

Navtej Singh Johar v. Union of India

Supreme Court of India · (2018) 10 SCC 1 · 2018-09-06

Bench

5-Judge Constitution Bench

Chief Justice Dipak Misra, R.F. Nariman, A.M. Khanwilkar, D.Y. Chandrachud, Indu Malhotra

Facts

Constitutional challenge to Section 377 IPC to the extent it criminalised consensual same-sex relations between adults.

Issues

Whether Section 377 IPC violates Articles 14, 15, 19 and 21 of the Constitution.

Arguments

Petitioners argued that Section 377 offended dignity, privacy and equality; the Union largely left the matter to the Court's wisdom.

Court Observations

The Court held that sexual orientation is an intrinsic facet of privacy, dignity and autonomy.

Ratio Decidendi

Section 377 IPC, to the extent it criminalises consensual sex between adults, is unconstitutional.

Decision

Suresh Kumar Koushal overruled; Section 377 read down.

Future Legal Impact

Historic recognition of LGBTQ+ dignity and equal citizenship.

Practical Takeaway

Majoritarian morality cannot override constitutional morality.

Five-minute Summary

After years of litigation, the Supreme Court in Navtej Johar held that Section 377 IPC, to the extent it criminalised consensual sexual acts between adults, was unconstitutional. Building on Puttaswamy, the Court found that sexual orientation is inherent to personality, dignity and privacy. The judgment overruled Suresh Kumar Koushal and expanded the horizon of Article 14 (equality), Article 15 (non-discrimination), Article 19 (expression) and Article 21 (life and personal liberty). It is a landmark in LGBTQ+ rights and constitutional morality jurisprudence.

Articles Invoked

- Article 14
- Article 15
- Article 19
- Article 21

Sections Invoked

- Section 377 IPC

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