# IPC Section 497

Section 497 of the Indian Penal Code, which dealt with adultery, has been \*\*struck down by the Supreme Court of India in the case of \_Joseph Shine v. Union of India\_ (2018)\*\*. Therefore, adultery is no longer a criminal offence in India. However, a discussion of the now defunct Section 497 remains relevant for historical and legal understanding. This essay will analyze the former Section 497, exploring its provisions, judicial interpretations leading up to its demise, the rationale behind its striking down, and the current legal landscape regarding adultery in India.  
  
\*\*The Text of the Former Section 497:\*\*  
  
The text of the now defunct Section 497 read as follows:  
  
"Whoever has sexual intercourse with a person who is and whom he knows or has reason to believe to be the wife of another man, without the consent or connivance of that man, such sexual intercourse not amounting to the offence of rape, is guilty of the offence of adultery, and shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both. In such case the wife shall not be punishable as an abettor."  
  
\*\*Key Elements of the Former Offence:\*\*  
  
The now defunct Section 497 contained several key elements that are crucial to understanding its complexities and the reasons for its eventual demise:  
  
1. \*\*Sexual Intercourse with a Married Woman:\*\* The offence pertained specifically to sexual intercourse with a woman who was married to another man. It did not apply to sexual intercourse with an unmarried woman or a married man.  
  
2. \*\*Knowledge of the Woman's Marital Status:\*\* The man engaging in sexual intercourse had to know or have reason to believe that the woman was married to someone else. This element of knowledge was essential to establish guilt.  
  
3. \*\*Lack of Consent or Connivance of the Husband:\*\* The sexual intercourse must have occurred without the consent or connivance of the woman's husband. If the husband consented or connived at the relationship, the offence was not committed. This provision placed the husband in a position of control over his wife's sexuality.  
  
4. \*\*Exclusion of Rape:\*\* The section explicitly stated that the sexual intercourse should not amount to the offence of rape. This meant that if the intercourse was non-consensual, the offence would be rape, not adultery.  
  
5. \*\*Non-Punishability of the Wife:\*\* A highly controversial aspect of Section 497 was that it did not penalize the woman involved in the adulterous relationship. She was not considered an offender or even an abettor. This provision was criticized for its patriarchal underpinnings, treating women as property of their husbands.  
  
\*\*Judicial Interpretations Leading up to \_Joseph Shine\_:\*\*  
  
Before its eventual striking down, Section 497 faced several legal challenges and interpretations:  
  
\* \*\*\_Yusuf Abdul Aziz v. State of Bombay\_ (1954):\*\* In this case, the Supreme Court upheld the constitutionality of Section 497, stating that it did not violate Articles 14 and 15 of the Constitution (guaranteeing equality and prohibiting discrimination). The court argued that the exception for women was based on intelligible differentia and had a rational nexus to the objective of protecting the sanctity of marriage.  
  
\* \*\*\_Sowmithri Vishnu v. Union of India\_ (1985):\*\* In this case, a challenge to Section 497 was dismissed by the Supreme Court, reiterating its earlier stance in the \_Yusuf Abdul Aziz\_ case.  
  
\* \*\*\_V. Revathi v. Union of India\_ (1988):\*\* This case also upheld the constitutionality of Section 497.  
  
\*\*The \_Joseph Shine\_ Case and the Demise of Section 497:\*\*  
  
The landmark case of \_Joseph Shine v. Union of India\_ (2018) finally led to the striking down of Section 497. The Supreme Court declared the section unconstitutional on several grounds:  
  
1. \*\*Violation of Article 14 (Equality):\*\* The court held that Section 497 discriminated against men by only holding them liable for adultery. It also discriminated against women by treating them as property of their husbands, denying them agency and autonomy.  
  
2. \*\*Violation of Article 15 (Prohibition of Discrimination):\*\* The court found that the section discriminated against women based on gender, reinforcing patriarchal stereotypes.  
  
3. \*\*Violation of Article 21 (Right to Life and Personal Liberty):\*\* The court recognized that Section 497 infringed upon the right to privacy and dignity of individuals, particularly women. It interfered with their right to make choices regarding their sexual relationships.  
  
4. \*\*Arbitrary and Discriminatory:\*\* The court deemed the section arbitrary and discriminatory, failing the test of reasonable classification under Article 14.  
  
\*\*The Current Legal Landscape:\*\*  
  
After the \_Joseph Shine\_ judgment, adultery is no longer a criminal offence in India. However, it can still be a ground for divorce in civil proceedings. The impact of the judgment on other related provisions, such as Section 198(2) of the CrPC (which restricted the right to file a complaint for adultery to the husband), is still being debated and interpreted by the courts.  
  
  
\*\*Conclusion:\*\*  
  
The striking down of Section 497 marked a significant step towards gender equality and the recognition of individual autonomy in matters of marriage and relationships. While adultery remains a sensitive issue with social and emotional implications, it is no longer subject to criminal sanctions. The \_Joseph Shine\_ judgment emphasizes the importance of treating women as equal partners in marriage and recognizing their right to make choices about their lives and relationships. The legal landscape continues to evolve as courts grapple with the implications of this landmark decision on related laws and social practices.