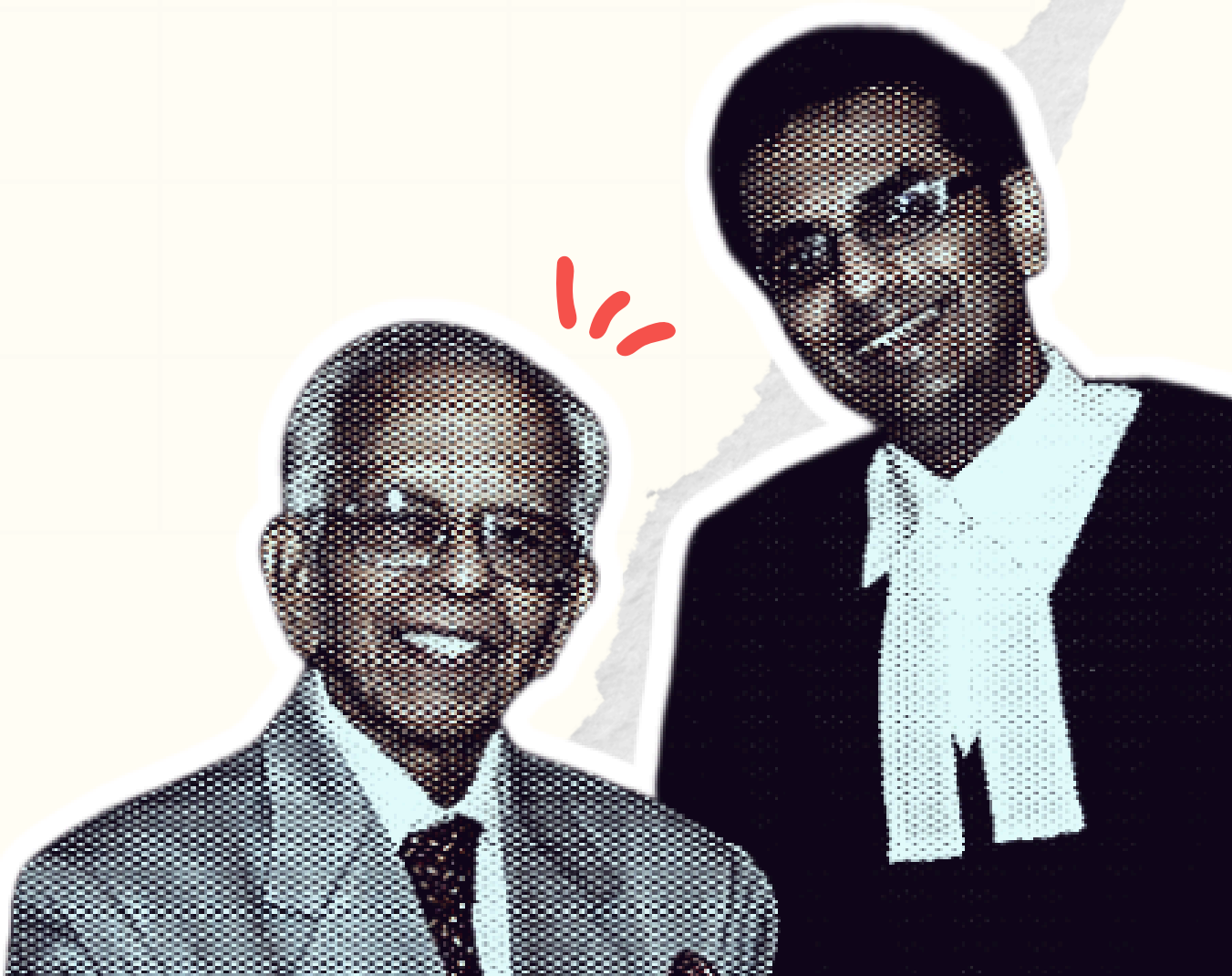




# Redefining Justice: When CJI Dr. D.Y. Chandrachud **Overruled** **his Father's Decisions**

**SWIPE**



Chief Justice Dr. D.Y. Chandrachud has made significant contributions to the legal field, delivering numerous landmark verdicts that resonate deeply within society. Whatever he pens down in his judgement leaves a huge impact on society thereby evoking interests of many in his opinions.



Following in the footsteps of his father, Yeshwant Vishnu Chandrachud, who served as Chief Justice of India from 1978 to 1985, they became the first father-son duo to hold this esteemed position. Renowned for his progressive outlook and empathy, CJI Dr. D.Y. Chandrachud has showcased his commitment to justice through his independent and forward-thinking approach and even overruled two rulings passed by his father.

**Right to privacy**: Privacy, in its simplest sense, allows each human being to be left alone in a core which is inviolable. The overarching presence of state and non-state entities regulates aspects of social existence which bear upon the freedom of the individual. In an age where information technology governs virtually every aspect of our lives, the task before the Supreme Court in the present case was to impart constitutional meaning to individual liberty in an interconnected world.



**Adultery**: Law and society are intrinsically connected, and oppressive social values often find expression in legal structures. The Court in this case examined Section 497 of the Indian Penal Code, 1860 that makes adultery a punishable offence. The offence applied only to the man committing adultery. A woman committing adultery is not considered to be an "abettor" to the offence. The power to prosecute for adultery rests only with the husband of the woman.

# Following are the details of the aforesaid mentioned judgements:



## Additional District Magistrate, Jabalpur vs. Shivakant Shukla (MANU/SC/0062/1976; 1976 INSC 129)

**Bench:** CJ H.R. Khanna, Justices A.N. Ray, M. Hameedullah Beg, P.N. Bhagwati and Y.V. Chandrachud

**Issue:** Whether an order issued by the President Under Article 359(1) of the Constitution suspends the right of every person to move any Court for the enforcement of the right to personal liberty under Article 21 upon being detained under a law providing for preventive detention?

**Observation:** The right to personal liberty has no hallmark and therefore when the right is put in action it is impossible to identify whether the right is one given by the Constitution or is one which existed in the pre-Constitution era. It therefore does not make any difference whether any right to personal liberty was in existence prior to the enactment of the Constitution, either by way of a natural right, statutory right, common law right or a right available under the law of torts. Whatever may be the source of the right and whatever may be its jurisdiction, the right in essence and substance is the right to personal liberty. That right having been included in Part III, its enforcement will stand suspended if it is mentioned in the Presidential Order issued Under Article 359(1).

**NEXT** 

# Overruled by

Justice K.S. Puttaswamy and Ors. vs. Union of India (UOI) and Ors. (MANU/SC/1044/2017; 2017 INSC 801)



**Bench:** CJI Jasti Chelameswar, Justices J.S. Khehar, S.A. Bobde, R.K. Agrawal, Rohinton Fali Nariman, Abhay Manohar Sapre. Dr. D.Y. Chandrachud, Sanjay Kishan Kaul and S. Abdul Nazeer

**Observation:** The judgments rendered by all the four judges constituting the majority in ADM Jabalpur are seriously flawed. Life and personal liberty are inalienable to human existence. These rights are, as recognised in Kesavananda Bharati, primordial rights. They constitute rights under natural law. The right to life being inalienable to each individual, it existed prior to the Constitution and continued in force Under Article 372 of the Constitution. Therefore, **ADM Jabalpur must be and is accordingly overruled.**



## Sowmithri Vishnu Vs. Union of India (UOI) and Ors. (MANU/SC/0199/1985; 1985 INSC 141)

**Bench:** CJ R.S. Pathak, Justices Y.V. Chandrachud and A.N. Sen, JJ

**Issue:** Whether Section 497 (adultery) of the Indian Penal Code 1860 (the act) is constitutionally valid?

**Observation:** Adulter' under the civil law has a wider connotation than under the Penal Code. If we were to accept the argument of the petitioner, Section 497 of the Act will be obliterated from the statute book and adulterous relations will have a more free play than now. For then, it will be impossible to convict anyone of adultery at all. It is better, from the point of view of the interests of society, that at least a limited class of adulterous relationship is punishable by law. Stability of marriages is not an ideal to be scorned.

# Overruled by

## Joseph Shine vs. Union of India (UOI) (MANU/SC/1074/2018; 2018 INSC 898)



**Bench:** CJI A.M. Khanwilkar, Justices Dipak Misra, Indu Malhotra, Rohinton Fali Nariman and Dr. D.Y. Chandrachud

**Observation:** The decision in *Sowmithri Vishnu* dealt with the constitutional challenge by approaching the discourse on the denial of equality in formal, and rather narrow terms. The inarticulate major premise of the judgment is that prosecution for adultery is an effort to protect the stability of marriages and if the legislature has sought to prosecute only a limited class of 'adulterous relationships', its choice could not be questioned. '*Sowmithri Vishnu*' fails to deal with the substantive aspects of constitutional jurisprudence which have a bearing on the validity of Section 497 of the act the guarantee of equality as a real protection against arbitrariness, the guarantee of life and personal liberty as an essential recognition of dignity, autonomy and privacy and above all gender equality as a cornerstone of a truly equal society. For these reasons, ***Sowmithri Vishnu* is overruled.**