *including Common cause v. Union of India, (2018) 5 SCC 1(India)* and *Aruna shanbaug v. Union of India, (2011) 4 SCC 454 (India)* have somewhat established a rough framework for the Indian legislative system, but a concreate law regarding passive euthanasia still seems farfetched. The case of *Harish Rana v. Union of India*, *2026 SCC OnLine SC 358 (India)* and the topic around Passive Euthanasia and the right to die with dignity compel us to accept the advancement of constitutional morality, amendment to Legal jurisprudence and also serve as a reminder for our legislative Bodies for urgent and immediate steps to deal with the matter of life and death".

INTRODUCTION

The term Euthanasia in layman's language stands as a practice of killing somebody without pain who is to die because they are suffering from a disease that cannot be cured. It is often described as *mercy killing* or *Death with dignity* ***and*** can be carried out via Active or Passive means to relieve the patient from pain and suffering. However, euthanasia remains one of the most sensitive and debated topics in modern legal systems, whose provisions are not carried out via a legislative order but via judicial interpretation. It also raises ethical questions on human dignity, sanctity of life, the circle of life and death and the state's end-of-life decision-making power. The House of Lords Select Committee on Medical Ethics in England defines Euthanasia as "a deliberate intervention undertaken with the express intention of ending a life to relieve intractable suffering". Meanwhile, other countries like the Netherlands, by its *Termination of Life on request and Assisted suicide (Review Procedures) Act 2002*[1], Belgium through its *Belgian Act on Euthanasia, 2002*[2] and Switzerland became some of the countries to legalise euthanasia. Euthanasia is further classified into two categories: Active and Passive. In Active Euthanasia**,** there is a deliberate act of causing a patient's death through direct intervention such as the administration of a lethal drug. *Passive Euthanasia* allows a person to die naturally by withholding or withdrawing life-sustaining medical treatment like ventilators or feeding tubes. However, active euthanasia and physician-assisted suicide remain illegal and unethical in India. Still, Passive euthanasia has gained some legal legitimacy in *Article 21*[3] of the Indian Constitution through legal and Judicial interpretations.

I. FACTS AND BACKGROUND OF THE CASE

Harish Rana, a twenty-year-old boy who was pursuing his engineering degree from Punjab University, sustained severe neurological injuries in 2013 when he fell from the fourth floor of his PG accommodation. His condition brought him to bed rest, and he was fed through *Percutaneous Endoscopic Gastrostomy*[4] (PEG) and was in a *permanent vegetative state*[5] (PVS) for nearly thirteen years. Rana's parents approached Delhi High Court in July 2024 to seek

[1] Wet toetsing levensbeeindiging op verzoek en hulp bij zelfdoding [Termination of Life on Request and Assisted Suicide (Review Procedure) Act], stb.2001,194 (Neth.)
[2] Loi relative a l'euthanasie [Act on Euthanasia] of May 28, 2002, Moniteur Belge [M.B] [Official Gazette of Belgium], June 22, 2002, 28515 (Belg.)
[3] INDIA CONST. art.21
[4] John C. Fang et al., Clinical Practice Guidelines for Percutaneous Endoscopic Gastrostomy, 118 Gastro. Endoscopy 245, 248 (2023)
[5] Vegetative state, STEDMAN'S MEDICAL DICTIONARY (28th ed. 2006).

legal permission for passive euthanasia and to withdrawal feeding tube and life-sustaining treatment. But Delhi High Court rejected the plea, ruling that removing a feeding tube did not qualify as passive euthanasia because Harish breathed independently and was not on a mechanical ventilator. The case went to the Supreme Court of India, and on 11th March 2026 it delivered its judgement, which reversed a Delhi High Court order. It was for the first time that the court held that *Clinically Assisted Nutrition and Hydration*[6] (CANH), which is basically a medical treatment used to supply food and water to patients through tubes or intravenously when they cannot eat or drink safely by mouth, also constitutes a medical life support intervention whose withdrawal falls under the provisions of passive euthanasia's domain. However, the provision of CANH around euthanasia has revolved around various cases, including *Aruna Ramchandra Shanbaug v. Union of India*[7], where the court acknowledged that artificial feeding and hydration through tubes is regarded as a life support system and withdrawal of them would be considered passive euthanasia. In *Common Cause v, Union of India*[8], it advanced the law on withdrawal of ventilators but did not address the matter around CANH. It was the first by the Indian Judiciary to acknowledge CANH in the Harish Rana Case and directed the hospital and medical authorities to proceed with the same.

II. HISTORY OF EUTHANASIA

The history of bringing euthanasia or the right to die with dignity into the legal domain of the Indian legal system entrenched a long-running battle between judicial interpretation, legislative council orders, multiple committee reports and evolved around the idea of respecting the sanctity of life, personal dignity, rights and personal autonomy. The First case arose on *Section 309 of the Indian Penal Code, 1860*[9], which criminalised the attempt to commit suicide, which was further held unconstitutional by the Bombay High Court in *Maruti Shripati Dubai v. State of Maharashtra*[10] (1867), ruling that it violated Articles 14 and 21 of the Indian Constitution**.** Further, in the case of *P. Rathinam v. Union of India*[11] (1994), the Supreme Court of India reiterated the same constitutional issue of ***Section*** *309 of the Indian Penal Code*[12] (1860), the

[6] Clinically Assisted Nutrition and Hydration, Gen. Med. Council (last visited Sept. 1, 2026), https://www.gmc-uk.org/professional-standards/the-professional-standards/treatment-and-care-towards-the-end-of-life/clinically-assisted-nutrition-and-hydration.
[7] Aruna Ramchandra Shanbaug v. Union of India, (2011) 4 SCC 454
[8] Common cause v. Union of India, (2018) 5 SCC 1
[9] Indian Penal Code, 1860, § 309, No. 45, Acts of Parliament, 1860
[10] Maruti Shripati Dubai v. State of Maharashtra, 1987 (1) Bom. C.R. 499
[11] P. Rathinam v. Union of India, (1994) 3 SCC 394
[12] ibid

Supreme Court declared section 309 of IPC, as unconstitutional, ruling and this provision violated the Right to life and personal liberty under Article 21 and also includes the Right to die with dignity. The court basically held that a person who is already going through a tough mental life at his time needs medical and emotional help and not a penal act. In a landmark judgement of *Gian Kaur v. State of Punjab*[13] (1996), the Supreme Court gave a different stance and overruled the judgement of *P. Rathinam v. Union of India*[14], stating that *Section 309 of the IPC*[15] is constitutionally valid and upheld its stance that the right to life under *Article 21*[16] of the Indian Constitution does not include the right to die or the right to commit suicide. Criminalisation of Section 309 would not only protect life and prevent suicide but would provide support to those who are in a state of mental distress or emotional trauma. Another landmark judgement, which revolved around the idea of passive euthanasia, was *Aruna Shanbaug v. Union of India*[17] (2011). Aruna Shanbaug was a nursing staff member at King Edward Hospital, Mumbai, who was attacked by a sweeper in the hospital who wrapped a dog chain around her neck and yanked her back with it. Due to the dog chain tied around her neck, the oxygen supply to her brain was cut off, and she was declared brain dead. However, after multiple examinations of Aruna's condition, the hospital authority further declared that she went into the Permanent Vegetative State (P.V.S) or a virtually dead person who had no state of awareness. She can only be kept alive on a life support system, and food was offered to her via tubes or in smashed form, which was put into her mouth. Further, a writ petition was filed by Mrs Pinki Virani on behalf of Aruna Shanbaug, pleading to award her passive euthanasia so that her life suffering would finally come to an end. The Supreme Court of India rejected the plea of Pinki Virani, based on the medical assessment provided to the court by a team of three doctors who assisted that Aruna Shanbhag was not brain dead and had some kind of awareness. Further, the Supreme Court delivered a significant judgement legalising passive euthanasia in India but under strict guidelines. Although Aruna's case brought a major turning point in the medical and legal system of India by legalizing Passive Euthanasia and the right to die with dignity, she herself was not awarded this clause and finally passed away due to Pneumonia on 18th May 2015. The reasoning of the Aruna Shanbaug was carried and even further extended to other judgements as well, one of the most famous landmark judgement

[13] Gian Kaur v. State of Punjab, 1996 AIR 946
[14] ibid
[15] ibid
[16] ibid
[17] ibid

comes under this ambit is *Common Cause v. Union of India*[18] (2018), Common Cause which is an NGO filed a PIL regarding seeking recognition of right to die with dignity as a part of Article 21 of the Indian Constitution and pleaded the court to allow to execute Living wills or Advanced medical directives in order to refuse life support system in case of terminally illness or when a person is in Permanent Vegetative State (P.V.S). This judgement was declared by the Constitutional bench of the Supreme Court, and the Court held the constitutional validity of the Right to life with dignity along with the Right to die with dignity under Article 21 of the Indian Constitution and gave legal sanction to living wills, as well as brought Passive Euthanasia into the legal domain alongside granting safeguards to these rules.

During this time, many law commission reports also came up to introduce legality for terminally ill patients and bring passive euthanasia into the main field of the Indian Legislature. *196th Report of the law commission*[19] title as medical treatment to Terminally Ill Patients (Protection of Patients and Medical Practitioners) came up in 2006 under the chairmanship of M. Jagannadha Rao clarified the terms related to euthanasia and drew a distinction between "Mercy killing" and "withdrawal of life support system". It dealt with withholding life support systems, which is being treated as lawful in many countries, and concluded that a terminally ill patient's decision to discontinue medical treatment does not attract criminal liability and its withdrawal is permissible for the best interests of the patients. It also gave emphasis to legislate this into Entry 26 of List III of the 7th Schedule of the Indian Constitution. The provision of the 196th Report was carried forward and was further drawn into the *241st Report of the Law Commission*[20] titled "Passive Euthanasia- A Relook" under the chairmanship of P.V Reddi. This report came as an observational ground of the Aruna Shanbaug case and requested the commission to reconsider its legislation on Euthanasia as mentioned under the 196th report of the Law Commission of India and supported Passive euthanasia on humanitarian grounds and protects doctors acting in the patient's best interest.

III. CONCLUSION

The journey of the right to die with dignity in India reflects a gradual but consistent evolution of constitutional morality, which is shaped almost through judicial interpretation rather than

[18] ibid
[19] Law Comm'n of India, Rep. No. 196, Medical Treatment to Terminally Ill Patients (Protection of Patients and Medical Practitioners) (2006).
[20] Law Comm'n of India, Rep. No. 241, Passive Euthanasia – A Relook (2012).

legislative orders. The judiciary, through its various cases like *Common Cause v. Union of India, Aruna Shanbaug v. Union of India* and law commission reports like 196th and 241st, has progressively expanded and crystallised its idea on Article 21 of the Indian Constitution and made its ambit broad. What emerges from these lines of cases is the willingness of the judiciary to adopt legal doctrine to medical reality, even though the legislature around these cases remains largely absent. The Harish Rana v. Union of India judgment marks a landmark decision by recognising Clinically Assisted Nutrition and Hydration (CANH) as a form of life support system whose withdrawal falls under the ambit of Passive Euthanasia. Supreme court under this case, closes the gap that was critically opened in the common cause and the Aruna Shanbaug case, thus increasing the scope and action of Passive Euthanasia in various cases. Harish Rana case, therefore, is not simply a judicial footnote but a call to action. It underscores an urgent need for Parliament to enact a comprehensive law on end-of-life care and passive euthanasia, and thus a legalised action should exist in the legislature and a right realised in courtrooms, case by case, rather than one guaranteed uniformity to every citizen. True respect for personal autonomy and human dignity demands that this right be secured not as a judicial concession but as a legal entitlement.