

RESILIENCE

LAW TIMES

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LATEST LEGAL NEWS

CJI DY Chandrachud Launches 'Neutral Citation' For High Court And Supreme Court Judgements

To explore the possible ways of use of technology in the legal system a two-day National Conference on Digitization, Paperless Courts and e-Initiative was organised by the Orissa High Court on Saturday at the Odisha Judicial Academy, Cuttack.

The conference was inaugurated by the Chief Justice of India Dr. Justice Dhananjaya Y. Chandrachud, in the presence of Justice Rajesh Bindal, Judge, Supreme Court of India and Dr. Justice S. Muralidhar, Chief Justice of the Orissa High Court.

Implementation of the Action Plan for Phase-III of e-Courts Project of the Supreme Court of India shall be the focal point of the Conference. All the High Courts of the country are taking part in the Conference through their Judges and Judicial Officers. Also, the delegates from the Department of Justice, Government of India and the e-Committee, Supreme Court of India are also attending the Conference.

'Neutral Citation' For Indian Judiciary The 'Neutral Citation for the Indian Judiciary' was inaugurated on the occasion by the CJI. Neutral Citation System is an initiative of CJI Chandrachud, aimed at evolving a mechanism for standardizing case law citations.

The lawyers and Judges currently rely on the law reports and legal websites to access case laws. Different law reports adopt different patterns to identify a case law which often leads to confusion. Neutral Citation System is a uniform and secure methodology for identifying and citing decisions of the orders and judgments of the Supreme Court and High Courts. would have a citation of its own approved by the respective Courts, independent of the Law Reports. The system will make it easier for Courts to publish the orders and judgments in public domain by providing a consistent method of citing judicial decisions which will facilitate easy identification, referencing and retrieval thereof.

Thus, case laws, which were so far accessible only to the subscribers of private law reporters, would now be available to everyone free of cost through Neutral Citations.

Cloud Storage Of Court Records

While addressing the gathering, the CJI said that the judiciary would be moving to cloud storage for storing digitized court records, live-streaming recordings, electronic evidence and establishing paperless courts which will ensure standardization of data security and privacy norms. He said that building trustworthy digital repositories is one of the primary focus areas of Phase III of the e-Court project and this will involve digitization of the entire court records, both legacy records and pending cases.

In Phase III, he said, it is proposed to digitize 3108 crore pages as this is necessary in light of the physical storage constraints that are being faced across the country. He also emphasized on simultaneous shifting to e-filing along with digitization and ensuring that further physical output is not created which is not already digitized, and for this, a mechanism to preserve born-digital data has to be built that will be received through e-filing and through ICJS which will have FIRs and charge sheets.

Visit Of Delegates To RRDC & Museum Of Justice

Record Room Digitization Centre (RRDC) of the High Court of Orissa, which has been termed by the CJI as a role model for the other High Courts in the field of digitization, was a talking point during the Conference. to visit and study the process undertaken in RRDC. The visiting Judges and Judicial Officers from across the country were also fascinated to see how the centuries old judicial documents are being preserved in the Centre for Judicial Archives and those are being showcased in the Museum of Justice.

Article 299 | No Immunity From Statute Merely Because Contract Is Entered In President's Name : Supreme Court

The Supreme Court, while adjudicating an application for appointment of arbitrator, has held that a contract entered into in the name of the President of India, does not create an immunity against the application of any statutory prescription imposing conditions on parties to an agreement, when the Government chooses to enter into a contract. "We are unable to trace any immunity arising out of Article 299, to support the contention that for contracts expressed to be made by the President of India, the ineligibility of appointment as an arbitrator as contemplated under Section 12(5) of the Act, read with Schedule VII, will be inapplicable", the Bench observed.

The Bench comprising of the Chief Justice Dr. Dhananjaya Y. Chandrachud, Justice PS Narasimha and Justice J. B. Pardiwala, while adjudicating an appeal *M/s Glock Asia-Pacific Ltd. v Union of India*, observed that the Union of India is a party to the contract in respect of which arbitration is being invoked. Therefore, the Arbitrator appointed by Union, who is an employee of the Union, is ineligible to be appointed as the Arbitrator as per Para 1 of Schedule VII read with Section 12(5) of the Arbitration and Conciliation Act, 1996.

BACKGROUND FACTS In 2011, the Ministry of Home Affairs, Government of India ("Ministry") floated a tender for the purchase of Glock pistols. The Conditions of Tender contained an Arbitration clause as per which the Secretary of Ministry of Home Affairs was to appoint an employee of the Ministry of Law and Justice (Government of India) as sole arbitrator.

The Applicant, being a foreign company, filed an application under Section 11(6) of the Arbitration and Conciliation Act, 1996 ("Arbitration Act") before the Supreme Court. The Section 12(5) of the Arbitration Act enumerates the grounds of challenge for appointment of an arbitrator. If the arbitrator is an employee, consultant, advisor or has any other past or present business relationship with a party, then he/she is ineligible to be appointed as an Arbitrator.

The Applicant placed reliance on the judgment in *Perkins Eastman Architects DPC and Another v. HSCC (India) Ltd.*, (2020) 20 SCC 760, wherein it was held that any person having an interest in the outcome of the dispute would be ineligible to be an arbitrator. It was contended that if Union of India being a party to the Contract, appoints its own employee as the Sole Arbitrator, then it would violate Section 12(5) of the Arbitration Act.

SUPREME COURT VERDICT Contract entered into in the name of the President of India, does not create an immunity against application of any statutory prescription

The Article 299 of the Constitution of India provides that all contracts made in exercise of the executive power of the Union shall be expressed to be made in the name of the President. While placing reliance on the judgment in *Chatturbhuj Vithaldas Jasani v Moreshwar Parashram & Ors.*, (1954) SCR 817, the Bench opined that contract, where the Government is a party, must be formed by its agents in conformity with form given by Article 299(1) of the Constitution. Otherwise, such contract cannot be enforced at the instance of any contracting party.

The Bench observed as under: "It must be emphasized that Article 299 only lays down the formality that is necessary to bind the government with contractual liability. It is important to note that Article 299 does not lay down the substantial law relating to the contractual liability of the Government, which is to be found in the general laws of the land. It is for this reason that, even though a contract may be formally valid under Article 299, it may nevertheless fail to bind the Government if it is void or unenforceable under the general provisions of law."

On the issue of whether a contract entered into in the name of President would entail any immunity against the application of statutory prescription, the Bench held as under: "Having considered the purpose and object of Article 299, we are of the clear opinion that a contract entered into in the name of the President of India, the ineligibility of appointment as an arbitrator as contemplated under Section 12(5) of the Act, read with Schedule VII, will be inapplicable."

The Bench rejected the contention that the contracts entered into by the Union of India in the name of the President of India are immune from provisions that protect against conflict of interest of a party to a contract, under Section 12(5) of the Act.

Arbitrator proposed by Union falls under ineligible category of Schedule VII, read with Section 12(5) of the

RESILIENCE LAW ACADEMY

Arbitration Act

The Bench held that the Arbitrator appointed by Union, who is an employee of the Union, is ineligible to be appointed as the Arbitrator as per Para 1 of Schedule VII read with Section 12(5) of the Arbitration Act.

"In conclusion, the arbitration clause which authorises the Secretary, Ministry of Home Affairs, whose relationship with Union of India is that of an employee, to nominate an officer of the Ministry of Law and Justice to act as a Sole Arbitrator, clearly falls within the expressly ineligible category provided in Paragraph 1 of Schedule VII, read with Section 12(5) of the Act. As the grounds of challenge to the appointment of an arbitrator under Section 12(5) of the Act operate notwithstanding any prior agreement to the contrary, we cannot give effect to the appointment of an officer of the Ministry of Law and Justice as an arbitrator."

The Bench allowed the application under Section 11(6) of the Arbitration Act, 1996 and has appointed Justice Indu Malhotra (Retd.), former judge of the Supreme Court, as the Sole Arbitrator to adjudicate upon the disputes arising from the Conditions of Tender.

Increase In Salary Of High Court Judges Must Reflect In Same Proportion To District Judges : Supreme Court

The Supreme Court, in its judgement accepting various recommendations of the Second National Judicial Pay Commission (SNJPC) on pay, pension, gratuity, age of retirement etc. of judicial officers, remarked that the functions of District judges were essentially the same as High Court judges. Hence, the increase in the salary of the High Court judges should reflect in the pay scale of district judges in the same proportion.

The judgement also stated that judges were not employees of the State but holders of public office who wielded sovereign judicial power. Thus, judges were only comparable to members of the legislature and ministers in the executive and their pay could not be equated to executive staff. The court also provided a timeline for the Center and the States to pay retired judicial officers pension as per the enhanced pay scale.

Highlighting the importance of the District Judiciary, the Supreme Court also stated–

"No longer should this Court refer to the District Judiciary as 'subordinate judiciary. Not only is this a misnomer because the District Judge is not per se subordinate to any other person in the exercise of her jurisdiction but also is disrespectful to the constitutional position of a District Judge were essentially the same as that of a High Court judge. The judgment quotes the observations made in its earlier order passed in April 2021 which dismissed review petitions against the directions for enhanced pension scale- "all Judges across the hierarchy of courts discharge the same essential function of adjudicating disputes impartially and independently"

Thus, given that in the hierarchy of the unified judicial system a Judge of the High Court is placed above a District Judge, as per the judgement, it was only fair that a District Judge could not have more pay more than a High Court judge. However, it adds, that any increase in the salary of the judges of the High Court must reflect in the same proportion to the judges in the District Judiciary.

The judgement also highlights that –

"It must be remembered the judges are not employees of the State but are holders of public office who wield sovereign judicial power. In that sense, they are only comparable to members of the legislature and ministers in the executive."

Accordingly, it cannot be argued that the emoluments of judicial officers must be at par with the staff of the legislative and executive wing. Parity cannot be claimed between staff of the legislative wing and executive wing with officers of the judicial wing. Thus, there cannot be any objection that judicial officers receive pay which is not at par with executive staff. It adds–

"This distinction is also important because judicial independence from the executive and the legislature requires the judiciary to have a say in matters of their finances." The same is because if the Executive got to decide the pay of the judiciary, the independence of the judiciary may suffer. "Without impartial and independent judges in

the District Judiciary, Justice, a preambular goal, would remain illusory. The District Judiciary is, in most cases, also the Court which is most accessible to the litigant," states the judgement.

Delhi High Court Organises Awareness Workshop On Online Child Sexual Abuse, Launches 'Cyber Awareness Interactive Videos'

The Delhi High Court on Thursday conducted an awareness workshop on "online child sexual exploitation and abuse" and launched various "cyber awareness interactive videos" for children, in collaboration with the Delhi police.

The Chief Guest at the event was Supreme Court judge, Justice PS Narasimha. Chief Justice Satish Chandra Sharma, other judges of the Delhi High Court and Commissioner of Delhi Police Sanjay Arora were also present.

Justice Mukta Gupta, Justice Yogesh Khanna, Justice Swarana Kanta Sharma, Justice Gaurang Kanth and Justice Saurabh Banerjee are the members of the Committee to regulate and monitor progress of guidelines under the POCSO Act. Justice Gupta heads the Committee. Delivering the welcome address, Justice Mukta Gupta said that the workshop and Delhi High Court's initiative of launching the interactive videos are founded on the idea of protecting the children from "anything that threatens to take away their optimism and innocence."

"The advent of the Internet has revolutionized the way people perceive, think and act. The unimaginable has become the new normal.

The impossible has become the routine. This however, is not without risks. Over the last few years, the COVID-19 pandemic catalyzed the digitization of professional social and personal interaction, including communication for education all over the world at an unprecedented scale, with physical schools having resumed India as a society is left with a strong realization that the online presence of children need for education or socialization will only increase with time it becomes more imperative tools are developed to safeguard computers on the internet," she said. Justice Mukta added that the idea behind launching the interactive videos is to prevent cyber bullying, online threatening, cyber sexting and cyber stalking. "These videos show how in the normal course of events, children fall prey to the cyber crimes," the judge said.

Delivering his introductory address, Delhi Police Commissioner Sanjay Arora said that the most important tool to prevent crime, especially crime against vulnerable sections like children, is awareness.

"The reason behind the strength of awareness as the defender of crime is because children as compared to most of us adults are both sensitive and receptive... I'll also like to mention that the Delhi Police will be working hard to enlarge the scope, the volume and, based on the feedback, the quality of these awareness videos to make sure the message reaches as many children in Delhi. I'd like to wish everyone a very safe, enjoyable and meaningful life in the cyber world," Arora said. Chief Justice Sharma and Justice Siddharth Mridul also delivered keynote and special addresses. The vote of thanks was delivered by Justice Saurabh Banerjee. "It's only your parents who are your well wishers in this cruel world. Don't trust anyone till you're grown up. Even when you grow up, parents are your best friends. Please trust them and listen to what they are telling you. It's a cruel world," Chief Justice Sharma said.

In his presidential address, Supreme Court judge, Justice PS Narasimha emphasized that there has been a significant shift in the way the judiciary has been approaching things since last couple of years and that the courts are now taking an "extra step" to implement the laws after they are enacted. "I must congratulate all of you of the Delhi High Court to be the precursor in that. We are the biggest stakeholders and we see how crime is committed and case after case we see it's not being implemented. The laws are clearly laid down and when we take an extra step and seek to implement the laws, I think the purpose and object of enactment will be accomplished. In this proactive step you move out in the corridors of the court and seek to implement the laws, I think the purpose and object of enactment will be accomplished. In this proactive step you move out in the corridors of the court and seek to implement it and for implementation, you need the help and assistance of others," the judge said.

CURRENT AFFAIR

What is Article 239AA?

Article 239AA of the Constitution holds significant importance in defining the special status and governance structure of Delhi. The recent SC ruling that interpreted Article 239AA was nullified with the passing of an ordinance that sought to establish ..

Article 142 of the Indian Constitution

Under Article 142 of the Indian Constitution, the Supreme Court has the power to pass such a decree or make such an order as is necessary for doing complete justice in any cause or matter. This article allows the Supreme ..

Notification to Tweak PMLA

The Indian government recently widened the scope of the Prevention of Money Laundering Act (PMLA), 2002, to include transactions facilitated by chartered accountants, company secretaries, and cost and works accountants. This move is part of the government's efforts to tackle ..

G20 High-Level Principles on Hydrogen

The global shift towards clean and sustainable energy sources is gaining momentum as countries strive to reduce greenhouse gas emissions and combat climate change. In this context, India has proposed a discussion on global standards for 'green, clean, and low ..

Ireland Mandates Warning Labels on Alcoholic Products

Ireland is set to become the first country to mandate comprehensive health warning labels on alcoholic beverages. The new rules, which will come into effect in 2026, have sparked both support and protests. ContentsThe Mandate for Health Warning LabelsTriggering ProtestsCountries ..

What is Forum Shopping?

Forum shopping is a legal term that refers to the deliberate choice made by litigants or lawyers to bring their case before a particular judge or court in the hope of obtaining a more favorable outcome. This practice has drawn ..

National Campaign for Updating and Verifying the People's Biodiversity Register (PBR)

The National Campaign for Updating and Verifying the People's Biodiversity Register (PBR) was recently launched in Goa, India. This collaborative effort involves various government entities, including the Union Ministry of Environment, Forests, and Climate Change, the Goa State Biodiversity Board, ..

NPC Guidelines on Admissions and Quota for Disabled People

The National Medical Commission (NMC) is currently developing new guidelines to assess candidates with disabilities in medical courses. These guidelines have been formulated by a 16-member expert panel. However, the recommendations put forward by the panel have garnered mixed reactions. ..

LATEST NOTIFICATION

Conducting Body	Himachal Public Service Commission
Exam Name	Himachal Judicial Services Civil Judge Exam
Number of Vacancies	To be notified
Mode of Application	Online
Application start Date	21st April 2023
Application closing Date	12th May 2023
Age Limit	35 years
Qualification	Degree in Law
Selection Process	Prelims, Mains, and Interview
Mode of Exam	Offline
Official Website	https://hphighcourt.nic.in/
Prelims Date	9th July 2023
Mains Date	To be notified

Rajasthan High Court District Judge Recruitment 2023 Notification

On-line Applications will be invited in the prescribed online format from the eligible Advocates for direct recruitment to the vacant posts in the Cadre of District Judge in accordance with the provisions of Rajasthan Judicial Service Rules, 2010 (As amended from time to time) (hereinafter referred to as 'Rules')

PARTICULARS OF VACANCIES AND RESERVATION heraj:-

Notification No:- No.Estt.(RJS)/35/2023 Dated:- 21.04.2023

Pursuant to Rule 7 of the Rajasthan Judicial Service Rules 2010, vacancies in the District Judge Cadre for the year 2023-24 are hereby notified as under :-

Total Vacancies =	(136+13*) 149
Vacancy for Direct Recruitment	88
Vacancies for promotion by Limited Competitive Examination	04
Vacancy for Regular promotion	44

Note:- *13 future vacancies are not assigned to any category for the present. However, this will be assigned as per roster to the particular category wherein any vacancy(ies) on account of death, elevation, dismissal etc. will arise as per resolution of Hon'ble Full Court dated 24.05.2012.

AGE:- A candidate for direct recruitment to the service must have attained the age of 35 years and must

LATEST JUDGMENTS

Ramesh Chandra Vaishya VS. State of Uttar Pradesh & Anr. 2023 Latest Caselaw 504 SC

Citation : 2023 Latest Caselaw 504 SC
Judgement Date : *19 May 2023*
Case No : Criminal Appeal No 1617 of 2023

Ramesh Chandra Vaishya VS. State of Uttar Pradesh & Anr.

[Criminal Appeal No. _____/2023 arising out of SLP (CrI) No. 1249/2023]

Dipankar Datta, J.

1. Leave granted.

2. The present appeal, by special leave, questions the judgment and order dated 23rd May, 2022 passed by a learned Single Judge of the High Court of Judicature at Allahabad ("High Court", hereafter) dismissing an application under section 482 of the Code of Criminal Procedure, 1973 ("Cr. PC", hereafter) instituted by the appellant seeking quashing of the charge-sheet as well as the pending criminal proceedings².

3. In a nutshell, the prosecution's case is that on 14th January, 2016, at about 7.00 am, the appellant was engaged in an altercation with the second respondent ("complainant", hereafter) over the issue of drainage of water. It is alleged that during this altercation, the appellant verbally hurled caste related abuses towards the complainant and his family members, and subsequently physically assaulted the complainant causing him multiple injuries.

Consequently, on 20th January, 2016, a First Information Report ("first F.I.R", hereafter) was registered against the appellant under sections 323 and 504, Indian Penal Code, 1860 ("IPC", hereafter) and 3(1)(x), the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 ("SC/ST Act", hereafter).

4. Investigation was conducted by the concerned Circle Officer ("I.O.", hereafter). Upon investigation, which was completed within a day, the I.O. reached the conclusion that there were materials against the appellant to send him up for trial and consequently, a charge-sheet dated 21st January, 2016 under sections 323, 504, IPC and 3(1)(x), SC/ST Act was filed before the concerned court against him. The court took cognizance of the offence on 3rd May, 2016.

5. It is important to emphasize at this juncture that the appellant intended to lodge an F.I.R. arising out of the same incident. According to him, he was badly beaten up by the complainant and his son with canes and lathis on 14th January, 2016, as a result of which he too sustained injuries.

On the same date, when the appellant approached the police station to lodge the F.I.R., it was not registered; instead, the appellant was challaned and kept under detention by the concerned inspector in-charge under sections 151, 107, and 116, Cr. PC. He was subsequently released upon furnishing bail bond.

Owing to the failure of the Police to register the F.I.R., the appellant moved an application under section 156(3), Cr. PC. Pursuant to the order passed by the Magistrate, an F.I.R.

dated 18th February, 2016 ("second F.I.R.", hereafter) was registered for the offences under sections 323, 325, 392, 452, 504, 506, IPC against the complainant (second respondent).

6. It is also noted that the appellant has instituted a suit³ before the civil court seeking permanent injunction against the complainant's continued encroachment upon the appellant's lands. The same is pending consideration before the competent court.

7. Aggrieved by the aforesaid charge-sheet, the appellant invoked the jurisdiction of the High Court on 5th October, 2018 by applying under section 482, Cr. PC. He sought quashing thereof as well as the criminal proceedings against him on the grounds that the said charge sheet discloses no offence and the present prosecution has been instituted with mala fide intention for the purposes of harassment.

8. Having held that a prima facie case for grant of interim relief was set up, the High Court, vide interim order dated 15th November, 2018, directed that no coercive action be taken against the appellant, pending consideration of the application under section 482, Cr. PC.

9. However, upon a contested hearing, the High Court found no material irregularity in the charge-sheet or the procedure followed by the Court below in taking cognizance, and proceeded to dismiss the appellant's application under section 482, Cr. PC vide the impugned judgment and order. The High Court held that, at this stage, it cannot be concluded that a cognizable offence has not been disclosed, as the allegations are factual in nature and would require leading of evidence by the parties.

Relying on the decision of this Court in Mohd. Allauddin Khan vs. The State of Bihar and Ors.⁴, the High Court emphasized that at the stage of discharge and/or while exercising the powers under section 482, Cr. PC, the court has limited jurisdiction and it cannot appreciate the evidence in order to determine whether, prima facie, a case has been made out against the accused. The High Court noted that without evidence, it is not possible to ascertain the veracity of the allegations at this stage; the application for quashing of a charge-sheet or criminal proceedings under section 482 Cr. PC, therefore, cannot sustain.

10. Appearing on behalf of the appellant, Ms. Shukla, learned counsel advanced the following submissions:

a. The first F.I.R., which was registered after a delay of six days, is an afterthought and creates serious doubts over the allegations of the complainant.

b. The charge-sheet was filed on the very next day of registration of the first F.I.R., without conducting proper investigation. The charge-sheet fails to take note of the second F.I.R. registered at the instance of the appellant and the medical report.

c. The complainant, being an influential person in the village, maliciously initiated criminal proceedings against the appellant with an ulterior motive to scuttle the already pending civil dispute in the civil court between the parties.

d. The Police did not act on the appellant's complaint. The second F.I.R. dated 18th February, 2016 was registered only after an order was passed on the appellant's application under section 156(3), Cr. PC by the Magistrate.

e. State of Haryana and Ors. vs. Bhajan Lal and Ors.⁵ was placed in support of the contention that if the contents of the F.I.R., taken on their face value, does not make out any case against the appellant, such an F.I.R. registered with ulterior motive deserves to be quashed.

f. Hitesh Verma vs. The State of Uttarakhand & Anr.⁶ was also placed to support the contention that the High Court ignored the misuse and abuse of the provisions of the SC/ST Act by the complainant; neither the contents of the first F.I.R. nor the charge-sheet discloses

the precise content of abusive language employed by the appellant so as to attract the provisions of section 3(1)(x) of the SC/ST Act.

11. It was, accordingly, prayed that relief prayed for by the appellant be granted.

12. Mr. Prasad, learned Additional Advocate General appearing for the first respondent (State) while seeking dismissal of this appeal contended as follows:

a. The appellant had committed a serious crime as a result of which the complainant had sustained multiple injuries in the resultant altercation.

b. The Police, on the basis of the statement given by the complainant and the investigation that followed, filed the chargesheet dated 21st January, 2016 before the trial court after following due procedure.

c. The High Court, vide the impugned judgment and order, has rightly dismissed the application for quashing presented by the appellant.

d. It is settled law that the jurisdiction under Section 482, Cr. PC should be sparingly exercised with complete circumspection and caution and the High Court was not in error in refusing to exercise jurisdiction.

13. Mr. Shukla, learned counsel appearing for the complainant (second respondent) supported the impugned judgment and order of the High Court. According to him, completion of investigation within a day by the I.O. may seem to be unusual but is not an impossibility.

He also contended that the charge-sheet having been filed, the law must be allowed to take its own course; and, if at all the appellant is aggrieved by framing of charges, he may seek his remedy in accordance with law. No case for interference having been set up by the appellant, Mr. Shukla prayed for dismissal of the appeal.

14. We have heard the parties and perused the judgment and order of the High Court together with the materials on record.

15. Section 3(1)(x) of the SC/ST Act, prior to its amendment notified vide S.O. 152(E) dated 18th January, 2016, read as follows:

"3. Punishments for offences of atrocities. -

(1) Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe, -

(x) intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view;"

16. The first F.I.R., registered at the instance of the complainant, is silent about the place of occurrence and who, being a member of the public, was present when the appellant is alleged to have hurled caste related abuses at the complainant. However, on a reading of the second F.I.R. registered at the behest of the appellant, it appears that the incident took place at the house of the appellant.

17. The first question that calls for an answer is whether it was at a place within public view that the appellant hurled caste related abuses at the complainant with an intent to insult or intimidate with an intent to humiliate him. From the charge-sheet dated 21st January, 2016 filed by the I.O., it appears that the prosecution would seek to rely on the evidence of three witnesses to drive home the charge against the appellant of committing offences under sections 323 and 504, IPC and 3(1)(x), SC/ST Act.

These three witnesses are none other than the complainant, his wife and their son. Neither the first F.I.R. nor the charge-sheet refers to the presence of a fifth individual (a member of

the public) at the place of occurrence (apart from the appellant, the complainant, his wife and their son).

Since the utterances, if any, made by the appellant were not "in any place within public view", the basic ingredient for attracting section 3(1)(x) of the SC/ST Act was missing/absent. We, therefore, hold that at the relevant point of time of the incident (of hurling of caste related abuse at the complainant by the appellant), no member of the public was present.

18. That apart, assuming arguendo that the appellant had hurled caste related abuses at the complainant with a view to insult or humiliate him, the same does not advance the case of the complainant any further to bring it within the ambit of section 3(1)(x) of the SC/ST Act. We have noted from the first F.I.R. as well as the charge- sheet that the same makes no reference to the utterances of the appellant during the course of verbal altercation or to the caste to which the complainant belonged, except for the allegation/observation that caste-related abuses were hurled.

The legislative intent seems to be clear that every insult or intimidation for humiliation to a person would not amount to an offence under section 3(1)(x) of the SC/ST Act unless, of course, such insult or intimidation is targeted at the victim because of he being a member of a particular Scheduled Caste or Tribe.

If one calls another an idiot (bewaqoof) or a fool (murkh) or a thief (chor) in any place within public view, this would obviously constitute an act intended to insult or humiliate by user of abusive or offensive language. Even if the same be directed generally to a person, who happens to be a Scheduled Caste or Tribe, per se, it may not be sufficient to attract section 3(1)(x) unless such words are laced with casteist remarks.

Since section 18 of the SC/ST Act bars invocation of the court's jurisdiction under section 438, Cr.PC and having regard to the overriding effect of the SC/ST Act over other laws, it is desirable that before an accused is subjected to a trial for alleged commission of offence under section 3(1)(x), the utterances made by him in any place within public view are outlined, if not in the F.I.R. (which is not required to be an encyclopaedia of all facts and events), but at least in the charge-sheet (which is prepared based either on statements of witnesses recorded in course of investigation or otherwise) so as to enable the court to ascertain whether the charge sheet makes out a case of an offence under the SC/ST Act having been committed for forming a proper opinion in the conspectus of the situation before it, prior to taking cognisance of the offence.

Even for the limited test that has to be applied in a case of the present nature, the charge-sheet dated 21st January, 2016 does not make out any case of an offence having been committed by the appellant under section 3(1)(x) warranting him to stand a trial.

19. Paragraphs 15 and 16 of the decision in Hitesh Verma (supra) cited by Ms. Shukla can be pressed in aid to support the view that we have taken above.

20. The second question that would engage our attention is, whether the criminal proceedings against the appellant should be allowed to be taken further in view of the appellant facing accusation of offences punishable under sections 323 and 504, IPC.

21. Section 323, IPC prescribes punishment for voluntarily causing hurt. Hurt is defined in section 319, IPC as causing bodily pain, disease or infirmity to any person. The allegation in the first F.I.R. is that the appellant had beaten up the complainant for which he sustained multiple injuries. Although the complainant alleged that such incident was witnessed by many persons and that he sustained injuries on his hand, the charge-sheet does neither refer to any eye-witness other than the complainant's wife and son nor to any medical report.

The nature of hurt suffered by the complainant in the process is neither reflected from the first F.I.R. nor the charge-sheet. On the contrary, the appellant had the injuries suffered by him treated immediately after the incident. In the counter-affidavit filed by the first respondent (State) in the present proceeding, there is no material worthy of consideration in this behalf except a bald statement that the complainant sustained multiple injuries "in his hand and other body parts".

If indeed the complainant's version were to be believed, the I.O. ought to have asked for a medical report to support the same. Completion of investigation within a day in a given case could be appreciated but in the present case it has resulted in more disservice than service to the cause of justice. The situation becomes all the more glaring when in course of this proceeding the parties including the first respondent are unable to apprise us the outcome of the second F.I.R. In any event, we do not find any ring of truth in the prosecution case to allow the proceedings to continue vis-à-vis section 323, IPC.

22. What remains is section 504, IPC. In *Fiona Shrikhande and Anr. vs. State of Maharashtra*, this Court had the occasion to hold that:

"13. Section 504 IPC comprises of the following ingredients viz. (a) intentional insult, (b) the insult must be such as to give provocation to the person insulted, and (c) the accused must intend or know that such provocation would cause another to break the public peace or to commit any other offence. The intentional insult must be of such a degree that should provoke a person to break the public peace or to commit any other offence.

The person who intentionally insults intending or knowing it to be likely that it will give provocation to any other person and such provocation will cause to break the public peace or to commit any other offence, in such a situation, the ingredients of Section 504 are satisfied. One of the essential elements constituting the offence is that there should have been an act or conduct amounting to intentional insult and the mere fact that the accused abused the complainant, as such, is not sufficient by itself to warrant a conviction under Section 504 IPC."

23. Based on the facts and circumstances of the case, we have little hesitation in holding that even though the appellant might have abused the complainant but such abuse by itself and without anything more does not warrant subjecting the appellant to face a trial, particularly in the clear absence of the ingredient of intentional insult of such a degree that it could provoke a person to break public peace or commit any other offence.

24. We record that the High Court misdirected itself in failing to appreciate the challenge to the criminal proceedings including the charge-sheet in the proper perspective and occasioned a grave failure of justice in rejecting such challenge.

25. For the reasons aforesaid, we unhesitatingly hold that it would be an abuse of the process of law to allow continuation of Criminal Case No.376 of 2016. While setting aside the impugned judgment and order of the High Court, we also quash Criminal Case No.376 of 2016.

26. Consequently, this appeal succeeds. Parties shall, however, bear their own costs.

.....J. (S. Ravindra Bhat)

.....J. (Dipankar Datta)

Ravi Mandal Vs. State of Uttarakhand 2023 Latest Caselaw 503 SC

Citation : 2023 Latest Caselaw 503 SC
Judgement Date : *18 May 2023*
Case No : Criminal Appeal No. 511 of 2011

Ravi Mandal Vs. State of Uttarakhand

[Criminal Appeal No. 511 of 2011]

Shabbir Vs. State of Uttarakhand

[Criminal Appeal No. 2345 of 2011]

Manoj Misra, J.

1. These two appeals are against the judgment and order of the High Court of Uttarakhand at Nainital (for short "the High Court"), dated 07.04.2010, dismissing Criminal Appeals Nos.54 and 59 of 2004 filed against the judgment and order of Additional Sessions Judge/Fast Track Court Haldwani, Nainital (for short "the Trial Court") dated 28.01.2004, and, thereby, affirming the conviction and sentence awarded to the appellants detailed below:

(i) life imprisonment under section 302 read with section 34 of the Indian Penal Code, 1860 (for short "IPC") along with one year R.I. under section 201 IPC in Sessions Trial (S.T.) No.93/2002 (State vs. Shabbir Ahmad and Another);

ii) one year R.I. with fine of Rs.500/- under section 25 Arms Act to appellant Shabbir in S.T. No.104 of 2002 (State vs. Shabbir Ahmed); and

(iii) one year R.I. with fine of Rs.500/- under section 4/25 of Arms Act to appellant Ravi Mandal in connected S.T. No.105 of 2002 (State vs. Ravi Mandal).

Introductory Facts:

2. On 01.11.2001, Man Singh (PW-1), father of Chhotu @ Surjeet (the deceased), on finding his son's dead body in a forest, 150 meters west of Government Inter College, lodged a first information report (FIR) at P.S. Lalkuan, Haldwani, district Nainital at about 7.30 hrs, alleging therein that, - on 31.10.2001, at about 2100 Hours, the deceased was with his friends Govind and Ravi Bangali (later identified as Ravi Mandal); Govind, a criminal, had been influencing his son to choose a wrong path; therefore, he suspects that these persons have killed his son and concealed his body in the forest. Thereafter, on 10.11.2001, PW-1 gave a written information to the police stating that it was not Govind but Shabbir who along with Ravi and one Mazhar Khan were with the deceased on that fateful night. In this written information, it was alleged that Babloo (PW-7) had misled him to take the name of Govind.

3. During the course of investigation, the police effected arrest of the two accused, namely, the appellants herein, and disclosed recovery of a 12 bore country made pistol with one live cartridge from Shabbir and a knife from Ravi Mandal, giving rise to two separate cases against each of the two accused under the Arms Act.

4. On completion of investigation three charge sheets were laid giving rise to three sessions trials which were connected with each other and decided by a common judgment, which has been affirmed by the High Court.

Prosecution Evidence:

5. To appreciate the arguments advanced in this case, it would be apposite to notice the testimony of the prosecution witnesses in brief. The prosecution examined 10 witnesses, the gist of their testimony is as under:

(i) PW-1 - Man Singh - Informant (father of the deceased)

He is not an eyewitness of the murder. He, however, proved lodging of the FIR on 01.11.2001 and stated that, - on 31.10.2001 in the evening Babloo (PW-7) came to his residence, told him that the deceased, Ravi Bangali and Govind were asking for food and have sent him to fetch food for them; on that request, PW-1's wife (Urmila Devi- PW-3) cooked food, packed it and gave it to Babloo, who left with the food; next day, he came to know that dead body of his son was lying in the forest; he then visited the place, brought the dead body to Lalkuan Police Station and lodged the report; later, when he came to know that Govind was not with his son, rather it was Shabbir along with others who were there, he gave the second report (Ex. Ka-2) to the police on 10.11.2001.

During cross examination, PW-1 admitted that there were three or four criminal cases against his son (the deceased) wherein, he was on bail. With regard to the sequence of events on the date of lodging the FIR, PW-1 stated that,- a constable with two men came in the morning to inform him that dead body of his son is lying in the forest; on getting the information he went to that place and brought the body to the police station to lodge the FIR whereafter, the body was sealed and sent to Haldwani Hospital for autopsy.

He also stated that papers relating to recovery of tiffin box; collection of blood-stained earth etc. were prepared at the police station and he signed those papers at the police station itself. PW-1 also clarified that the second report (i.e. Ex. Ka-2) was dictated by the Sub-Inspector at the police station and he wrote whatever was told to him. At the fag end of his cross-examination, PW-1 stated that he had informed the Sub-Inspector regarding financial transactions with Govind and also about Govind not refunding the money, which gave rise to enmity.

(ii) PW-2 - Chandan Singh

He deposed that, - (a) he knew Shabbir Ahmad and Ravi Mandal;

(b) they had come to his shop with the deceased at about 1900 Hours on 31.10.2001 and from there they proceeded towards the cinema hall;

(c) later, in the night of 31.10.2001/ 01.11.2001, at about 0030 Hours, he saw the accused-appellants emerging from the forest and walking fast;

(d) at that time, hands of Shabbir were blood-stained and Ravi's clothes were also having blood stains,

(e) seeing PW-2, they got nervous, Shabbir threatened PW-2 by saying that if PW-2 discloses what he has seen to any one, he would meet the same fate as Chhotu (the deceased);

(f) next day morning, PW-2 learnt that dead body of Chhotu has been found in that forest.

To show the reason for his presence there, at that odd hour of the night, PW-2 stated that,- his parents have a separate house at Khatta, where he goes at least once a week; that night, after having dinner, while returning from his parents' house and proceeding towards his own house/shop, at about 0030 Hours, he witnessed the incident. During cross examination, PW-2 stated that, - his shop is run from a room in his house; it remains open from 0500 Hours till 2300 Hours; his house comprises of 3 rooms where he resides with his wife and five sons; the usual time of his dinner is 2100 Hours.

A suggestion was put to PW-2 that mother of Ravi (one of the appellants) is PW-2's neighbour on whose land PW-2 had constructed his shop. This suggestion was denied by PW-2. With regard to the delay in giving information to the police, PW-2 stated that he was petrified by the incident and when the accused were arrested, he could muster courage to make his statement. During cross-examination, PW-2 admitted that he had been arrested under section 60 of the Excise Act and is on bail. He feigned ignorance to a suggestion that his bail bonds were arranged by parents of Chhotu.

(iii) PW-3 - Urmila Devi-Mother of the deceased

She proved that on 31.10.2001, Babloo (PW-7), who use to work at the cinema hall, came to her house to fetch food for the deceased, consequently, food was cooked and supplied by her. During cross examination, she denied being a surety for the bail of Chandan (PW-2). However, she admitted that Chandan used to visit her house.

(iv) PW-4 - Smt. Mithilesh (Wife of Govind)

PW-4 did not depose anything specific about the incident except that Shabbir had enmity with her husband and 8 to 10 days before the murder of Chhotu, Ravi Bangali and Shabbir had called her husband; in consequence, her husband left, but did not return thereafter; later, she received information from the police that her husband has been killed and the culprits caught. During cross examination, she admitted that the police had come to her house 2-3 days after the murder of Chhotu but, at that time, she had not informed the police that Govind and Chhotu had gone with the accused persons. She also admitted that the police made no enquiry from her and she did not lodge any complaint in respect of her husband's murder.

(v) PW-5 - Mahendra Khurana

He stated that, - on 31.10.2001, while he was watching a night show at the cinema hall, he had to rush out to attend to nature's call, then he saw Chhotu (the deceased), Ravi Bangali and Shabbir going towards the forest; 2-3 minutes later, he heard sound of a gunshot and 5-7 minutes later, Ravi Bangali and Shabbir minus Chhotu were noticed running and talking to each other that they have settled their account with Chhotu as he had become a nuisance for them on account of his persistent demand for money.

PW-5 stated that he did not disclose this fact to anyone in the night but in the morning, he came to know that Chhotu has been murdered. During cross examination, he admitted that though toilet facility is available in the cinema hall but, on charge; therefore, he went out to ease himself. He stated that his statement was recorded in the morning, following the night of the incident; and for that purpose, he was called by the constable. On being confronted with his previous statement that he saw Govind, Chhotu, Ravi Bangali and Shabbir going towards the forest, PW-5 stated that he had disclosed the name of all, except Govind. He, however, admitted that he did not disclose to the police the place where he sat that night to ease himself.

(vi) PW-6 - Hanuman Prasad

He stated that, - on 31.10.2001 at about midnight while he was returning from depot no.6, opposite to the cinema hall, he saw three persons, namely, Chhotu, Ravi Bangali and Shabbir talking to each other and going towards the forest; next day in the morning, he came to know that Chhotu has been murdered. He denied having seen Shabbir firing at the deceased.

At this stage, the prosecution declared him hostile and sought his cross examination. During cross examination by the prosecution, he denied that he gave a statement before the police about Shabbir shooting his companion and Ravi holding his leg. During cross examination

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by the defence, he stated that he had not seen the incident and he had also informed the police that he had not seen the incident.

(vii) PW-7 - Babloo

He stated that, - on 31.10.2001, he met Chhotu at the gate of cinema hall; Chhotu asked him to get food for him from his residence; at that time, no one was present with Chhotu. PW-7 stated that he came to the residence of Chhotu, took food and brought it in three boxes but when he reached there with the food, he saw no one, therefore, he kept the food there.

Next day morning, he came to know that Chhotu has been killed. At this stage, the prosecution declared him hostile and sought permission for his cross examination. During cross examination by the prosecution, PW-7 admitted his signature on paper No.3/15 which was marked Ex. Ka-6. He also admitted that he gave a statement to the sub-inspector but denied that he saw Chhotu in the company of Shabbir and Ravi Bangali on 31.10.2001.

During cross examination at the instance of defence, PW-7 stated that he used to sell chana (gram) at the cinema hall; the cinema hall had toilets and no money is charged for use of those toilets. He also stated that during the course of investigation of this case, the police had beaten him and had detained him in the police lock-up for three days.

(viii) PW-8 - Dr. Anil Chandra K Sah (Autopsy surgeon)

He proved the autopsy report and stated that death of the deceased was due to shock and haemorrhage as a result of ante mortem gunshot.

(ix) PW-9 - Sub-Inspector Nanhe Lal (Investigating Officer of the cases under the Arms Act)

He proved the inquest report (Ex. Ka-7A) and autopsy related papers (Ex.K-8 to K-10). He also proved various stages of investigation of case crime No.756/01, under section 25 of Arms Act, and case crime No.757/01, under section 4/25 of Arms Act, as also submission of charge sheet and obtaining of sanction for prosecution under the provisions of the Arms Act. During cross examination, PW-9 stated that on 06.12.2001 he prepared site plan of the place from where the accused were arrested and weapon was recovered. He sought to explain the delay in preparation of the site plan by stating that he was busy with other matters.

(x) PW-10 - SI Pramod Kumar Shah (Investigating Officer of the murder case)

He proved - registration of the FIR; visiting the spot with PW-9; inspection of the spot; preparation of site plan (Ex.Ka-15); lifting of: blood stained soil/plain soil, vide seizure memo Ex. Ka- 4, and one empty 12 bore cartridge from the spot, vide seizure memo Ex.Ka-5 of which PW-1 is one of the witnesses; conducting inquest; recording statement of - complainant Man Singh (PW-1), Babloo (PW-7) and Mahender Khurana (PW-5); preparation of custody memo of the tiffin; recording statement of - Smt. Urmila Devi (PW- 3) on 02.11.2001, Mithilesh (PW-4) on 03.11.2001, Hanuman (PW-6) on 07.11.2001; submission of application by Man Singh on 10.11.2001; and submission of charge sheet (EX.Ka-16). He also produced material exhibits etc.

In addition to the above, he stated that accused Shabbir and Ravi Mandal were absconding, therefore, application to draw proceedings under section 82 of the Code of Criminal Procedure, 1973 (for short "Cr.P.C.") was moved. Thereafter, on 24.11.2001 at 1530 Hours accused Shabbir and Ravi Mandal were arrested with a 12 bore country made pistol and knife respectively.

He proved the arrest memo as Ex. Ka-17. PW-10 stated that on 15.01.2002 the country made pistol, empty cartridge recovered from the spot and live cartridge seized at the time of

arrest were sent to Forensic Science Laboratory (FSL), Agra for examination and its report has been submitted, as per which, EC-1 (empty cartridge found near the dead body) was fired from the pistol which was recovered from Shabbir.

During cross examination, at the instance of accused Shabbir, PW-10 stated that, - in the FIR Shabbir was not named; PW-10 reached the place of occurrence at about 0800 Hours; the dead body was lying at the spot; the statement of Man Singh was recorded at the spot on 01.11.2001; Man Singh had informed him that Chhotu (the deceased) had not been coming home since last 10-12 days before the incident, however, no information regarding Chhotu was given earlier; Mahender Khurana (PW-5) had told that in the night he had seen Govind with Ravi, Chhotu and Shabbir going towards the forest; Man Singh on 01.11.2001 had stated that Govind had borrowed Rs.16,000/- from Chhotu; Man Singh's (PW-1's) statement was recorded thrice; Chandan Singh (PW-2) gave an affidavit on 18.02.2002, prior to that he did not come; Urmila Devi, whose statement was recorded on 02.11.2001 at her residence, did not disclose that PW-2 had seen the accused persons; and Mithilesh's (PW-4's) statement was recorded twice, one on 03.11.2001 and the other on 05.12.2001.

PW-10 also stated that on their arrest Shabbir and Ravi had confessed that before killing Chhotu, they had killed Govind. PW-10 further stated that statement of Mahender Khurana (PW-5) was recorded on 01.11.2001 at his residence; and PW-5 had not disclosed the place where he sat to ease himself that fateful night. With regard to the sequence of events on the day of arrest of the two accused, PW-10 stated that, - on 24.11.2001, he had received information from an informer that at 1600 Hours accused persons were to come to their house; the said information was received at about 1430 Hours; on receipt of the information, PW-10 and his team arrived at the spot in their Jeep, which was hidden in the forest at some distance; after 10-15 minutes, PW-10 saw the accused persons coming and were accordingly arrested.

PW-10 accepted that he did not try to rope in any public witness because the spot where arrest was effected was 200 meters away from the locality. PW-10 also stated that the site plan of the place of arrest and recovery was prepared on 06.12.2001 at his instance. PW-10 denied the suggestions that,- the dead body was brought by the complainant to the police station; the second complaint (Ex.Ka-2) was got written at his instance; and the accused were falsely implicated by preparing false documents while sitting at the police station.

PW-10 admitted that,- the deceased had criminal antecedents and had gone to jail many times; Mahender Khurana (PW-5) had not come to him for getting his statement recorded, rather PW- 10 went to his house to record his statement; Mahender Khurana's statement was recorded four hours after information was provided by Man Singh (PW-1) on 01.11.2011; Mahender Khurana in his statement had told that Govind was also present.

Statement under section 313 of the Criminal Procedure Code, 1973 (Cr.P.C.):-

6. In his statement recorded under section 313 Cr.P.C., Ravi Mandal denied the incriminating circumstances put to him. He also denied recovery of the knife and claimed that nothing incriminating was recovered from his possession. However, he led no evidence in defence.

7. Similarly, Shabbir Ahmad in his statement under section 313 Cr.P.C. denied the incriminating circumstances appearing against him and stated that nothing incriminating was recovered from his possession. However, what is pertinent to note is that the ballistic expert report with regard to the use of the pistol allegedly recovered from Shabbir was not put to him while recording his statement under section 313 Cr.P.C.

Trial Court Findings:-

8. The Trial Court relied on the testimonies of PW- 2 (Chandan Singh) and PW-5 (Mahendra Khurana) to conclude that the deceased was last seen alive in the company of the accused going towards that forest/place from where body of the deceased was recovered; that PW-5 heard noise of gunshot coming from the forest soon after the deceased and the two accused entered that forest and, soon thereafter, saw the accused exiting that place minus the deceased. This, according to the Trial Court, was a clinching circumstance.

The Trial Court also used the testimony of other witnesses including PW-6 to corroborate the testimony of the two main witnesses with regard to the deceased being last seen alive with the two accused around midnight in that area from where, next day morning, dead body of the deceased was recovered. The Trial Court noticed that there was no dispute with regard to the presence of moonlight on that night and there was no challenge to the capacity of the witnesses to identify the accused and the deceased.

The Trial Court also noticed that as per FSL report the empty cartridge recovered from the spot was fired from the same pistol which was recovered from the possession of Shabbir. And since the autopsy report had confirmed that death of the deceased was caused by use of firearm, the Trial Court concluded that it was proved beyond doubt that the accused persons had committed murder of the deceased and to hide the evidence dumped the body of the deceased in the forest. They were thus convicted and sentenced accordingly.

High Court Findings:-

9. The High Court upheld the conviction upon finding the prosecution evidence reliable and corroborative of each other.

10. We have heard Ms. Ankita Gautam for the appellant Ravi Mandal; Mr. Gopal Jha, learned Amicus Curiae, for Shabbir; and Mr. Jatinder Kumar Bhatia for the State of Uttarakhand, and have perused the record.

Submissions on behalf of the appellant Ravi Mandal:-

11. On behalf of Ravi Mandal, it was submitted that insofar as the evidence of the deceased being last seen in the company of the two accused is concerned, neither PW-1 (father of the deceased) nor PW-3 (mother of the deceased) had seen the deceased in the company of the two accused on 31.10.2001. Babloo (PW-7) though disclosed that on 31.10.2001 he met Chhotu (the deceased) but he did not depose about any of the two accused being with him.

Insofar as the testimony of PW-2 (Chandan Singh) is concerned, no reliance is to be placed on it as he is not a witness arrayed in the chargesheet and there is no cogent explanation as to why he did not make a disclosure earlier. Moreover, he is a chance witness whose presence at the spot finds no proper explanation. Similarly, PW-5 too is a chance witness whose explanation for his presence at the spot, at that odd hour, is falsified by statement of PW-7 and PW-10. And insofar as PW-6 is concerned, he has been declared hostile. Thus, there is no reliable evidence of the deceased being last seen alive with the two accused.

12. In addition to the above, it was argued that the testimony regarding recovery of weapons from the accused does not appear convincing as there is no public witness to it; the site plan of the place of arrest and recovery was prepared several days after the alleged recovery which would suggest that there existed no place of recovery and arrest but, as an after thought, to complete the formality, the site plan was prepared.

13. It was also argued that there is material discrepancy in the deposition of witnesses as to whether the FIR was lodged before, or after the dead body was brought to the police station. The statement of PW-1 suggests that he was informed by the police about his son's body being found, whereupon he went to the spot and brought the dead body to the police station

to lodge the FIR; whereas, police witnesses state that they proceeded to the spot after PW-1 had lodged the report and at the spot they carried out inquest proceeding.

It was urged that this discrepancy creates doubt as to whether the prosecution case was developed on guess work at the instance of the police. This doubt gets doubled because the name of Govind appeared in the first written report. And when it was found that Govind had already expired, the name of Govind was substituted with Shabbir. It was argued that from the evidence led, it is clear that the deceased was a person with criminal antecedents and therefore, could have had several enemies.

Hence, according to the defence counsel, it is a case where in the night someone killed the son of PW-1; upon discovering his body, story was developed on the basis of guess work and so were the accused implicated. It was urged that the Trial Court and the High Court did not properly test the prosecution evidence and, therefore, the judgments of the two courts below are liable to be set aside.

Submissions on behalf of the appellant Shabbir:-

14. The learned Amicus Curiae representing Shabbir adopted the submissions made by the learned counsel representing appellant Ravi Mandal and added that Shabbir was not named in the initial report. The statement of the witnesses would suggest that money was lent to Govind. Chhotu (the deceased) was demanding his money back from Govind and therefore, Govind had the motive.

Consequently, on the basis of suspicion, the name of Govind was mentioned but when it was found that Govind is not traceable, or was possibly killed, Shabbir's name was substituted in place of Govind. In such circumstances, the implication of Shabbir is shrouded in suspicion and the prosecution story insofar as it relates to Shabbir, is not acceptable. The learned Amicus Curiae claimed that the alleged recovery of country made pistol is bogus and false which has no public witness to support.

The ballistic report has also been questioned on the ground that there is no explanation as to why the country made pistol was not sent for forensic examination before 15.01.2002, when it was allegedly recovered on 24.11.2001. It was also argued that the ballistic report has not been put to the accused while recording his statement under section 313 Cr.P.C., hence it would have to be eschewed from consideration.

Submissions on behalf of the State:-

15. Per contra, learned counsel for the State submitted that PW-7 proved that the deceased had called for food to the cinema hall; PW-1 and PW-3 have corroborated PW-7 by stating that the food was supplied for three persons including the deceased; and PW-2 and PW-5 have proved that they saw the deceased and the two accused together at around midnight near the place from where dead body of the deceased was recovered next day morning. Therefore, the chain is complete to nail the accused.

It was argued that the defence has not been able to demonstrate that PW-5 and PW-2 were inimical to the accused. Hence, there is no reason for them to lie. Moreover, defence has not questioned the capacity of either PW-2 or PW-5 to recognise the accused and Chhotu. There is also no question put to PW-5 to doubt the presence of moonlight. All the witnesses have stated that it was a full moonlight and there is no challenge to this statement. In such circumstances, the testimony of PW-5 is reliable. Consequently, the Trial Court and the High Court were justified in placing reliance on the same.

Ramesh Chandra Vaishya VS. State of Uttar Pradesh & Anr.
2023 Latest Caselaw 504 SC

Citation : 2023 Latest Caselaw 504 SC
Judgement Date : *19 May 2023*
Case No : Criminal Appeal No 1617 of 2023

Ramesh Chandra Vaishya VS. State of Uttar Pradesh & Anr.

[Criminal Appeal No. _____/2023 arising out of SLP (CrI) No. 1249/2023]

Dipankar Datta, J.

1. Leave granted.

2. The present appeal, by special leave, questions the judgment and order dated 23rd May, 2022 passed by a learned Single Judge of the High Court of Judicature at Allahabad ("High Court", hereafter) dismissing an application under section 482 of the Code of Criminal Procedure, 1973 ("Cr. PC", hereafter) instituted by the appellant seeking quashing of the charge-sheet as well as the pending criminal proceedings.

3. In a nutshell, the prosecution's case is that on 14th January, 2016, at about 7.00 am, the appellant was engaged in an altercation with the second respondent ("complainant", hereafter) over the issue of drainage of water. It is alleged that during this altercation, the appellant verbally hurled caste related abuses towards the complainant and his family members, and subsequently physically assaulted the complainant causing him multiple injuries.

Consequently, on 20th January, 2016, a First Information Report ("first F.I.R", hereafter) was registered against the appellant under sections 323 and 504, Indian Penal Code, 1860 ("IPC", hereafter) and 3(1)(x), the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 ("SC/ST Act", hereafter).

4. Investigation was conducted by the concerned Circle Officer ("I.O.", hereafter). Upon investigation, which was completed within a day, the I.O. reached the conclusion that there were materials against the appellant to send him up for trial and consequently, a charge-sheet dated 21st January, 2016 under sections 323, 504, IPC and 3(1)(x), SC/ST Act was filed before the concerned court against him. The court took cognizance of the offence on 3rd May, 2016.

5. It is important to emphasize at this juncture that the appellant intended to lodge an F.I.R. arising out of the same incident. According to him, he was badly beaten up by the complainant and his son with canes and lathis on 14th January, 2016, as a result of which he too sustained injuries.

On the same date, when the appellant approached the police station to lodge the F.I.R., it was not registered; instead, the appellant was challaned and kept under detention by the concerned inspector in-charge under sections 151, 107, and 116, Cr. PC. He was subsequently released upon furnishing bail bond.

Owing to the failure of the Police to register the F.I.R., the appellant moved an application under section 156(3), Cr. PC. Pursuant to the order passed by the Magistrate, an F.I.R. dated 18th February, 2016 ("second F.I.R.", hereafter) was registered for the offences under sections 323, 325, 392, 452, 504, 506, IPC against the complainant (second respondent).

6. It is also noted that the appellant has instituted a suit³ before the civil court seeking permanent injunction against the complainant's continued encroachment upon the appellant's lands. The same is pending consideration before the competent court.

7. Aggrieved by the aforesaid charge-sheet, the appellant invoked the jurisdiction of the High Court on 5th October, 2018 by applying under section 482, Cr. PC. He sought quashing thereof as well as the criminal proceedings against him on the grounds that the said charge sheet discloses no offence and the present prosecution has been instituted with mala fide intention for the purposes of harassment.

8. Having held that a prima facie case for grant of interim relief was set up, the High Court, vide interim order dated 15th November, 2018, directed that no coercive action be taken against the appellant, pending consideration of the application under section 482, Cr. PC.

9. However, upon a contested hearing, the High Court found no material irregularity in the charge-sheet or the procedure followed by the Court below in taking cognizance, and proceeded to dismiss the appellant's application under section 482, Cr. PC vide the impugned judgment and order. The High Court held that, at this stage, it cannot be concluded that a cognizable offence has not been disclosed, as the allegations are factual in nature and would require leading of evidence by the parties.

Relying on the decision of this Court in Mohd. Allauddin Khan vs. The State of Bihar and Ors.⁴, the High Court emphasized that at the stage of discharge and/or while exercising the powers under section 482, Cr. PC, the court has limited jurisdiction and it cannot appreciate the evidence in order to determine whether, prima facie, a case has been made out against the accused. The High Court noted that without evidence, it is not possible to ascertain the veracity of the allegations at this stage; the application for quashing of a charge-sheet or criminal proceedings under section 482 Cr. PC, therefore, cannot sustain.

10. Appearing on behalf of the appellant, Ms. Shukla, learned counsel advanced the following submissions:

a. The first F.I.R., which was registered after a delay of six days, is an afterthought and creates serious doubts over the allegations of the complainant.

b. The charge-sheet was filed on the very next day of registration of the first F.I.R., without conducting proper investigation. The charge-sheet fails to take note of the second F.I.R. registered at the instance of the appellant and the medical report.

c. The complainant, being an influential person in the village, maliciously initiated criminal proceedings against the appellant with an ulterior motive to scuttle the already pending civil dispute in the civil court between the parties.

d. The Police did not act on the appellant's complaint. The second F.I.R. dated 18th February, 2016 was registered only after an order was passed on the appellant's application under section 156(3), Cr. PC by the Magistrate.

e. State of Haryana and Ors. vs. Bhajan Lal and Ors.⁵ was placed in support of the contention that if the contents of the F.I.R., taken on their face value, does not make out any case against the appellant, such an F.I.R. registered with ulterior motive deserves to be quashed.

f. Hitesh Verma vs. The State of Uttarakhand & Anr.⁶ was also placed to support the contention that the High Court ignored the misuse and abuse of the provisions of the SC/ST Act by the complainant; neither the contents of the first F.I.R. nor the charge-sheet discloses the precise content of abusive language employed by the appellant so as to attract the provisions of section 3(1)(x) of the SC/ST Act.

11. It was, accordingly, prayed that relief prayed for by the appellant be granted.

12. Mr. Prasad, learned Additional Advocate General appearing for the first respondent (State) while seeking dismissal of this appeal contended as follows:

a. The appellant had committed a serious crime as a result of which the complainant had sustained multiple injuries in the resultant altercation.

b. The Police, on the basis of the statement given by the complainant and the investigation that followed, filed the chargesheet dated 21st January, 2016 before the trial court after following due procedure.

c. The High Court, vide the impugned judgment and order, has rightly dismissed the application for quashing presented by the appellant.

d. It is settled law that the jurisdiction under Section 482, Cr. PC should be sparingly exercised with complete circumspection and caution and the High Court was not in error in refusing to exercise jurisdiction.

13. Mr. Shukla, learned counsel appearing for the complainant (second respondent) supported the impugned judgment and order of the High Court. According to him, completion of investigation within a day by the I.O. may seem to be unusual but is not an impossibility.

He also contended that the charge-sheet having been filed, the law must be allowed to take its own course; and, if at all the appellant is aggrieved by framing of charges, he may seek his remedy in accordance with law. No case for interference having been set up by the appellant, Mr. Shukla prayed for dismissal of the appeal.

14. We have heard the parties and perused the judgment and order of the High Court together with the materials on record.

15. Section 3(1)(x) of the SC/ST Act, prior to its amendment notified vide S.O. 152(E) dated 18th January, 2016, read as follows:

"3. Punishments for offences of atrocities. -

(1) Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe, -

(x) intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view;"

16. The first F.I.R., registered at the instance of the complainant, is silent about the place of occurrence and who, being a member of the public, was present when the appellant is alleged to have hurled caste related abuses at the complainant. However, on a reading of the second F.I.R. registered at the behest of the appellant, it appears that the incident took place at the house of the appellant.

17. The first question that calls for an answer is whether it was at a place within public view that the appellant hurled caste related abuses at the complainant with an intent to insult or intimidate with an intent to humiliate him. From the charge-sheet dated 21st January, 2016 filed by the I.O., it appears that the prosecution would seek to rely on the evidence of three witnesses to drive home the charge against the appellant of committing offences under sections 323 and 504, IPC and 3(1)(x), SC/ST Act.

These three witnesses are none other than the complainant, his wife and their son. Neither the first F.I.R. nor the charge-sheet refers to the presence of a fifth individual (a member of the public) at the place of occurrence (apart from the appellant, the complainant, his wife and their son).

Since the utterances, if any, made by the appellant were not "in any place within public view", the basic ingredient for attracting section 3(1)(x) of the SC/ST Act was missing/absent. We, therefore, hold that at the relevant point of time of the incident (of hurling of caste related abuse at the complainant by the appellant), no member of the public was present.

18. That apart, assuming *arguendo* that the appellant had hurled caste related abuses at the complainant with a view to insult or humiliate him, the same does not advance the case of the complainant any further to bring it within the ambit of section 3(1)(x) of the SC/ST Act. We have noted from the first F.I.R. as well as the charge- sheet that the same makes no reference to the utterances of the appellant during the course of verbal altercation or to the caste to which the complainant belonged, except for the allegation/observation that caste-related abuses were hurled.

The legislative intent seems to be clear that every insult or intimidation for humiliation to a person would not amount to an offence under section 3(1)(x) of the SC/ST Act unless, of course, such insult or intimidation is targeted at the victim because of he being a member of a particular Scheduled Caste or Tribe.

If one calls another an idiot (*bewaqoof*) or a fool (*murkh*) or a thief (*chor*) in any place within public view, this would obviously constitute an act intended to insult or humiliate by user of abusive or offensive language. Even if the same be directed generally to a person, who happens to be a Scheduled Caste or Tribe, *per se*, it may not be sufficient to attract section 3(1)(x) unless such words are laced with casteist remarks.

Since section 18 of the SC/ST Act bars invocation of the court's jurisdiction under section 438, Cr.PC and having regard to the overriding effect of the SC/ST Act over other laws, it is desirable that before an accused is subjected to a trial for alleged commission of offence under section 3(1)(x), the utterances made by him in any place within public view are outlined, if not in the F.I.R. (which is not required to be an encyclopaedia of all facts and events), but at least in the charge-sheet (which is prepared based either on statements of witnesses recorded in course of investigation or otherwise) so as to enable the court to ascertain whether the charge sheet makes out a case of an offence under the SC/ST Act having been committed for forming a proper opinion in the conspectus of the situation before it, prior to taking cognisance of the offence.

Even for the limited test that has to be applied in a case of the present nature, the charge-sheet dated 21st January, 2016 does not make out any case of an offence having been committed by the appellant under section 3(1)(x) warranting him to stand a trial.

19. Paragraphs 15 and 16 of the decision in *Hitesh Verma (supra)* cited by Ms. Shukla can be pressed in aid to support the view that we have taken above.

20. The second question that would engage our attention is, whether the criminal proceedings against the appellant should be allowed to be taken further in view of the appellant facing accusation of offences punishable under sections 323 and 504, IPC.

21. Section 323, IPC prescribes punishment for voluntarily causing hurt. Hurt is defined in section 319, IPC as causing bodily pain, disease or infirmity to any person. The allegation in the first F.I.R. is that the appellant had beaten up the complainant for which he sustained multiple injuries. Although the complainant alleged that such incident was witnessed by many persons and that he sustained injuries on his hand, the charge-sheet does neither refer to any eye-witness other than the complainant's wife and son nor to any medical report.

The nature of hurt suffered by the complainant in the process is neither reflected from the first F.I.R. nor the charge-sheet. On the contrary, the appellant had the injuries suffered by him treated immediately after the incident. In the counter-affidavit filed by the first respondent

(State) in the present proceeding, there is no material worthy of consideration in this behalf except a bald statement that the complainant sustained multiple injuries "in his hand and other body parts".

If indeed the complainant's version were to be believed, the I.O. ought to have asked for a medical report to support the same. Completion of investigation within a day in a given case could be appreciated but in the present case it has resulted in more disservice than service to the cause of justice. The situation becomes all the more glaring when in course of this proceeding the parties including the first respondent are unable to apprise us the outcome of the second F.I.R. In any event, we do not find any ring of truth in the prosecution case to allow the proceedings to continue vis-à-vis section 323, IPC.

22. What remains is section 504, IPC. In *Fiona Shrikhande and Anr. vs. State of Maharashtra*⁷, this Court had the occasion to hold that:

"13. Section 504 IPC comprises of the following ingredients viz. (a) intentional insult, (b) the insult must be such as to give provocation to the person insulted, and (c) the accused must intend or know that such provocation would cause another to break the public peace or to commit any other offence. The intentional insult must be of such a degree that should provoke a person to break the public peace or to commit any other offence.

The person who intentionally insults intending or knowing it to be likely that it will give provocation to any other person and such provocation will cause to break the public peace or to commit any other offence, in such a situation, the ingredients of Section 504 are satisfied. One of the essential elements constituting the offence is that there should have been an act or conduct amounting to intentional insult and the mere fact that the accused abused the complainant, as such, is not sufficient by itself to warrant a conviction under Section 504 IPC."

23. Based on the facts and circumstances of the case, we have little hesitation in holding that even though the appellant might have abused the complainant but such abuse by itself and without anything more does not warrant subjecting the appellant to face a trial, particularly in the clear absence of the ingredient of intentional insult of such a degree that it could provoke a person to break public peace or commit any other offence.

24. We record that the High Court misdirected itself in failing to appreciate the challenge to the criminal proceedings including the charge-sheet in the proper perspective and occasioned a grave failure of justice in rejecting such challenge.

25. For the reasons aforesaid, we unhesitatingly hold that it would be an abuse of the process of law to allow continuation of Criminal Case No.376 of 2016. While setting aside the impugned judgment and order of the High Court, we also quash Criminal Case No.376 of 2016.

26. Consequently, this appeal succeeds. Parties shall, however, bear their own costs.

.....J. (S. Ravindra Bhat)

MCQ'S

Q1: Under which section of the Code of Criminal Procedure an accused person can himself be a competent witness for the defence?

- (a)section 311
- (b)section 313
- (c)section 315
- (d)section 319.

Q2: Disclosure of identity of a victim of rape is punishable under:

- (a)Section 376D, IPC.
- (b)Section 229, IPC
- (c)Section 228, IPC
- (d)Section 228A, IPC.

Q3: When the consent to the contract is caused by coercion, the contract under section 19 of the Indian Contract Act, 1872 is

- (a)valid
- (b)voidable
- (c)void
- (d)illegal.

Q4: If time of performance of the contract is the essence of the contract and the promisor fails to perform the contract by the specified time, the contract becomes

- (a)void
- (b)voidable at the option of promisee
- (c)unenforceable
- (d)Both (a) and (c).

Q5: An offer was sent by post, the acceptor wrote 'accepted' on the letter, put it in his drawer and forget about it. The transaction is a

- (a)valid contract
- (b)voidable contract
- (c)a void contract
- (d)no agreement as the acceptance was never communicated to the proposer.

Q6: Tender is

- (a)an offer
- (b)an invitation to offer
- (c)a counter offer
- (d)a promise.

Q7: The principal of 'caveat emptor' is enunciated, in the Sale of Goods Act, 1930 under

- (a)Section 16
- (b)Section 17
- (c)Section 18
- (d)Section 27.

Q8: Risk prima facie passes with

- (a)property or ownership
- (b)with delivery of goods
- (c)with verification of goods
- (d)either (a) or (b) or (c).

Q9: Mutual agency among the partners is:

- (a)a test to determine the existence of a partnership
- (b)a legal incidence of partnership
- (c)both (a) and (b).
- (d)neither (a) nor (b).

Q10: An agreement in restraint of trade in a partnership Act, 1932 is

- (a)valid
- (b)voidable
- (c)void
- (d)invalid.

Q11: Section 14 of the Indian Partnership Act, 1932 is

- (a)exhaustive
- (b)inclusive
- (c)conclusive
- (d)both (a) and (c).

Q12: Section 34 of the Indian Partnership Act, 1932 deals with

- (a)retirement of a partner
- (b)expulsion of a partner

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- (c) insolvency of a partner
- (d) death of a partner.

Q13: An express agreement by the creditor to discharge a retired partner and to look only to a continuing partner, for partnership debts is

- (a) void for want of consideration
- (b) voidable
- (c) invalid
- (d) valid.

Q14: The type of dissolution described under section 42 of the Indian Partnership Act, 1932 is

- (a) contingent dissolution
- (b) compulsory dissolution
- (c) dissolution by the court
- (d) dissolution by notice.

Q15: Reasonable time for performance of a contract is a question:

- (a) of facts
- (b) of law
- (c) mixed question of fact and law
- (d) of prudence.

Q16: A decree can be:

- (a) Preliminary
- (b) Final
- (c) First Preliminary then Final.
- (d) Either preliminary or Final.

Q17: The plaint shall be rejected by the court under Order 7, Rule 11© of the Code of Civil Procedure, if it is not filed in

- (a) duplicate
- (b) triplicate
- (c) quadruplicate
- (d) None of the above.

Q18: Period of detention in Civil imprisonment, as a consequence of disobedience or breach of any injunction shall not exceed:

- (a) one month

- (b) three months
- (c) six months
- (d) one year.

Q19: Caveat shall not remain in force after the expiry of:

- (a) 30 days
- (b) 60 days
- (c) 90 days
- (d) 120 days.

Q20: Defence of insanity under section 84 of the Indian Penal Code relates to

- (a) unsoundness of mind of any kind
- (b) medical insanity
- (c) legal insanity
- (d) congenital insanity.

Q21: Under which section of the Code of Criminal Procedure an accused person can himself be a competent witness for the defence?

- (a) section 311
- (b) section 313
- (c) section 315
- (d) section 319.

Q22: Which one among the following is not a primary evidence?

- (a) A document executed in several parts
- (b) A copy made from or compared with original
- (c) Document executed in counterparts
- (d) Documents made by one uniform process

Q23: Indian Evidence Act deals with

1. Relevancy of evidence
2. Reliability of evidence
3. Admissibility of evidence

Select the correct answer using the code given below:

- (a) 1 and 2 only
- (b) 1 and 3 only
- (c) 3 only

(d) 1, 2 and 3.

Q24: Sapinda relationship and prohibited relationship

- (a) are dependent on each other
- (b) are mutually exclusive
- (c) sometimes overlap each other
- (d) none of the above.

Q25: Consent theory of divorce was introduced in the Hindu Marriage Act, 1955 in

- (a) 1964
- (b) 1972
- (c) 1974
- (d) 1976.

Q26: An adoption made by a Hindu male without the consent of his wife is

- (a) valid
- (b) voidable
- (c) void
- (d) invalid but can be validated.

Q27: An illegitimate son of a Hindu is entitled to maintenance during his

- (a) Minority
- (b) Majority till marriage
- (c) only if he is of unsound mind
- (d) he is not entitled to maintenance.

Q28: A child can be given in adoption by

- (a) the father
- (b) the mother
- (c) the guardian
- (d) either (a) or (b) or (c).

Q29: A person who has an adopted son living

- (a) can adopt another son
- (b) cannot adopt another son
- (c) can adopt another son with the consent of the adopted son
- (d) can adopt another son with the prior permission of the court.

Q30: Section 19 of the Hindu Adoptions and Maintenance Act, 1956, provides for maintenance of

- (a) wife
- (b) children
- (c) parents
- (d) widowed daughter-in-law.

Q31: A muta marriage is dissolved

- (a) ipso-facto by efflux of the period
- (b) by death
- (c) by hiba-e-muddat
- (d) either (a) or (b) or (c).

Q32: 'Failure of the husband to provide for wife's maintenance as a ground for divorce, must be for a period of

- (a) four years
- (b) three years
- (c) two years
- (d) one year.

Q33: Marz-ul-mauta means

- (a) a disease which causes death
- (b) a serious disease
- (c) a long-standing disease
- (d) either (a) or (b) or (c).

Q34: Provision for interest in CPC has been made under

- (a) Section 32
- (b) Section 34
- (c) Section 35A
- (d) Section 35B.

Q35: Order II, Rule 2 of CPC does not apply to

- (a) application for execution
- (b) writ petitions
- (c) both (a) and (b)
- (d) neither (a) nor (b).

Q36: For the purpose of Order XIV, Rule 4 of CPC the Court may adjourn the framing of issues to a date not later than

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- (a)7 days
- (b)10 days
- (c)14 days
- (d)30 days.

Q37: For the purpose of Order XII, Rule 6 of CPC, admission of fact

- (a)must be in pleading
- (b)may be oral
- (c)may be either in pleadings or otherwise
- (d)none of the above.

Q38: Who was the first woman judge of the Supreme Court of India?

- (a)Justice Sujata Manohar
- (b)Justice Leila Seth
- (c)Justice Fatima Biwi
- (d)Justice Ruma Pal.

Q39: Blood cancer is commonly known as

- (a)Anaemia
- (b)Leukaemia
- (c)Leucodeema
- (d)Bulemia.

Q40: International Court of justice is located at

- (a)Geneva
- (b)Prague
- (c)Washington D.C.
- (d)The Hague.

Q41: From which one country did India buy the Barack anti-missile defence systems?

- (a)Israel
- (b)France
- (c)Russia
- (d)USA.

Q42: The Nobel Prize are distributed annually at

- (a)Manila
- (b)Stockholm

- (c)Geneva
- (d)New York.

Q43: Who was the first Indian to receive the Magasaysay Award?

- (a)Indira Gandhi
- (b)T.N. Seshan
- (c)Kiran Bedi
- (d)Vinoba Bhave.

Q44: Match the following

Place	State
A. Sriharikota1.	Karnataka
B. Thumba2.	Andhra Pradesh
C.Hassan	3. Orissa
D.Chandipur	4. Kerala
	5.Tamil Nadu.

Codes:

	A	B	C	D
(a)1		3	5	4
(b)2		4	1	3
(c)1	4		5	3
(d)2	3		1	4.

Q45: The famous Petronas Twin Towers are located in

- (a)China
- (b)Japan
- (c)Malaysia
- (d)Indonesia.

Q46: The City of Chandigarh was designed by

- (a)Le Corbousier
- (b)Edward Lutyens
- (c)Michelongo
- (d)Lord Mountbatten.

Q47: With which religion is Kaivalya associated?

- (a)Buddhism
- (b)Jainism

- (c)Hinduism
- (d)Sikhism.

Q48: The title 'Devanan Priya was gives to

- (a)Harsha
- (b)Kanishka
- (c)Ashoka
- (d)Chandragupta Vikramaditya.

Q49: The achievement of Samudragupta are described in

- (a)Hathigumpha inscription
- (b)Allahabad pillar inscription
- (c)Girnar inscription
- (d)Sarnath inscription.

Q50: Who gave the slogan 'Go back to the Vedas'?

- (a)Ramakrishna Paramhana
- (b)Raja Ram Mohan Roy
- (c)Swami Dayanand Saraswati
- (d)Swami Vivekananda.

Q51: The Practice of Sati was declared illegal by

- (a)Lord Ripon
- (b)Lord Cornwallis
- (c)Lord William Bentick
- (d)Lord Dalhousie.

Q52: Who was the Viceroy of India at the time of Jallianwala Bagh Massacre?

- (a)Lord Curzon
- (b)Lord Hardinge
- (c)Lord Chelmsford
- (d)Lord Irwin.

Q53: The Strait which separates Africa from Europe is

- (a)Hook Strait
- (b)Strait of Gibraltar
- (c)Palk Strait
- (d)Bering Strait.

Q54: The Tropic of Cancer does not pass through

- (a)Madhya Pradesh
- (b)West Bengal
- (c)Rajasthan
- (d)Orissa.

Q55: Who is called the 'Father of Economics'?

- (a)Max Muller
- (b)Karl Marx
- (c)Adam Smith
- (d)None of the above.

Q56: Which of the following diseases is not caused by virus?

- (a)Choler
- (b)Chickenpox
- (c)Hepatitis
- (d)Measles.

Q57: Zawar mines famous for Zinc are situated in

- (a)Madhya Pradesh
- (b)Jharkhand
- (c)Chhattisgarh
- (d)Rajasthan.

Q58: Which acid is produced when milk gets sour?

- (a)Acetic Acid
- (b)Tartaric acid
- (c)Lactic acid
- (d)Butyric acid.

Q59: Who among the following has been awarded with Rajiv Gandhi Khel Ratna Award 2012?

- (a)Sushil Kumar and Yogeshwar Dutt
- (b)Sushil Kumar and Yogeshwar Dutt
- (c)Vijay Kumar and Yogeshwar Dutt
- (d)Sushil Kumar and Vijay Kumar.

Q60: The headquarters of UNESCO is in

- (a)New York

- (b)Paris
- (c)Moscow
- (d)Geneva.

Q61: A is a good swimmer. He sees B drowning, but does not save him. B is drowned. A has committed

- (a)the offence of Murder
- (b)the offence of abetment of suicide
- (c)the offence of culpable homicide not amounting to murder
- (d)no offence.

Q62: Palvinder Kaur v. State of Punjab, AIR 1952 SC 354, relates to which of the following?

- (a)Confession
- (b)Dying Declaration
- (c)Entries in the books of account
- (d)Relevancy of judgments.

Q63: A fact is said to be “not proved”

- (a)when it is disproved
- (b)when, after considering the matters before it, the court believes that it does not exist
- (c)when a prudent man consider that the fact does not exist
- (d)when it is neither proved nor disproved.

Q64: The principle that possession is prima facie proof of ownership is provided under which section of the Evidence Act?

- (a)Section 109
- (b)Section 110
- (c)Section 111
- (d)Section 113.

Q65: X sues Y for money due on a bond. The execution of the bond is admitted, but Y says that it was obtained by fraud, which X denies. The burden of proof is on

- (a)Y
- (b)X
- (c)Either X or Y
- (d)Discretion of Court.

Q66: Promises which form the consideration or part of the consideration for each other are called

- (a)conditional promises
- (b)cross offers
- (c)reciprocal promises
- (d)contingent promises.

Q67: The juridical basis of quasi-contractual obligation can be explained by the theory of

- (a)indebitatus assumpsit
- (b)unjust enrichment
- (c)just and reasonable solution
- (d)voluntary benefits.

Q68: Which of the following sections of the Hindu Marriage Act, 1955 contains provision for “divorce by mutual consent”?

- (a)Section 13
- (b)Section 13A
- (c)Section 14
- (d)None of the above.

Q69: Which of the following is not correct?

- (a)Limitation is a procedural law
- (b)Limitation bars the judicial remedy
- (c)Limitation extinguishes the right
- (d)None of the above.

Q70: Which of the following does not find a mention as showing State of mind under section 14 of the Evidence Act, 1872?

- (a)Ill-will
- (b)motive
- (c)Good faith
- (d)Negligence.

Q71: ‘Rejection of plaint’ is mentioned under

- (a)Order VII, Rule 11
- (b)Order VI, Rule 13
- (c)Order VII, Rule 12
- (d)Order VIII, Rule 4.

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Q72: Dasti summons for service on the defendant can be given to the plaintiff under

- (a) Order V, Rule 9, CPC
- (b) Order V, Rule 9A, CPC
- (c) Order IV, Rule 7, CPC
- (d) Order VI, Rule 6, CPC.

Q73: Section 115 of the Civil Procedure Code provides for

- (a) Reference
- (b) Review
- (c) Revision
- (d) Appeal to the Supreme Court.

Q74: Order XXIII of the Civil Procedure Code applies to

- (a) withdrawal of suits
- (b) Appeals
- (c) Execution proceeding
- (d) All of the above.

Q75: Objection as to place of suing shall be allowed in the Court of first instance is the essence of

- (a) Section 21, CPC
- (b) Section 21A, CPC
- (c) Section 22, CPC
- (d) Section 24, CPC.

Q76: Assault in order to outrage the modesty of a woman is punishable under which section of Indian Penal Code?

- (a) Section 329
- (b) Section 354
- (c) Section 364
- (d) Section 509.

Q77: In Criminal cases, the fact that the accused person has a

- (a) previous good character is relevant
- (b) previous bad character is relevant
- (c) both (a) and (b)
- (d) None of the above.

Q78: An ex parte decree can be set aside under

- (a) Order IX, Rule 7, CPC
- (b) Order IX, Rule 11, CPC
- (c) Order IX, Rule 12, CPC
- (d) Order IX, Rule 13, CPC.

Q79: The following is not disability within the meaning of section 6 of the Limitation Act, 1963

- (a) Insolvency
- (b) Insanity
- (c) Minority
- (d) Idiocy.

Q80: A contract does not stand discharged

- (a) by performance
- (b) by breach of contract
- (c) by impossibility of performance
- (d) by a mere likely delay in performance.

Q81: Rescission of a contract means

- (a) cancellation of contract
- (b) alteration of contract
- (c) the renewal of original contract
- (d) substitution of new contract in place of earlier one.

Q82: The principle laid down in Hadley V. Baxendale related to

- (a) minor's agreement
- (b) privity of consideration
- (c) contracts caused by mistake of parties
- (d) None of the above.

Q83: Which section of the IPC codifies, in the field of criminal law, the maxim: de minimis non curat lex.

- (a) Section 85
- (b) Section 88
- (c) Section 95
- (d) Section 96.

Q84: Whether a weapon is a deadly weapon is a question of

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(a) Law

(b) Fact

(c) Opinion of the expert witness

(d) Opinion of the judge.

Q85: Right of Private defence is available

(a) Against all members of an unlawful assembly

(b) In a free fight

(c) To retrieve from the wrong doer one's property

(d) Both (a) and (b).

Q86: After investigation pertaining to an offence of murder, the Police files a cancellation report. The report can be accepted only by

(a) The Magistrate

(b) The Court of Sessions

(c) The High Court

(d) None of the above.

Q87: 'X' is accused of an offence of rape. He can be subjected to the following tests for investigation

(a) Polygraph Test

(b) Narco analysis Test

(c) Brain Electrical Activation Profile (BEAP) Test

(d) None of the above.

Q88: A boy aged about 14 years is suspected in the commission of the offence of murder. He can be made to join investigation

(a) at the Police Station

(b) at his residence

(c) at any place

(d) all of the above.

Q89: Right of an accused for plea-bargaining in India relates to:

(a) Fact bargaining

(b) Charge bargaining

(c) Sentence bargaining

(d) All of the above.

Q90: Nothing is an offence if it is done by a person who is a:

(a) Boy of 6 years having sufficient maturity to understand the nature and consequence of her conduct

(b) Girl below 12 years having sufficient maturity to understand the nature and consequence of her conduct

(c) A man aged 100 years

(d) All of the above.

Q91: Criminal justice system in India is based on:

(a) It is the duty of the State to prosecute whosoever commits a wrong

(b) Adversarial trial

(c) A wrong doer must be punished

(d) Both (a) and (b) above.

Q92: Test Identification Parade pertains to the field of

(a) Investigation

(b) Trial

(c) Satisfaction of the Investigating Officer that he is proceeding in the right direction

(d) Both (a) and (b) above.

Q93: Police remand of an accused cannot exceed:

(a) 7 days

(b) 9 days

(c) 12 days

(d) 15 days.

Q94: Which of the following statement is/are correct?

(a) Preparation to commit dacoity is not an offence

(b) Preparation to commit murder is not an offence

(c) Attempt to commit murder is not an offence

(d) Both (a) and (b) above.

Q95: A suit may be defeated due to

(a) Non-joinder of a proper party

(b) Misjoinder of a necessary party

(c) Non-joinder of a necessary party

(d) Misjoinder of a proper party.

Q96: Acknowledgement after the period of limitation:

(a) Is of no effect

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- (b) Gives rise to an independent enforceable contract
- (c) Is of great value
- (d) None of the above.

Q97: A time-barred debt can be claimed:

- (a) As a set off
- (b) As a counter-claim
- (c) As a fresh
- (d) None of the above.

Q98: In a suit for maintenance, arrears can be claimed for the last:

- (a) Seven years
- (b) Twelve years
- (c) One year
- (d) Three years.

Q99: A partnership firm is:

- (a) A distinct legal entity from its partners
- (b) An independent juristic person
- (c) An agent of its partners
- (d) None of the above.

Q100: Two parties entered into contract. They later realized that there was a mistake in their understanding of the law as applicable in India. This makes their contract:

- (a) Non est
- (b) void
- (c) voidable
- (d) None of the above.

Q101: Which of the following is an offer?

- (a) A bid at an auction sale
- (b) Banker's catalogue of charges
- (c) Menu card at a restaurant
- (d) All of the above.

Q102: If only a part of the consideration or object is unlawful, the contract under section 24 of the Indian Contract Act, 1872 shall be

- (a) Valid to the extent the same are lawful

- (b) void to the extent the same are unlawful
- (c) void as a whole
- (d) valid as a whole.

Q103: A suit for damages for breach of contract can be filed at a place

- (a) where the contract was executed
- (b) where the contract was to be performed
- (c) where the plaintiff resides
- (d) both (a) and (b).

Q104: A decision or finding given by a court or a Tribunal without jurisdiction:

- (a) Can operate as res judicata under all circumstances
- (b) Cannot operate as res judicata
- (c) Cannot operate as res judicata under certain circumstances only
- (d) May operate as res judicata or may not operate as judicata.

Q105: What does the legal maxim 'sui generis' mean?

- (a) On its own strength
- (b) The only one of its kind
- (c) On the threshold
- (d) Among other things.

Q106: Which of the following is not a ground for dissolution by the Court of a firm under section 44 of the Partnership Act?

- (a) Unsoundness of Mind
- (b) Misconduct
- (c) Persistent breach of agreement
- (d) Death or insolvency of a partner.

Q107: The liability of a partner is

- (a) Joint only
- (b) Several only
- (c) Joint as well as several
- (d) Strict liability.

Q108: In which case, Lord Cranworth said, "The liability of one partner for the acts of his co-partner is in truth the liability of a principal for the acts of his agent".

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- (a) Grace V. Smith
- (b) Young V. Jones
- (c) Cox V. Hickman
- (d) Bentley V. Craven.

Q109: Which of the following is not a sufficient cause within the meaning of section 5 of the Limitation Act, 1963?

- (a) Illness
- (b) Imprisonment
- (c) Poverty
- (d) Wrong proceedings taken in good faith.

Q110: A relief of injunction may be refused on the ground of

- (a) Laches or acquiescence
- (b) The applicant has not come with clean hands
- (c) where monetary compensation is adequate relief
- (d) All of the above.

Q111: Guardianship of the person of a Minor Under Muslim Law is called

- (a) Jabar
- (b) Wasi
- (c) Hizanat
- (d) None of the above.

Q112: Khyar-ul-bulugh is

- (a) option of puberty
- (b) A form of valid marriage
- (c) A form of dower
- (d) Infidelity.

Q113: A sum stipulated for a Muslim girl in the marriage is:

- (a) Musha
- (b) Mahr (dower)
- (c) Nazarana
- (d) Izi.

Q114: A mute marriage could not be dissolved:

- (a) Ipso facto by the efflux of the period.

- (b) By death
- (c) By divorce
- (d) By hiba-i-muddat.

Q115: Restitution of conjugal rights is provided for in which section of the Hindu Marriage Act, 1955?

- (a) Section 7
- (b) Section 8
- (c) Section 9
- (d) Section 10.

Q116: If a minor marries without the consent of the parents/guardian, the marriage would be:

- (a) Invalid
- (b) Valid
- (c) void
- (d) voidable.

Q117: To make a marriage voidable on account of lack of mental capacity, the mental capacity should relate to:

- (a) Pre-marriage Mental conditions
- (b) Post-marriage mental conditions
- (c) Both (a) and (b)
- (d) either (a) or (b).

Q118: Which section of the Hindu Marriage Act, 1955 provides for the registration of marriage?

- (a) Section 6
- (b) Section 8
- (c) Section 12
- (d) Section 26.

Q119: An adoption made by the Hindu male without the consent of his wife

- (a) valid
- (b) voidable
- (c) illegal
- (d) void.

Q120: A female of 21 years wants to adopt a boy/girl. She can do so:

- (a) If she is unmarried

- (b)if she is married, with the consent of her husband
- (c)she cannot adopt a child
- (d)both (a) and (b).

Q121: Which of the following sections of the Hindu Marriage Act, 1955, Provides tht children of a void marriage would be the legitimate children?

- (a)Section 11
- (b)Section 16
- (c)Section 17
- (d)Section 18.

Q122: 'Mesne profit' has been defined under which section of the Code of Civil Procedure?

- (a)Section 2(4)
- (b)Section 2(8)
- (c)Section 2(12)
- (d)Section 2(14)

Q123: Which is not public document?

- (a)Affidavit
- (b)Judgment of Court
- (c)Arrest warrant
- (d)Will.

Q124: Specific performance of contracts may be ordered by the court when

- (a)the contract is voidable
- (b)damages are an adequate remedy
- (c)damages are not an adequate remedy
- (d)the contract is uncertain.

Q125: 'A' puts his hand in the pocket of 'B' for stealing money, but the pocket was empty.'A' is guilty of:

- (a)Theft
- (b)Attempt to commit theft
- (c)Mischief
- (d)No offence.

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ANSWER KEY

1(C)	27(A)	53(B)	79(A)	105(B)
2(D)	28(D)	54(D)	80(D)	106(D)
3(B)	29(B)	55(C)	81(A)	107(C)
4(B)	30(D)	56(A)	82(D)	108(D)
5(D)	31(D)	57(D)	83(A)	109(C)
6(B)	32(C)	58(C)	84(D)	110(D)
7(A)	33(A)	59(C)	85(A)	111(C)
8(A)	34(B)	60(B)	86(B)	112(A)
9(C)	35(C)	61(D)	87(C)	113(B)
10(A)	36(A)	62(A)	88(C)	114(C)
11(B)	37(C)	63(D)	89(C)	115(C)
12(C)	38(C)	64(B)	90(A)	116(B)
13(D)	39(B)	65(A)	91(B)	117(A)
14(A)	40(D)	66(C)	92(A)	118(B)
15(C)	41(A)	67(B)	93(D)	119(D)
16(C)	42(B)	68(B)	94(B)	120(A)
17(B)	43(D)	69(C)	95(C)	121(B)
18(B)	44(B)	70(B)	96(A)	122(C)
19(B)	45(C)	71(A)	97(D)	123(D)
20(C)	46(A)	72(B)	98(D)	124(C)
21(D)	47(B)	73(C)	99(D)	125(B)
22(B)	48(C)	74(A)	100(D)	
23(D)	49(B)	75(A)	101(A)	
24(C)	50(C)	76(B)	102(C)	
25(D)	51(C)	77(A)	103(D)	
26(C)	52(C)	78(D)	104(B)	

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