

Anoop Singh v. State of Rajasthan

- ❖ **TOPIC :** No Explanation For Reinvestigation After 3 Years without court Permission: SC Quashes 1998 Booth Capturing Case
- ❖ **BENCH :** Justice Abhay Oka and Justice Manmohan
- ❖ **FORUM:** Supreme Court
- ❖ **MAIN ISSUE**
 - Regarding the case against a man accused of booth capturing in Alwar during 1998 Assembly Rajasthan elections.
- ❖ **OBSERVATION**
 - The Supreme Court quashed the case against a man accused of booth capturing in Alwar during 1998 Assembly Rajasthan elections.
 - A bench of Justice Abhay Oka and Justice Manmohan noted that the case was reinvestigated without permission from the magistrate three years after a closure report was filed despite.
 - “At this stage we may also note that the first final report under section 173(2) was filed on 25.06.1999. 3 years thereafter, at the instance of the Additional SP this exercise of reinvestigation/further investigation has commenced. There is no explanation forthcoming why such an action was taken after lapse of 3 years and that also without seeking permission from the court of the magistrate. Therefore, the appeal succeeds, and the impugned order is set aside”, the Court held.
 - The FIR in the case was registered against unknown persons for offences under Sections 131, 132(3), 135, and 135A of the Representation of People Act, 1951, and Section 171F of the IPC. The initial police investigation concluded with a closure report filed under Section 173(2) of the CrPC on June 25, 1999. This report stated that there was no material implicating the appellant and that the accused could not be identified. Based on this, the magistrate discharged the appellant.
 - However, on April 18, 2002, the Additional Superintendent of Police (SP) reopened the case and conducted reinvestigation. A fresh chargesheet was filed on June 2, 2003, naming the appellant as an accused, and the magistrate took cognizance of the matter. Subsequently, on January 10, 2013, the trial court framed charges against the appellant.
 - The appellant challenged the framing of charges before the Rajasthan High Court, which dismissed the plea, stating that the cognizance order had

- attained finality
- Thus, he approached the Supreme Court.
- During the Supreme Court proceedings, Senior Advocate S Muralidhar contended that it was a stale matter in which no protest petition against the closure report was filed.
- Justice Oka remarked, “Stale or not depends on the current political scenario!”
- He questioned the legality of the reinvestigation, noting that the Additional SP carried out the investigation without obtaining permission from the magistrate, as required under Section 173(8) of the CrPC.
- “How can police reinvestigate without prior permission of the court? Can there be investigation ordered by a superior police officer when earlier investigation has ended in closure report?” he questioned.
- The Court observed that the Additional SP undertook reinvestigation without obtaining an order from the magistrate under Section 173(8) of the CrPC. The state sought to rely on Supreme Court decisions in CBI v. Hemendhra Reddy and State v. Aruna Devi. However, the Court noted that neither of these judgments addressed the question of whether police could carry out further investigation without judicial approval after a closure report had been accepted.
- The Court highlighted the absence of any explanation for reopening the case three years after the initial closure and criticized the Additional SP's actions.
- Terming the circumstances of the case as “very peculiar,” the Court allowed the appeal, setting aside the order of the magistrate taking cognizance of the chargesheet as well as the charges framed by the trial court against the appellant

Ayub Khan v. The State of Rajasthan

- ❖ **TOPIC :** No Constitutional court Can Direct Trial courts to Write Bail Orders In A Particular Manner
- ❖ **BENCH :** Justice Abhay S Oka and Justice Augustine George Masih
- ❖ **FORUM:** Supreme Court

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❖ **MAIN ISSUE**

- Regarding the directions issued by the Rajasthan High Court that the Trial Courts should incorporate in a tabular chart the criminal antecedents of the accused while deciding bail applications

❖ **OBSERVATION**

- The Supreme Court has expressed disapproval of the directions issued by the Rajasthan High Court that the Trial Courts should incorporate in a tabular chart the criminal antecedents of the accused while deciding bail applications. The Court observed that High Courts cannot direct the Trial Courts to write bail orders in a particular manner.
- A bench comprising Justice Abhay S Oka and Justice Augustine George Masih made this pertinent observation while deciding an appeal filed by a District and Sessions Judge against certain adverse remarks made by the High Court against him. The High Court passed the adverse remarks because the Judge did not incorporate the tabular chart of criminal antecedents while rejecting a bail application.
- It was in 2020 that the High Court (in Jugal Kishore v State of Rajasthan) issued directions to the Trial Courts on recording the criminal antecedents of the bail applicants. In 2021, similar directions were reiterated in another case (Gagandeep @ Goldy v. State of Rajasthan). Those general directions issued in the second case (Gagandeep @ Goldy) were deleted by the Supreme Court in February 2023 in SLP (Crl.) No. 11675-11676 of 2022.
- In the present case, the Judicial Officer passed the bail order in question in December 2022. The High Court demanded an explanation from him. In the order, the High Court observed that the Judicial Officer's action amounted to judicial discipline. Challenging the High Court's observation, the Judge approached the Supreme Court.
- Firstly, the Supreme Court disapproved of the general directions issued by the High Court. In the present case, the Judicial Officer had referred to criminal antecedents of the accused though not in the prescribed tabular chart.
- "If the directions in the case of Jugal Kishore are to be strictly implemented, the Court may have to adjourn the hearing of the bail applications to enable the prosecutor to submit the details in the prescribed tabular format," the Supreme Court observed
- Saying that it was not necessary to incorporate all the details of criminal antecedents in the prescribed format, the Supreme Court held that the directions in Jugal Kishore cannot be read as mandatory.
- "If a High Court directs that in every bail order, a

chart should be incorporated in a particular format, it will amount to interference with the discretion conferred on the Trial Courts," the Court said

- "No Constitutional Court can direct the Trial Courts to write orders on bail applications in a particular manner. One Judge of a Constitutional Court may be of the view that Trial courts should use a particular format. The other Judge may be of the view that another format is better," the Court added.
- The Court also expressed disapproval of the High Court seeking an explanation through a judicial order. Explanation can be sought only on the administrative side, the Court said, while expunging the adverse remarks

Sr. Sagaya Mary v The State

- ❖ **TOPIC :** Thanjavur School girl Suicide | HC Decline To Quash Abetment Case Against Hostel Warden, Says Religious Conversions Allegation Should've Been Avoided

- ❖ **BENCH :** : Justice G Ilango

- ❖ **FORUM:** Madras High Court

❖ **MAIN ISSUE**

- Regarding the chargesheet filed against Sister Sagaya Mary, hostel warden of St. Michael's Girls Hostel attached to the Sacred Heart Higher Secondary School, Thanjavur for allegedly abetting the suicide of a 12th Standard Student.

❖ **OBSERVATION**

- The Madras High Court has refused to quash the chargesheet filed against Sister Sagaya Mary, hostel warden of St. Michael's Girls Hostel attached to the Sacred Heart Higher Secondary School, Thanjavur for allegedly abetting the suicide of a 12th Standard Student.
- In January 2022, a 12th Standard girl of the Sacred Heart School attempted to commit suicide by consuming pesticide
- Though the girl was taken to the hospital, she died during treatment. In her dying declaration, she stated that the hostel warden had tortured her mentally by making her do additional work in the hostel and not allowing her to study properly.
- Though the warden contended that she had never intended the child to commit suicide, Justice G Ilango of the Madurai bench noted that the warden's intention, whether good or bad, had to be looked into at the time of trial.
- The court also added that other points raised by the warden also could be considered at the time of trial

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and the case was not fit to be quashed.

- “ Coming to the opening paragraph of the discussion whether the road to hell is paved out of her good intention is a matter to be taken into account at the time of trial. So, I am of the considered view that this is not a fittest case to exercise the jurisdiction under section 482 Cr.P.C to quash the proceedings.
- But however, considering the position of the petitioner, her personal appearance before the trial court is dispensed with,” the court observed.
- While an attempt was made to bring in a forcible religious conversion angle to the issue, the CBI had ruled out the same. The court appreciated the CBI for bringing out the truth in an honest manner and noted that there was no ground to suspect the allegations of conversion
- The court added that the allegations of conversion should have been avoided by those responsible and lamented that the damage already done could not be repaired.
- “ Perusal of the records shows that the attempt was made to stamp this event as forcible religious conversion, but the 1st respondent Investigating Officer has done a remarkable job in a honest manner to bring out the truth. There was no ground reason for suspecting the allegation of conversion
- This was fairly admitted by the learned Special Public Prosecutor at the time of argument. These things ought to have been avoided by the responsible persons. But damage ought not to have been made. But made, which cannot be repaired now,” the court said.
- While seeking to quash the case, the warden argued that she, being the hostel warden was more than a guardian and never intended the child to commit suicide. It was argued that the child was supersensitive and no extra pressure had been given to her
- The warden also informed the court that the child's family situation was miserable and she was being treated improperly by her step mother because of which the child intended to remain in the hostel, even during vacations.
- On the other hand, the CBI submitted that the intention of the warden could be looked into only at the stage of trial and the discharge stage was too premature to undertake such exercise.
- It was also submitted that the dying declaration given by the student clearly showed that she was subjected to mental stress, harassment, and teasing at the hands of the warden.

- To this, the warden argued that the criminal case had to be looked into not upon the perspective of the deceased but upon the mens rea of the accused
- It was also submitted that there were witnesses who testified the situation in the student's house which would also prove that there was no sufficient material to infer mens rea on the warden.
- The court however noted that the veracity of the dying declaration had to be considered at the stage of trial and thus dismiss the discharge petition

Vignesh v State

- ❖ **TOPIC :** Madras HC Grants Bail To Man Accused Of Stabbing Doctor For Alleged Poor Treatment of Mother
- ❖ **BENCH :** Justice AD Jagadish Chandir
- ❖ **FORUM:** Madras High Court
- ❖ **MAIN ISSUE**
 - Regarding the bail to Vignesh, accused of stabbing a doctor at the Kalaingar Centenary Super Speciality Hospital in Guindy, Chennai
- ❖ **OBSERVATION**
 - The Madras High Court granted bail to Vignesh, accused of stabbing a doctor at the Kalaingar Centenary Super Speciality Hospital in Guindy, Chennai in November this year.
 - Considering the period of incarceration, the materials and the arguments, Justice AD Jagadish Chandira was inclined to grant conditional bail to Vignesh.
 - The court thus ordered him to be released upon executing a bond of Rs. 15,000 with two sureties. The court also directed Vignesh to stay at Vellore and report before the Inspector of Police, Sathavachari Police Station every day until further orders.
 - In November this year, Dr Balaji was stabbed in the neck by Vignesh after a heated argument regarding the treatment given to Vignesh's mother, who was suffering from cancer.
 - Vignesh had blamed the hospital and Dr. Balaji, who was an oncologist there, for his mother's critical condition. Following this, the Doctor was immediately rushed to the ICU and Vignesh was arrested. The CM issued a post condemning the incident calling it “shocking” and assuring that the State would prevent such incidents in the future.
 - Vignesh was arrested for offenses under Sections 127(2), 115(2), 118(1), 121(2), 109, 351(3) of BNS and under Section 3 of Tamil Nadu Medicare

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Service Persons and Medicine Service Institutions (Prevention of Violence and Damage or Loss to the Property) Act 2008.

- While seeking bail, Vignesh's counsel told the court that the incident occurred when his mother was admitted in the hospital and being dissatisfied with the medical treatment provided to her, Vignesh questioned the Doctors leading to an altercation.
- He also pleaded innocence and submitted that he was falsely implicated.
- The state opposed the plea but submitted that there were no previous cases against Vignesh and that Dr Balaji had also been discharged from the Hospital.
- Considering the facts, the court was inclined to grant bail and ordered accordingly

Akhil Mohanan v State of Kerala

❖ **TOPIC:** Criminal Proceedings Involving Serious Offences Under POCSO Act Can't Be Quashed On Settlement Between Parties

❖ **BENCH :** Justice A. Badharudeen

❖ **FORUM:** Kerala High Court

❖ **MAIN ISSUE**

- Regarding the compromise between the accused and the complainant.

❖ **OBSERVATION**

- The Kerala High Court has held that remote chance of conviction due to compromise between the accused and the complainant should not serve as a ground to terminate investigation abruptly and to quash the FIR and further proceedings in serious offences involving POSCO Act.
- In the present case, the petitioner was accused of subjecting a 17-year-old girl to sexual intercourse by giving promise to marriage.
- The court further said that legal position was comprehensive that criminal proceedings involving very serious offences under the POCSO Act could not be quashed on the ground that the accused and the complainant had settled the matter.
- Justice A. Badharudeen found that prime facie case was made out against the petitioner and declined to quash the criminal proceedings under the POCSO Act based on the girl's affidavit for settlement.
- "Thus, the legal position is apparent and comprehensive that criminal proceedings involving very serious offences under the POCSO Act could not be quashed on the ground that the accused and the complainant had settled the matter. That apart, in cases of this nature, the fact that in

view of compromise entered into between the parties, the chance of a conviction is remote and bleak also cannot be a ground to abruptly terminate the investigation, by quashing FIR and all further proceedings pursuant thereto, by invoking the power under Section 482, Cr.P.C.

- Crime was registered against the petitioner under Sections 450, 376(2)(n), 354, 354A(1)(i), 354D(1)(i), 354D(1)(ii) of the IPC, various provisions under the POCSO Act and Section 66E of the Information Technology Act.
- As per prosecution case, the girl was given a mobile phone by her parents to attend online classes during the Covid-19 pandemic and she became friends with the accused through a mutual friend
- The accused who initially contacted the girl through phone started visiting her house and subjected her to sexual intercourse, despite her resistance.
- The counsel for petitioner sought for quashing the proceedings based on the affidavit of the girl. It was contended that the petitioner and the girl had consensual sexual intercourse due to their romantic relationship during their adolescent years and sought for quashing of the criminal proceedings.
- On the other hand, the Public Prosecutor opposed quashing of the FIR submitted that serious offences under the POCSO Act could not be settled on the strength of affidavit filed by the girl at a subsequent stage even after attaining majority. It was argued that it is discernible that the accused started relationship with the girl offering to marry her and continued the same. In the meanwhile, on offering promise of marriage he had coitus with the girl repeatedly. In such a case, prima facie, the above offences are made out.
- Relying upon precedents, the Court observed that serious offences under POCSO Act cannot be quashed based on compromise entered between the accused and victim.
- Further, the Court stated that despite hostility of the girl on the premise of settlement, the prosecution could use the statement of the girl recorded under Section 164 CrPC to support prosecution's allegations.
- As such, the petition was dismissed

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ABC vs State of Maharashtra

- ❖ **TOPIC :** “Love Recognises No Barriers”: Bombay HC Quotes Maya Angelou, Allows Hindu Girl To Live – In With Muslim Boy
- ❖ **BENCH :** Justices Bharati Dangre and Manjusha Deshpande
- ❖ **FORUM:** Bombay High Court
- ❖ **MAIN ISSUE**
 - Regarding a Hindu girl to continue her 'live-in relationship' with a Muslim boy
- ❖ **OBSERVATION**
 - The Bombay High Court recently quoted American civil rights activist Maya Angelou while permitting a Hindu girl to continue her 'live-in relationship' with a Muslim boy, observing that love recognises no barriers
 - A division bench of Justices Bharati Dangre and Manjusha Deshpande in an order passed on December 13, ordered the release of the girl noting that she was an adult and had a right to exercise her 'right to choice.'
 - "Maya Angelou, an American memoirist and civil rights activist remarked 'Love recognizes no barriers. It jumps hurdles, leaps fences, penetrates walls to arrive at its destination full of hope
 - This statement actually describe the story of the petitioner and the corpus - a major girl, but there is a fly in the ointment. Apart from the fact that they belong to different religions and their interse relationship is disapproved by the girl's family, another hindrance is that the petitioner, the boy is not of marriageable age," the order authored by Justice Dangre, reads.
 - The judges noted that the relationship was not only opposed by the girl's family but also right-wing groups like the Bajrang Dal
 - However, the was insistent in joining the company of the boy and his mother, "despite all odds and objections and the pressure to which she is subjected to, from various factions of the society including her own parents"
 - The judges further noted that the boy at present was 20 years old and thus was not of the 'marriageable' age and therefore, the girl and the boy decided to live in an 'live-in relationship' which would be in the 'nature of marriage' till the boy attains the requisite age

- "Necessarily all live in relationships will not amount to 'relationship in the nature of marriage', as contemplated under the Protection of Women from Domestic Violence Act, 2005, as the terminology used in the Act being relationship in the nature of marriage and not live in relationship," the court made it clear.
- The bench further pointed out that after speaking to the girl, who was placed in the custody of Stree Bhishekari Khikar Kendra a Government Women Centre, at Chembur, Mumbai
- she clearly expressed her thoughts that she is ready to live with the boy in a 'live-in relationship' as she is an adult and so is the petitioner and she at this stage do not express her desire to enter into a marital bond.
- "It is her decision as an 'adult' that she do not intend to stay with her parents nor does she want to continue her stay with the Women Centre but she want to lead her life as a free person,
- who is not physically restricted or controlled by others and is able to make her own choice and decision. According to her, she is entitled for the freedom of making a choice of what is right for her and which shall not be determined by her natal parent nor by the society," the bench noted.
- Though we quite see the concern of the parents, who the judges said, are interested in securing her future, but when she has exercised her freedom to make a choice, in our opinion it is not permissible for us to restrict her freedom of making the choice, which she is entitled to in law.
- "The court should not assume the role of a super guardian being moved by any kind of sentiment of the mother or the egotism of the father," the bench underscored while relying on various orders of the Supreme Court in similar matters.
- The bench, therefore, ordered the release of the girl but refused to grant police protection to the couple, as prayed for.

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