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Supreme Court judge said it makes no difference if a woman is raped or not. The Supreme Court on Thursday said that “societal conditions” cannot be invoked to decriminalise a woman’s silence on being raped. Delivering the judgment on the review petition filed by lawyer Haroon Yusuf against the judgment in the Indira Jaising gangrape case, a bench of Justices Markandey Katju and R Subhash Reddy observed that societal conditions cannot be invoked to justify the arbitrary imposition of a penalty. The condition, however, cannot be invoked on the ground of privacy of a woman. The judgment was in response to a review petition filed by the central government over the court’s July 9, 2012 verdict. In the case, the court had asked the centre to file a report within two years on social conditions such as gender equality in education, health and economic conditions.

Also Read Supreme Court grants bail to Delhi gangrape accused in 2nd day hearing “The entire argument of the review petition has been nothing but an effort to avoid having to pay penalty for the crime of rape against the victim of the offence,” the bench said. “Societal conditions cannot be invoked to justify the arbitrary imposition of a penalty. The right to privacy is a right to a person’s discretion and cannot be invoked to justify the imposition of any arbitrary penalty,” it added. The court held that the imposition of the penalty was not arbitrary as the Constitution does not guarantee absolute privacy to every citizen. Therefore, it must be held that imposition of a penalty for the crime of rape, if proved, was valid. It observed that the imposition of penalty was to encourage the victim to speak out on the next occasion, on the ground that her silence would act as an additional aggravating circumstance. “There was no extrinsic consideration of gender or societal conditions to militate against the principle of proportionality,” the bench said. The court said that the impugned judgment was well-reasoned and fair, adding that it was not in favour of the review petition, which was not maintainable.

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