

## **Bibliography details**

**Name of the Serial/Publication:** Veritas

**Volume No.:** 2

**Issue No.:** 1

**Month & Year of publication:** August 2022

**Page numbers:** Literature review (121-124)

**Title of Article:** Prostitution is a 'profession': recommendations and directions

by the supreme court

### **CONTRIBUTOR (s)**

1. Ms. Swetha Ann Mathew

# PROSTITUTION IS A “PROFESSION”: RECOMMENDATIONS AND DIRECTIONS BY THE SUPREME COURT

Ms. Swetha Ann Mathew



Prostitution, the oldest profession in the world, was never an unfamiliar concept to the Indians. Questions regarding dignity, poverty, rights, diseases, and unemployment have always been prevalent in the area. It's been more than a decade since the first time the apex court set out to improve the lives of sex workers after the case of *Budhadev Karmaskar v State of West Bengal*, 2011.

“Sex workers are entitled to equal protection of the law. Criminal law must apply equally in all cases on the basis of age and consent. When it is clear that the sex worker is an adult and is participating with consent, the police must refrain from interfering or taking any criminal action. It

need not be gainsaid that notwithstanding the profession, every individual in this country has the right to a dignified life under Article 21 of the Constitution,” quoted the three-bench judge consisting of L Nageswara Rao, BR Gavai, and AS Bopanna. Hence on the 19th of May, 2022 the Supreme court recognised sex work as a “profession” and issued commendable guidelines to give these sex workers equal protection under the law.

So, what is this profusion of processes ordered by the supreme court to uplift these women?



<https://www.nbcnews.com/think/opinion/end-sex-trafficking-stop-arresting-sex-workers-ncna869156>

- Firstly, the supreme court suggested that; A sex worker, who is a victim of sexual assault should be treated the way any sexual assault victim is treated, in accordance with Section 357C of CrPC (Criminal Procedure Code).
- The court also suggested that children of sex workers should not be forcibly separated from their mothers merely on the basis that she’s engaged in the sex trade. A test could be conducted to prove the parentage of the minor before making stigmatised assumptions.

- Since “voluntary sex work is not illegal [ Immoral Traffic (Prevention) Act,1956] and only running the brothel is unlawful”, sex workers should not be arrested, penalised, harassed, or victimised during police raids on a brothel.
- The fourth suggestion pertained to involve sex workers or their representatives while formulating policies for them. The central and state governments have to ensure the involvement of these workers in the decision-making panel.
- Furthermore, it also suggested employing the Legal Services Authority to conduct workshops to educate the sex workers about their rights, obligations to the police, and their access to the judicial system.
- The directions endorsed by the court to the law enforcement agencies require them to be sensitised to the right of sex workers.
- The police should not verbally or physically abuse sex workers. The basic protection of human decency and dignity will extend to sex workers and their children. They will not be deprived of their right to live a dignified life.
- Also, measures that a sex worker employs for their health and safety must neither be construed as an offence or as evidence of commission of that offence.
- Another direction was aimed at the Press Council of India stating that “utmost care should be taken to not reveal the identities of sex workers, during arrest, raid and rescue operations, whether as victims or accused and not publish or telecast any photo that would result in disclosure of such identities”, failing at which will

be punishable under Section 354C of IPC (Indian Penal Code).

The apex court also added that the orders so passed [under article 142 of the constitution] would hold the field until the time the Union Government comes up with a legislation. The union govt. is expected to give its response to these recommendations at the next hearing, dated 27th of July 2022.

This decision by the Supreme Court is truly historic indeed. Even though the aspect of 'legal sex work' has been in ambiguity, examples of countries like Germany, Netherlands, France, Greece that have legalised the profession gives us hope that one day, India too will have better living conditions for sex workers. Implementing and enforcing the laws will help us get past the brunt stigma and discrimination long cemented with the profession of prostitution.

#### REFERENCES:

1. Sinha, A.N., [n.d].The problem of prostitution an Indian prespective.Pune,India:legalserviceindia.com, <https://www.legalserviceindia.com>
2. Image1 by Nicole Figueroa, <https://medium.com/@nfigueroa114>
3. Jain, A., [2022]. Supreme Court order on sex work historic, but execution will be the real hurdle. Mumbai, India:The Print. <https://theprint.in>
4. Mandhani, A., [2022]. Sex work not illegal? Should sex workers be arrested?' 4 questions SC has asked Modi govt. Mumbai, India:The Print. <https://theprint.in>
5. Image2 by The Hindu, <https://www.thehindu.com>