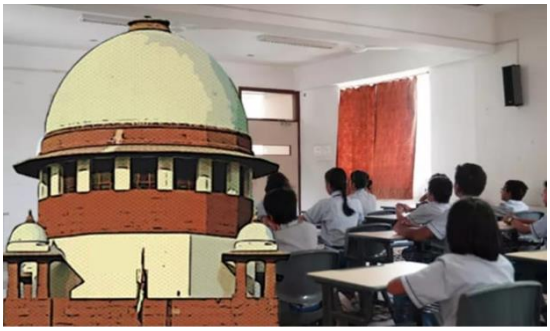
Navin Kumar & Ors v. Union of India & Ors Etc,

- **TOPIC :** B.Ed Degree Not a Qualification For Primary School Teacher
- **BENCH :** Justice Aniruddha Bose and Justice Sudhanshu Dhulia



- **FORUM:** Supreme Court
- **MAIN ISSUE**
  - Whether the decision of Chhattisgarh High Court is correct which quashed the appointments of B.Ed. Degree holders candidates as primary school teachers and reiterated that the essential qualification for such appointments is a Diploma in Elementary Education.
- **FACTS**
  - A batch of petitions was filed challenging the judgment of the Chhattisgarh High Court dated November 25, 2021, whereby it held that for the appointment of primary school teachers, the essential qualification is D.E1.Ed (Diploma in Elementary Education) and not B.Ed. (Bachelor in Education).
  - In this case, a 2018 notification of the National Council for Teachers Education, which held B.Ed candidates eligible for primary school teaching, was in question.
- **OBSERVATIONS**
  - The bench comprising Justice Aniruddha Bose and Justice Sudhanshu Dhulia had opined that the fundamental right of primary education in India as guaranteed under Article 21A of the Indian Constitution as well as the Right to Education Act, 2009 not just included 'free' and 'compulsory' education for children below 14 years of age but also included 'quality' education to be imparted in such children.
  - As per the Supreme Court, B.Ed. degree holders did not pass the basic pedagogical threshold required for teaching primary classes and thus would not be able to provide 'quality' education to primary school children.
  - Despite the clarification issued, a batch of petitions were filed seeking clarification.
  - The present petition arises from a judgment of the Chhattisgarh High Court, which was passed following orders in Devesh Sharma.
  - The Chhattisgarh High Court in its judgment on April 2, 2024 declared all candidates ineligible for selection to the post of primary school teachers, following the judgment in Devesh Sharma. It arose from petitions filed by Diploma holders in Elementary Education, challenging the eligibility of the B.Ed candidates.
  - Following this, the division bench of the High Court issued an interim order on August 21, 2023, whereby it kept the recruitment process in abeyance as regards B.Ed candidates.
  - This interim order was then challenged before the Supreme Court by B.Ed. candidates. By an order dated August 29, 2023, the Supreme Court uplifted the stay and allowed the recruitment of B.Ed candidates subject to the final outcome of the High Court. Ultimately, the petitions were decided in favour of the Diploma holders.
  - Therefore, the court concluded: "What is important is the date of appointment which is certainly after the cut-off date. They will stand disqualified, as they do not have the essential qualification for appointment as primary school teachers."
  - The court also held that the qualification given in the Chhattisgarh Rules to the extent it makes B.Ed. a qualification also cannot be implemented, following the law laid down in Devesh Sharma.
  - In fact, we have been shown today an order of NCTE dated 04.09.2023 whereby the judgment in Devesh Sharma (supra) was communicated to Chief Secretaries of all State Governments for further appropriate action. In spite of this, appointments were given to B.Ed. candidates which was illegal and has now rightly been quashed, by the Chhattisgarh High Court," the Court remarked.

XXXX v. XXXX

- **TOPIC:** Birth Certificate Prepared After Registration of FIR To Prove Juvenility of Accused Valid If Not Proved To Be Fabricated
- **BENCH** : Justice Harpreet Singh Brar
- **FORUM:** Punjab & Haryana High Court
- **MAIN ISSUE**
  - Whether a birth certificate is prepared to prove juvenility after the registration of FIR is valid or

not if the same is not proven to be fabricated.

❖ **FACTS**

- During the pendency of the trial, the petitioner filed an application to declare him a juvenile on the basis of various documents, including a birth certificate issued by the ADO, Panchayat Raj Department, Swar Rampur, Uttar Pradesh.
- However, the Court rejected the plea, observing that the birth certificate was prepared after the registration of FIR, hence it may influence the adjudication of trial.

❖ **BACKGROUND**

- Counsel for the petitioner contended that the birth certificate was prepared as per public records and maintained by the public authorities and as such, the petitioner could not have possibly fabricated the contents of the certificate or exercised undue influence in getting the same issued.
- The Punjab & Haryana High Court has made it clear that a birth certificate prepared to prove juvenility after the registration of FIR is valid if the same is not proven to be fabricated.
- The Court set aside the order of the Trial Court, wherein it observed that since the birth certificate was issued after registration of the FIR, it will fall under the purview of relevant conduct as provided in Section 8 of the Indian Evidence Act.

❖ **OBSERVATIONS**

- Justice Harpreet Singh Brar said, ‘‘Although the certificate was prepared after registration of the FIR, however, nothing has been brought on record to demonstrate that the contents of the same are fabricated or manipulated.’’
- The Court was hearing a revision plea against the impugned order passed by Additional Sessions Judge-cum-Special Judge in 2019, in Haryana's Rohtak, whereby the application filed by the petitioner for declaring him a juvenile, in a rape and POCSO Act case was dismissed.
- The Court said the birth certificate would not be rejected because it was prepared after registration of FIR when the same was not proved fabricated.
- Justice Brar also took note that the father of the petitioner had tendered the same date of birth on an affidavit in the school back in 2010.
- Consequently, the Court opined that the petitioner had successfully managed to establish his juvenility.

ABC v. XYZ

❖ **TOPIC :** Muslim Wife Who Files For Divorce is Entitled To Claim Interim Maintenance under Section 151 CPC

❖ **BENCH :** Justice V Lakshminarayanan

❖ **FORUM:** Madras High Court

❖ **MAIN ISSUE**

- Whether the courts have power or not under Section 151 of the Code of Civil Procedure to grant interim maintenance to a Muslim woman who has filed for divorce under the Dissolution of Muslim Marriage Act 1939.

❖ **FACTS**

- The court was hearing a petition filed by a husband against the order of Family Judge, Udhagamandalam granting interim maintenance to the wife. Before the Family judge, the wife had contended that as she had lost her employment, she was amidst a severe financial crisis and didn't have any savings.

❖ **BACKGROUND**

- She added that since the husband was a Pediatric Cardiologist and was also an Assistant Professor, he was earning a handsome salary and thus sought for an interim maintenance.
- Though the husband had claimed to be in debt, the Family court, taking note of the status of the parties including their social needs, financial capacity, and other obligations, ordered interim maintenance of Rs 20,000 to enable the wife to live with dignity and comfort and also granted Rs. 10,000 as litigation costs.
- Against this, the husband had filed the revision petition.

- On behalf of the husband, it was argued that Section 151 CPC only provides procedural relief and not any substantial relief and thus could not be utilized for ordering interim maintenance. He thus argued that the trial judge had erred in ordering maintenance and since the order was without jurisdiction, it required interference.
- The Madras High Court has ordered that courts have power under Section 151 of the Code of Civil Procedure to grant interim maintenance to a Muslim woman who has filed for divorce under the Dissolution of Muslim Marriage Act 1939.
- Justice V Lakshminarayanan noted that though the Act does not have a provision for granting interim maintenance, the court cannot shut its eyes when the wife comes to the court saying that she has no means.

❖ **OBSERVATIONS**

- The court added that the Dissolution of Muslim Marriage Act was introduced to ameliorate the status of Muslim women and thus had to be given a purposive interpretation.
- The court also noted that the purpose of granting maintenance was to give a level playing field to the wife and thus to ensure equal opportunity to all parties to promote justice.
- The court thus observed that if it were to hold that the court did not have power to grant maintenance, it would be against the principles of justice, equity and good conscience.
- The court also noted that as per Section 2(ii) of the Act, the husband not providing maintenance to his wife for a period of two years was a ground for divorce.
- The court thus noted that the duty to provide maintenance to the wife was an obligation on the husband.
- The court added that even as per the Protection of Women From Domestic Violence Act, the wife could claim relief of protection order, residence order, monetary relief, custody order, and compensation order before the Civil court, family court, or criminal court. Thus, the court noted that the Family court could direct the husband to pay interim maintenance under the Act.Thus, finding no arbitrariness in the order of the Family Court, the court dismissed the petition.

X v. Y

❖ **TOPIC :** Marriage of Minor Girl with Major Male May cause Physical & Mental Cruelty, Can Be Used as Grounds For Divorce

❖ **BENCH :** Justice Vivek Rusia and Justice Binod Kumar Dwivedi

❖ **FORUM:** Madhya Pradesh High Court

❖ **MAIN ISSUE**

- What will be the legality of the marriage between minor female and major male under the Hindu marriage act,1955.

❖ **FACTS**

- The appellant and respondent got married as per Hindu customs and rituals and at the time of the marriage, the appellant was only 15 years old.
- She later claimed that the Respondent had hidden the fact that he was blind in one eye. After the marriage the appellant continued to live with her parents and eventually filed a suit under Sections 11 and 12 of the HMA, seeking a decree for the marriage to be declared either void or voidable.

❖ **BACKGROUND**

- The Additional District Judge Ujjain dismissed the suit stating that the marriage could not be declared void or voidable under the HMA, as Section 12 does not cover the breach of age requirements specified in Section 5(iii) of the Act.
- In the present case, counsel for the appellant argued that under Section 5 of the HMA, certain conditions must be met for a Hindu marriage to be considered valid.
- One of these conditions, Clause (iii), specifies that the bride should be at least 18 years old at the time of the marriage. Since the appellant was a minor at the time of the marriage, the marriage should be declared voidable under Section 12 of the HMA.
- Further, there was a reference by the counsel to the Prohibition of Child Marriage Act, 2006 (PCMA), which states that any child marriage, whether solemnized before or after the commencement of

the Act, is voidable at the option of the contracting party who was a child at the time of the marriage.

- It was contended that the lower court did not consider the impact of the PCMA on the case. Counsel cited judgments from the Supreme Court and other High Courts to support his argument that the marriage should be declared void.
- The Madhya Pradesh High Court at its Indore bench held that in cases where a minor female has been married to a major male, their marriage could be declared voidable under Section 13 of the Hindu Marriage Act, 1955 (HMA).

❖ **OBSERVATIONS**

- Justice Vivek Rusia and Justice Binod Kumar Dwivedi stated that even if the remedy is not present under Section 11 or 12, under Section 13 of HMA, divorce can be claimed on grounds of the minor woman being married to a major and it will fall under the term cruelty.
- Even otherwise, it is a case of cruelty also, the marriage of a minor girl with a major male will cause mental as well as physical cruelty as she was not ready to perform the marital obligations, therefore, under Section 13 of HMA also she could have claimed the divorce from the husband / respondent''
- The court further said that the appellant should have filed under Section 3 of the Prohibition of Child Marriage Act, 2006 (PCMA) and not HMA.
- The High Court declared the marriage null and void but noted that while the HMA outlines the conditions for a valid marriage, it does not provide grounds for declaring a marriage void or voidable solely on the basis of the age of the bride or groom.
- The judges highlighted that the PCMA, 2006, specifically allows child marriages to be declared voidable at the option of the minor party, but this provision was not invoked by the appellant in her original suit.

Shree Rajpati v. Smt. Bhuri Devi X v. Y

❖ **TOPIC :** Not Mandatory For Widowed Daughter – In – Law To Live In Matrimonial Home To Claim Maintenance From Father – In – Law

❖ **BENCH :** Justice Saumitra Dayal Singh and Justice Donadi Ramesh

❖ **FORUM:** Allahabad High Court

❖ **MAIN ISSUE**

- Whether to live in a matrimonial home is a condition precedent or not for a widowed daughter-in-law to seek maintenance from her father-in-law.

❖ **FACTS**

- Respondent's husband/ Appellant's son was murdered in 1999. Thereafter, she remained unmarried. In her suit for maintenance before the Principal Judge, Family Court, Agra, she pleaded that she had only received Rs. 80,000 as terminal dues from her husband's employer. She also claimed her entitlement to the father-in-law's property which her husband was entitled to.

❖ **BACKGROUND**

- The appellant, on the other hand, claimed that the respondent was gainfully employed and that he had made a deposit of Rs. 20000 in her account. Further, it was stated that he had not received any part from the terminal dues. Disbelieving the claims that the respondent had remarried and was gainfully employed, the Family Court granted Rs. 3,000/- per month as maintenance to the respondent.
- This order was challenged by the appellant- father-in-law before the High Court.
- The Allahabad High Court has observed that agreeing to live in a matrimonial home is not a condition precedent for a widowed daughter-in-law to seek maintenance from her father-in-law.
- It was observed that a widowed woman choosing to live with her parents will not lead to the

conclusion that she separated from her matrimonial home.

❖ **OBSERVATIONS**

- The bench comprising Justice Saumitra Dayal Singh and Justice Donadi Ramesh observed
- ‘‘It is not a mandatory condition of law that for a daughter-in-law to claim maintenance, she must first agree to live at her matrimonial home. In the societal context in which law must be applied, it is not uncommon for widowed ladies to live with her parents, for varied reasons and circumstances. Merely because the lady may have made that choice may neither lead us to the conclusion that she had separated from her matrimonial home without reasonable cause nor that she would have sufficient means to survive on her own.’’
- The Court observed that no documentary evidence was filed to show that the respondent had misappropriated the terminal dues, only oral averments were made.
- Though there was evidence of a fixed deposit of Rs. 20000 created by the appellant in favour of the respondent, however, the Court observed that there was no proof regarding the misappropriation of terminal dues.
- Further, the Court observed that the factum of remarriage and gainful employment as claimed by the appellant was never proved by him by leading any evidence in support of his claim.
- Accordingly, the Court held that the respondent was entitled to maintenance from her father-in-law, as living separately from the in-laws, with her parents does not disentitle her from claiming maintenance.