

RESILIENCE LAW ACADEMY

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RESILIENCE LAW ACADEMY

LAW TIMES

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CONSOLIDATION

**Ravikumar Dhansukhlal Maheta & Anr. v. High Court of Gujarat & Ors.**

“Promotion cannot be claimed as a legal right by any government servant.”

—Justices Dr. Dhananjaya Y. Chandrachud, J.B. Pardiwala and Manoj Misra

Recently in matter of **Ravikumar Dhansukhlal Maheta & Anr. v. High Court of Gujarat & Ors.**, the [Supreme Court](#) upheld the promotion process implemented by the High Court of Gujarat for District Judge vacancies, emphasizing **the absence of an inherent right to demand promotion among government employees.**

- It emphasized that **promotion policies are primarily the prerogative of the legislature or executive, with judicial review limited to instances of violation of equality** principles under Article 16 of the [Constitution of India , 1950 \(COI\)](#).

**Living Will**

“We are all extremely busy living our lives, and that gives us hardly any time to contemplate end-of-life issue, which are inevitable, and for which we must start preparing a little early.”

—Justice MS Sonak

Justice MS Sonak of the Bombay High Court at Goa became the first person in the state to register a 'living will' during an event organized by the Indian Medical Association (IMA), Goa branch.

- This follows the Supreme Court of India's 2018 recognition of passive euthanasia and advance directives, **with guidelines simplified in 2023.**

**X v. Y**

“Any sexual intercourse or act, by the husband with his wife not below the age of fifteen years is not a rape, therefore, consent is immaterial.”

—Justice Prem Narayan Singh

A bench of Justice Prem Narayan Singh held that unnatural sex by a husband with his legally wedded wife is not an unnatural offence.

- The High Court relied on the amended definition of "rape" under Section 375 of the IPC, which includes acts like insertion of the penis into the mouth, urethra, or anus of a woman.
- The court held that since the complainant (wife) was residing with her husband during the subsistence of their marriage, and any sexual act by a husband with his wife above the age of 15 is not considered rape under Section 375, the husband's consent is immaterial. Therefore, the allegations in the FIR do not constitute an offence under Section 377 against petitioner no. 1 (husband).

- The court also quashed the offences under Sections 294 (obscene acts) and 506 (criminal intimidation) against the petitioners, citing a lack of prima facie evidence.
- However, the court found that prima facie offences under Section 498-A (cruelty by husband or relatives) were made out against the petitioners based on the allegations of dowry demands and harassment.
- Consequently, the petition was **partly allowed**, quashing the offences under Sections 377, 294, and 506, but not the offence under Section 498-A against the petitioners.



The [Delhi High Court](#) recently indicated that a single judge may have made a prima facie **error by declining to provide interim relief to Forest Essentials**, an Ayurvedic cosmetics company, in a trademark **conflict with Baby Forest**, a company specializing in Ayurvedic baby care products.

- The Delhi High Court gave this observation in the case of **Mountain Valley Springs India Private Limited v. Baby Forest Ayurveda Private Limited & Ors.**



The [Delhi High Court](#) recent observation in matter of **Union of India v. Ram Gopal Dixit** regarding the jurisdiction of the Central Information Commission (CIC) over the utilization of funds under the Members of Parliament Local Area Development Scheme (MPLADS) has garnered attention.

- **Justice Subramonium Prasad** observation that the Central Information Commission (CIC) lacks jurisdiction to remark on the utilization of funds by Members of Parliament under the Members of Parliament Local Area Development Scheme (MPLADS).

**Delhi Development Authority v. Tejpal & Ors.**

“If subsequent change of law is allowed as a valid ground for condonation of delay, it would open a Pandora’s Box where all the cases that were subsequently overruled, would approach this Court and would seek a relief based on the new interpretation of law.”

—Justices Surya Kant, Dipankar Datta and Ujjal Bhuyan

A bench of Justices Surya Kant, Dipankar Datta and Ujjal Bhuyan held that “if subsequent change of law is allowed as a valid ground for condonation of delay, it would open a Pandora's Box where all the cases that were subsequently overruled, would approach this Court and would seek a relief based on the new interpretation of law”.

- The Supreme Court gave this judgment in the case of **Delhi Development Authority v. Tejpal & Ors.**

**Sunil N S v. State of Kerala**

“Petitioner’s conduct in filing repeated bail applications, engaging different lawyers, and approaching the Supreme Court, suggests that he is financially capable or has support from others, despite being in custody for seven years.”

—Justice P V Kunhikrishnan

A bench of Justice P V Kunhikrishnan dismissed bail application of accused in **Sunil N S v. State of Kerala** popularly known as the “assault against the cine actress” case.

**Pradeep Singh Parihar v. Smt. Rubina & Ors.**

“Insurer Not be Liable If Owner Fails to Verify Competency of Driver: Pay & Recover Principle Applied.”

—Justice Achal Kumar Paliwal

In a recent ruling in matter of **Pradeep Singh Parihar v. Smt. Rubina & Ors.** the **Madhya Pradesh High Court** reaffirmed that insurance companies cannot be held responsible when vehicle owners fail to verify the competence of drivers they employ.

- Upholding a decision by the Motor Accidents Claims Tribunal at Rewa, High Court endorsed the tribunal's ruling based on the '**Pay and Recover**' principle.
- This decision stemmed from findings that the driver involved in the incident **lacked a valid license at the time**, thus holding the insured party accountable under said principle.

**Rajiv Bansal & Ors v. State of Maharashtra and Ors**

“The act of withholding salary or emoluments does not fall within the scope of the offense of cheating.”

—Justice N. J. Jamadar

In a recent ruling in the case of **Rajiv Bansal & Ors v. State of Maharashtra and Ors**, it was held that **withholding of salary or emoluments does not constitute the offense of cheating**.

- This decision came amidst a legal battle involving Air India Limited (AIL) and its employees over withheld incentives, where the court emphasized that withholding salary does not meet the criteria for cheating, as it lacks elements of deceit or inducement typically associated with the offense.

**Shatakshi Mishra v. Deepak Mahendra Pandey (Deceased) & Ors.**

“The legal representative who is not either of the parties and was not one of the spouses to the marriage in question can pursue the petition filed under Section 11 of the Hindu Marriage Act.”

—Justices Vivek Kumar Birla and Syed Qamar Hasan Rizvi

Recently, the **Allahabad High Court** in the matter of **Shatakshi Mishra v. Deepak Mahendra Pandey (Deceased) & Ors.**, has held that after the death of the husband, his parents have a right to pursue the proceedings under Order XXII Rule 3 of the **Civil Procedure Code, 1908 (CPC)** for the purpose of declaring the marriage void.

**Independent News Service Private Limited & Anr v Ravindra Kumar Choudhary & Ors**

“Court safeguards Rajat Sharma’s personality rights against Baap Ki Adalat infringement.”

— Justice Anish Dayal

Recently the **Delhi High Court** in case of **Independent News Service Private Limited & Anr v. Ravindra Kumar Choudhary & Ors** court ruled in favor of senior journalist Rajat Sharma, **protecting his personality rights** against unauthorized use of the "Baap Ki Adalat" trademark and India TV logo.

- The Court restrained Ravindra Kumar Choudhary, who was using the name "Jhandiya TV," from utilizing Sharma's **photograph, video, or name** in any manner that could violate his personality rights.

**Naziya Ansari & Anr. v. State of UP & Ors.**

“No one can impose restrictions on an adult from going anywhere or staying with a person of his/her choice, or solemnizing marriage according to his/her will.”

—Justices J.J. Munir and Arun Kumar Singh Deshwal

Recently, the **Allahabad High Court** in the matter of **Naziya Ansari & Anr. v. State of UP & Ors.**, has held that no one can impose restrictions on an adult from going anywhere or staying with a person of his/her choice, or solemnizing marriage according to his/her will as this is a right which flows from **Article 21 of the Constitution of India, 1950 (COI)**.

**X v. Y**

“The respondent/husband’s arrest and imprisonment since 2017 amounted to situational desertion of the wife for more than two years, which is a ground for granting divorce.”

—Justice Vivek Rusia and Justice Rajendra Kumar Vani

A bench of Justice Vijay Kumar Shukla and Justice Hirdesh granted divorce on the ground of desertion.

- The Madhya Pradesh this judgment in the case of **X v. Y**.

**Madhusudan & Ors. v. The State of Madhya Pradesh**

“In the event of alteration of charges are altered, opportunity must be given under Section 217 of CrPC, both to the prosecution and the defence, to re-examine witnesses in reference to such altered charges.”

— Justices Hrishikesh Roy and Satish Chandra Sharma

Recently, a bench comprising of **Justices Hrishikesh Roy and Satish Chandra Sharma** held that in the event of alteration of charges, opportunity must be given under **Section 217 of the Criminal Procedure Code, 1973 (CrPC)**, both to the prosecution and the defence, to recall or re-examine witnesses in reference to such altered charges.

- The aforesaid observation was made in the matter of **Madhusudan & Ors. v. The State of Madhya Pradesh**.

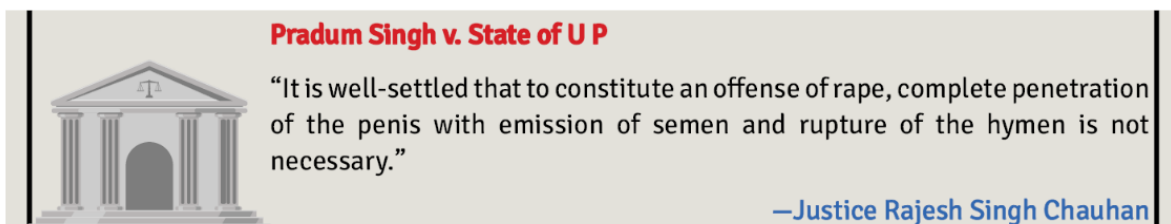
**Ankur Chaudhary v. State Of Madhya Pradesh**

“Incarceration resulting from trial delays violates Article 21, allowing for bail consideration despite the bar imposed by the NDPS Act.”

—Justices JK Maheshwari and KV Viswanathan

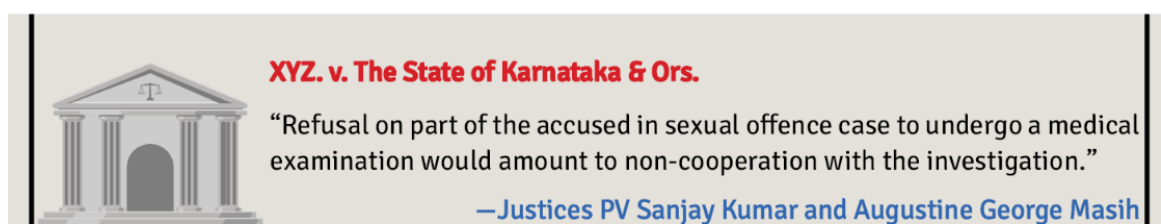
Recently the [Supreme Court](#) in the matter of **Ankur Chaudhary v. State Of Madhya Pradesh** granted bail under the **Narcotic Drugs and Psychotropic Substances Act (NDPS) 1985** despite not meeting the stringent criteria of Section 37 has garnered attention.

- It emphasizes that prolonged incarceration due to undue trial delays contradicts the fundamental right under Article 21 of the Constitution, thus allowing conditional liberty to supersede statutory restrictions in such cases.

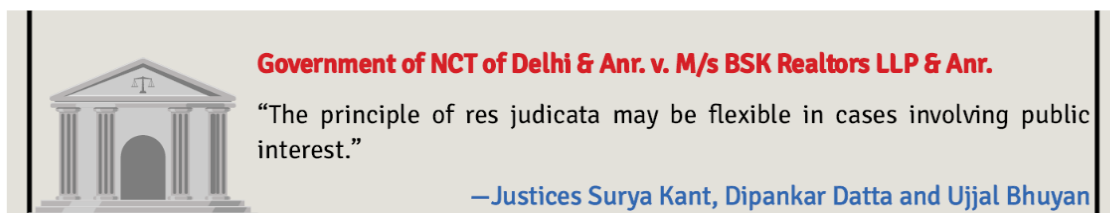


A bench of Justice Rajesh Singh Chauhan observed that it is well-settled that to constitute an offense of rape, complete penetration of the penis with emission of semen and rupture of the hymen is not necessary.

- The Allahabad High court gave this observation in the case of **Pradum Singh v. State of U P**.



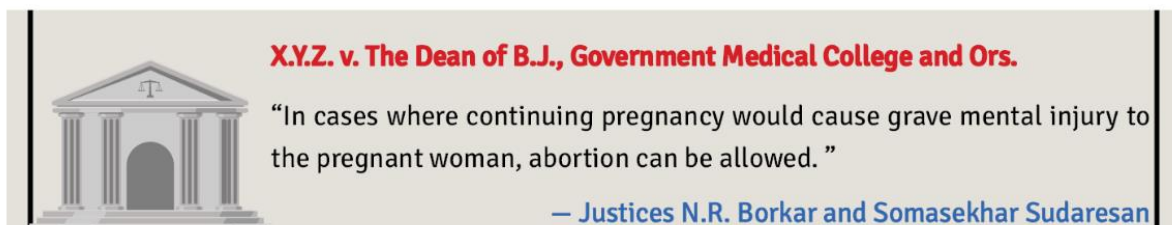
Recently, the [Supreme Court](#) in the matter of **XYZ. v. The State of Karnataka & Ors.**, has held that refusal on part of the accused in sexual offence case to undergo a medical examination would **amount to non-cooperation with the investigation**.



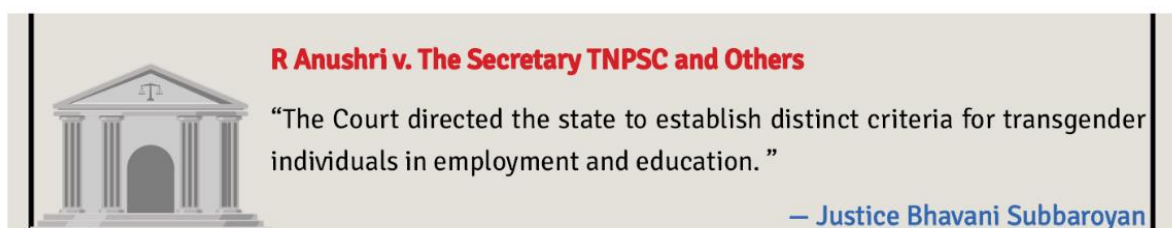
[Supreme Court](#) in the matter of **Government of NCT of Delhi & Anr. v. M/s BSK Realtors LLP & Anr.**, ruled in favor of the Delhi government, stating that the principle of res judicata may not strictly apply in cases where public interest is at stake.

- The court emphasized the need for a flexible approach in such matters, recognizing their broader implications beyond individual disputes.

- This observation by the bench of **Justices Surya Kant, Dipankar Datta, and Ujjal Bhuyan** highlights the importance of considering **public interest in legal proceedings**.

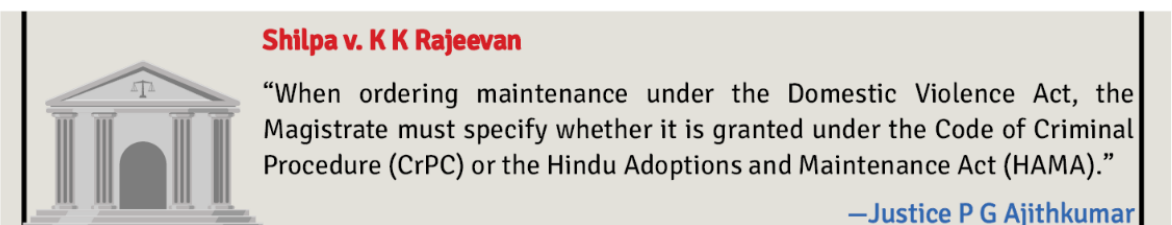


Recently, the Bombay High Court in the matter of **X.Y.Z. v. The Dean of B.J., Government Medical College and Ors.**, has held that in cases where continuing pregnancy would cause grave mental injury to the pregnant woman, abortion can be allowed.



The [Madras High Court](#) in matter of **R Anushri v. The Secretary TNPSC and Others** directed the Tamil Nadu government to establish **separate criteria for transgender individuals in employment and education**, criticizing the state's continued confusion in categorizing transgender individuals.

- The court ruled in favor of a transwoman who was **denied certificate verification despite qualifying, emphasizing the need to recognize transgender individuals as a special category** and provide them with equitable opportunities.
- This decision highlights the ongoing struggle for inclusion and recognition of transgender rights in India.



Recently [Kerala High Court](#) in matter of **Shilpa v K K Rajeevan** the court emphasized that when Magistrates issue maintenance orders under **Section 20(1)(d) of the Protection of Women from Domestic Violence Act, 2005 (DV Act)** they must clearly specify whether the maintenance is granted under **Section 125 of the Code of Criminal Procedure 1973 (CrPC)** or **Section 20(3) of the Hindu Adoptions and Maintenance Act, 1956 (HAMA)**.

**Dilip Sharma v. State of Rajasthan**

“Considering the nature of allegation and gravity of the matter, this Court does not deem it proper to accept these bail applications.”

—Justice Anoop Kumar Dhand

A bench of Justice Anoop Kumar Dhand denied anticipatory bail to the accused in a case looking into several factors of the offence.

- The Rajasthan High Court denied the bail in the case of **Dilip Sharma v. State of Rajasthan**.

**Karan Chettri v. State of Sikkim**

“The State’s failure to appeal an erroneous sentencing order does not prevent the High Court from utilizing its revisional powers.”

—Justice Meenakshi Madan Rai and Justice Bhaskar Raj Pradhan

Recently the matter of **Karan Chettri v. State of Sikkim** has gained attention due to the Sikkim High Court's review of the Trial Court's sentencing for gang rape under Section 376D IPC. The High Court emphasized its authority under Section 397 of the Criminal Procedure Code, 1973 (CrPC) to revise the sentence despite the State's failure to appeal, ensuring compliance with the statutory minimum punishment of twenty years imprisonment for such offences.

- The case highlights the High Court's authority to correct sentencing errors and ensure adherence to statutory minimum punishments, even in the absence of an appeal by the State.

**Mrs. X v. State of Karnataka & Anr.**

“A woman who is a victim of prostitution cannot be punished for offences punishable under Section 5 of the Immoral Traffic Prevention Act, 1956.”

—Justice M Nagaprasanna

Recently, the Karnataka High Court in the matter of **Mrs. X v. State of Karnataka & Anr.** has stated that a woman who is a victim of prostitution cannot be punished for offences punishable under **Section 5 of the Immoral Traffic Prevention Act, 1956 (The Act)**.

**XYZ v. State of Maharashtra & Anr.**

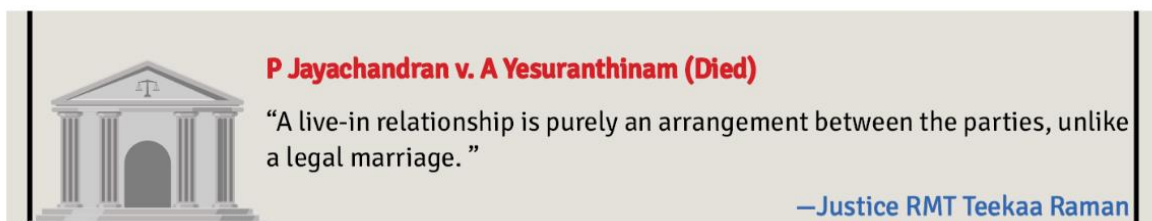
“Directs inquiry into Juvenile Court’s operations following clerk’s alleged defiance of court orders.”

— Justice AS Gadkari and Justice Neela Gokhale

- Recently in the matter of **XYZ v. State of Maharashtra & Anr.**, the Bombay High Court addressed the refusal of Juvenile Court clerk Sudhir Pawar to accept a charge sheet despite court orders. This defiance prompted the court to criticize Pawar for

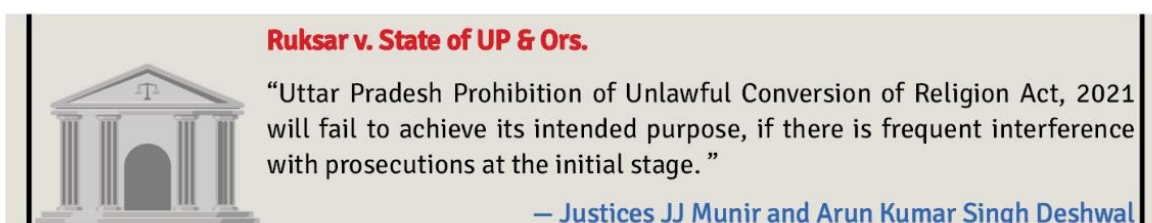
obstructing justice and raised concerns about the oversight of Presiding Officer Smt. Seema Ghute.

- The court opted for a detailed inquiry by the Principal District Judge, Thane, rather than immediate contempt proceedings, to investigate Pawar's actions and evaluate the overall functioning of the Bhiwandi Juvenile Court.

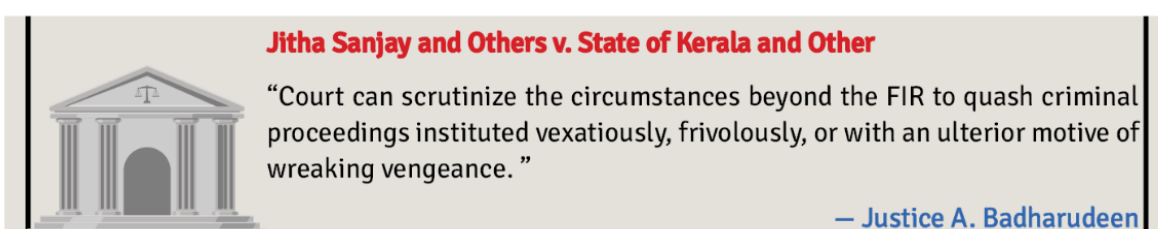


A bench of Justice RMT Teekaa Raman, made observations related to relationships of marriage like nature.

- The Madras High Court made observation in the case of **P Jayachandran v. A Yesuranthinam (Died)**.



Recently, the **Allahabad High Court** in the matter of **Ruksar v. State of UP & Ors.**, has held that the **Uttar Pradesh Prohibition of Unlawful Conversion of Religion Act, 2021 (Act of 2021)** will fail to achieve its intended purpose, if there is frequent interference with prosecutions at the initial stage.



The **Kerala High Court's** decision in the matter of **Jitha Sanjay and Others v. State of Kerala and Other** highlighted that courts can quash criminal proceedings if they are found to be vexatious, frivolous, or motivated by an ulterior motive, even if the FIR contains false allegations of an offense. The court observed that complainants with extraneous motives can craft FIRs to include necessary ingredients.

**Lakkamma & Others v. Jayamma**

“For obtaining a decree of specific performance, the plaintiff must prove their continuous readiness and willingness to perform their part of the contract.”

— Justice Krishna S Dixit and Justice Ramchandra D Huddar

A bench of **Justice Krishna S Dixit and Justice Ramchandra D Huddar**, held that for obtaining a decree of specific performance, the plaintiff must prove their continuous readiness and willingness to perform their part of the contract as required under **Section 16(c) of the Specific Relief Act, 1963 (SRA)**.

- The Karnataka High Court made observations in the case of **Lakkamma & Others v. Jayamma**.

**Sagad kareem Ismael v. Union of India & others**

“Foreigners can’t use SPA to file writ petitions in Indian courts.”

— Justice M Nagaprasanna

Recently, the Karnataka High Court has set a significant legal precedent in matter of **Sagad kareem Ismael v. Union of India & others** by ruling that foreign nationals cannot execute Special Power of Attorney (SPA) from outside India to file writ petitions in Indian courts. The court dismissed a petition filed by an Iraqi national through an SPA holder, seeking entry into India for medical treatment.

- This decision effectively limits the ability of foreigners to use SPAs for legal matters in India, particularly regarding visa applications and immigration issues.

**Prem Chand v. State of UP & Ors.**

“Kshetriya Gandhi Ashram, Meerut is not a State under Article 12 of the COI as there is no statute regulating the functions of the Ashram or empower State to control its affairs.”

— Justice J.J. Munir

Recently, the [Allahabad High Court](#) in the matter of **Prem Chand v. State of UP & Ors.**, has held that Kshetriya Gandhi Ashram, Meerut is not 'State' under **Article 12 of the Constitution of India, 1950 (COI)** as there is no statute regulating the functions of the Ashram or empower State to control its affairs.

**Roshan Lal Alias Roshan Rajbhar and Others v. State of U.P. and Another**

“Court quashes cognizance and summoning order, ruling that using pre-printed forms for judicial orders is unacceptable and lacks proper judicial consideration.”

— Justice Syed Qamar Hasan Rizvi

Recently, *Roshan Lal Alias v. State of U.P. and Another* gained attention due to the Allahabad High Court's decision to set aside a summoning order issued by a magistrate in Azamgarh.

The High Court found that the magistrate had mechanically used a pre-printed proforma, failing to apply judicial mind while issuing the order.

Section 210 of BNSS deals with the power of the magistrate to take cognizance of an offence earlier it was given under Section 190 of Criminal Procedure Code, 1973 (CrPC)

This Section deals with the cognizance of offences by magistrates. It states that

Subject to the provisions of this Chapter, any Magistrate of the first class, and any Magistrate of the second class specially empowered in this behalf under sub-section (2), may take cognizance of any offence-

- upon receiving a complaint of facts which constitute such offence
- upon a police report of such facts
- upon information received from any person other than a police officer, or
- upon his own knowledge, that such an offence has been committed.

✚ A bench of Justice Bechu Kurian Thomas held that there was no evidence on record to show that the accused intended to instigate the deceased to commit suicide. The Kerala High Court held this in the case of **Murali @ Muralidharan v. State of Kerala**.

✚ The Madras High Court recently in the matter of **Gokul Abhimanyu v Union of India and Another** dismissed a writ petition seeking a reduction of the application fee for the All-India Bar Examination (AIBE) conducted by the Bar Council of India. The bench ruled that there was no statutory provision prescribing the AIBE fee, unlike the enrolment fee under the Advocates Act.

The court found that the current fee of Rs. 3,500 (Rs. 2,500 for SC/ST candidates) was not exorbitant and saw no grounds for interference.

The Bench elucidated that a Writ of Mandamus necessitates the demonstration of a legal right, which was absent in the instant case.

This ruling highlights the distinction between statutory fees and examination fees in the legal profession.

TOPPERS OF THE MONTH

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