Shanidev And Another v. State Of Up And 7 Others

- **TOPIC :** Allahabad High Court Directs Inquiry Into Arya Samaj Mandir And Other Institutions Granting Marriage Certificates
- **BENCH :** Justice Vinod Diwaker

- **FORUM:** Allahabad High Court
- **MAIN ISSUE**
  - Regarding the inquiry Into Arya Samaj Mandir and Other Institutions Granting Marriage Certificates.
- **FACTS**
  - The Allahabad High Court has directed an inquiry into the Arya Samaj Mandirs, societies, trusts, and institutions providing marriage certificates primarily in Gautam Budh Nagar and Ghaziabad as well as in other parts of Uttar Pradesh.
- **OBSERVATIONS**
  - Dealing with protection cases filed by young couples, Justice Vinod Diwaker observed that ''In essence, such marriages lead to human trafficking, sexual exploitation, and forced labor. Children endure emotional and psychological trauma caused by social instability, exploitation, coercion, manipulation, and the disruption of their education. Additionally, these issues place a significant burden on the courts. Therefore, a robust system for document verification and ensuring the accountability of trusts and societies needs to be developed.''
  - Petitioners approached the High Court to seek protection for their lives. It was pleaded that petitioners were major and had married at an Arya Samaj Temple. Based on the certificate provided by the temple they had applied for marriage registration before the registrar.
  - The Additional Chief Standing Counsel drew the Court's attention to the fact that the marriage certificate, which appears to be issued by Arya Samaj Mandir, Greater Noida, had no details regarding the priest, address of the Temple, witness details and declaration of whether the marriage had been performed in accordance with the Hindu Marriage Act. It was pleaded that the certificate might be forged.
  - Noticing that various such cases of forged Arya Samaj certificates were being filed before the Court seeking protection, the Court ordered the Assistant Inspector General of Registration (Stamp and Registration), Ghaziabad, Gautam Budha Nagar to appear before the Court and place on record all the details of the marriage in his jurisdiction between 1st August 2023 to 1st August 2024.
  - Further directions were issued to the Inspector General Stamp, Uttar Pradesh to file the number of marriages registered in the State of UP, district-wise for the same period.
  - The Court had observed that this activity was being carried out so as to control the issuance of fake certificates in violation of the Arya Samaj Marriage Validation Act, 1937 and Hindu Marriage Act, 1955.
  - When the case was listed for hearing on 27.08.2024, the Court observed that despite two orders being passed and notices being served, none had appeared on behalf of the Arya Samaj Pratinidhi Sabha, 5 Meerabai Marg, Lucknow. Accordingly, the Court granted them a last opportunity to appear before the Court.
  - On the last date, counsel appeared on behalf of the Arya Samaj Pratinidhi Sabha and filed the details as asked by the Court.
  - Thereafter, time was sought to file suggestions as to ''how the Arya Samaj Pratinidhi Sabha may control and regulate the affairs of the societies affiliated with the Sabha so far as the solemnization of marriage is concerned.''
  - Since the letter seeking suggestions from various departments was issued just a day prior to the hearing of the case, Justice Diwakar remarked that a casual approach was being adopted by the authorities in this matter and this would take years to come to a logical end.
  - ''In all the petitions, almost similar set of assertions are made and the respective learned counsel for the petitioners submit that the petitioners are major and married according to Hindu law, meeting the requirement of Section 5 of the Hindu Marriage Act, 1955.
  - The petitioners have married against the wishes of their parents and, therefore, face serious threats to their lives from their respective parents.''

- Noting the names of 15 such societies/trusts/temples which were issuing marriage certificates, the Court observed that upon police verification, in most cases it was found that either the societies were fraud or not affiliated with the Head Office or the marriages were solemnized in contravention of the Child Marriage Restraint Act and Section 5 of the Hindu Marriage Act, 1955.
- Even the details and documents provided by the parties were forged.
- Accordingly, the Court directed Commissioners of Police, Gautam Budh Nagar and Ghaziabad, to conduct a thorough and discreet inquiry into the trusts mentioned who were involved in solemnizing marriages in contravention of Section 5 of the Hindu Marriage Act, 1955 and the provisions of Child Marriage Restraint Act, 1929.

Sunil Chauhan V. State Of Haryana & Another

- **TOPIC:** While Quashing Case For Abetment To Suicide, Court Must Apply Test Of How Normal Person Would React When Faced With 'Incidents Of Harassment'
- **BENCH :** Justice Jasjit Singh Bedi

- **FORUM:** Punjab & Haryana High Court
- **MAIN ISSUE**
  - Regarding the quashing case for Abetment to Suicide
- **FACTS**
  - It was alleged that three men harassed the deceased as they were not paying him his dues because of this he was forced to commit suicide.
  - A suicide note was also produced wherein the names of three accused were mentioned and the deceased made them responsible for his death.
- **BACKGROUND**
  - A video recording was also recovered as per which the deceased was heard stating that he was going to commit suicide on account of non-payment of dues by the three named accused.
  - The Punjab & Haryana High Court has said that while quashing FIR on abetment to suicide the Court must test how a normal person would react to the alleged incidents of harassment.
- **OBSERVATIONS**
  - The Court quashed the FIR lodged on abetment to suicide for allegedly compelling the deceased to end his life on account of harassment he faced because the accused persons refused to pay his dues.
  - Justice Jasjit Singh Bedi said, "While dealing with a petition for quashing of an FIR under Section 306 IPC, the test that the Court must apply is the reaction of a normal person of ordinary prudence when faced with incidents of harassment."
  - The Court said that if the Court feels that the level of harassment faced was such that even a person of ordinary prudence with normal behaviour and reactions would be forced to take the extreme step of committing suicide, then the Court would do well in not quashing proceedings.
  - "On the other hand, if the Court comes to the conclusion that an ordinary person with normal reactions to harassment would not commit suicide but the deceased did so on account of his hypersensitive nature or other contributing factors then the Court must not hesitate in quashing the proceedings," it added.
  - These observations were made while hearing the plea to quash the FIR against two accused persons filed under Section 482 CrPC seeking quashing of FIR lodged under Sections 306 and 34 IPC in 2023.
  - It was alleged that three men harassed the deceased as they were not paying him his dues because of this he was forced to commit suicide. A suicide note was also produced wherein the names of three accused were mentioned and the deceased made them responsible for his death.
  - A video recording was also recovered as per which the deceased was heard stating that he was going to commit suicide on account of non-payment of dues by the three named accused.
  - After hearing the submissions, the Court referred to a catena of judgements of the Supreme Court and said, "There must be a proximate and live link between the occurrence and the subsequent suicide inasmuch as the instigation or illegal act of omission or commission at the hands of the accused must be the only factor which subsequently led the deceased to commit suicide."
  - Justice Bedi explained that, to constitute abetment, the intention and involvement of an accused to aid or instigate the commission of suicide is imperative.
  - There must be a positive act on the part of an accused to aid or instigate the deceased to commit

suicide.

- "Further, merely being named in a suicide would not by itself establish the culpability of an accused until the ingredients of an offence are made out," the judge added.
- Perusing the FIR and suicide note the judge said that, it "does not disclose any specific incidents of acute harassment which was likely to drive the deceased to commit suicide.
- In fact, there has been absolutely no positive act on the part of the petitioners to aid or instigate the deceased for committing suicide."
- The Court said that from the allegations on the record, it has not been established that the petitioners intended to push the deceased to such a situation that he would ultimately commit suicide.
- It concluded that "apparently a person of ordinary prudence would not have committed suicide in similar circumstances but the deceased did due to his hypersensitive nature. In fact, the complainant party including the deceased could very well have availed their legal remedies in accordance with law to recover the amounts due to them."

Purvi Delhi Vaidehi Trust (Pdvt) v. Delhi Development Authority

❖ **TOPIC :** No Vested Legal Right To Allotment Of Public Site By Merely Making Online Booking

❖ **BENCH :** Justice Dharmesh Sharma

❖ **FORUM:** Delhi High Court

❖ **MAIN ISSUE**

- Whether Vested Legal Right will be available to Allotment of Public Site By Merely Making Online Booking or not.

❖ **FACTS**

- The petitioner, Purvi Delhi Vaidehi Trust had booked a public park for holding religious functions and had paid an amount of around Rs. 2.3 lakhs towards the booking.

❖ **BACKGROUND**

- The petitioner-trust wanted to hold Janmashtami, Dussehra, Durga Pooja, Navratri etc from 29.08.2024 to 18.09.2024.
- The respondent-DDA however cancelled their booking, stating that as per a Supreme Court order, no use of parks is permitted for more than 10 days in a month.
- In this petition, the petitioner-trust thus sought revival of the booking by them for holding religious functions.

❖ **OBSERVATIONS**

- The Delhi High Court has observed a vested legal right for allotment of a public site/public park does not arise merely because the site has been booked online by paying the required amount.
- ‘‘There is no vested legal right to allotment of a public site or park by merely applying 'online' followed by payment of the booking amount.’’
- Justice Dharmesh Sharma agreed with the DDA that there is no vested legal right to hold any functions at public parks.
- The Court stated that public functions cannot be permitted at the public parks except as per the Supreme Court order.
- It further noted that factors such as nature and extent of park, its ornament value and the environmental impact of functions on the park have to be considered.
- ‘‘Ex facie, there is merit in the submissions advanced by the learned counsel for the respondent/DDA that when it comes to organizing functions at public parks, there is no legal right vested with anyone to hold any social or public functions at such site except as per the aforesaid decision for not more than 10 days and also having regard to the other objective parameters such as the nature and extent of park, its ornamental value, impact on the environment in the nature of damage to the tree and/or plantation, hazards to the birds, and noise pollution, parking issues etc.’’
- In the present case, the Court remarked that the petitioner-trust applied for the booking under the wrong category without even knowing the purpose for booking. It noted that the festivals and the date of booking did not align.
- It thus stated that the petitioner-trust did not provide a clear indication as to what celebration the park would be used for.
- Further, it also observed that there was no unreasonable delay on part of DDA to cancel the booking.

- The Court thus dismissed the petition.

Hanumantha & ANR v. State of Karnataka & ANR

- **TOPIC :** Karnataka HC Orders Departmental Inquiry Against Policemen For Filing False Charge Sheet Under NDPS Act Against Students, Affecting Their Careers
- **BENCH :** Justice M Nagaprasanna

- **FORUM:** Karnataka High Court
- **MAIN ISSUE**
  - Whether departmental inquiry can be ordered against Policemen For Filing False Chargesheet Under NDPS Act Against Students, Affecting Their Careers or not
- **FACTS**
  - According to the police officer Raj Kumar who was on probation in 2019, received credible information that few persons are consuming ganja near Krupanidhi College within the jurisdiction of Varthur Police Station.
- **BACKGROUND**
  - A complaint was registered and as necessary in law, blood samples of these petitioners were drawn and sent to the Forensic Science Laboratory ('FSL'), which on testing of blood samples opined that it did not contain any contraband substance – ganja.
  - Even after the FSL report, Kumar filed a charge sheet against the petitioners and the court had taken cognizance of the same.
- **OBSERVATIONS**
  - The Karnataka High Court has directed initiation of Disciplinary proceedings/departmental inquiry against three policemen for having filed a false charge sheet against two persons claiming they consumed Ganja, even when the FSL report clearly opined no presence of any form of contraband in their body.
  - A single judge bench of Justice M Nagaprasanna allowed the petition filed by Hanumantha and another and quashed the prosecution lodged against them under Section 27 of the Narcotics Drug And Psychotropic Substances Act (NDPS Act).
  - The court said ‘‘While it is important that menace of either narcotic drugs or psychotropic substances be curbed by dealing them with iron hand, it is equally important that curbing shall be in accordance with law, by following the procedure established by law, as any violation of procedure would lead to obliteration of proceedings that would be initiated against the accused who would get away of loopholes left in law by the Empowered Officers.’’
  - Then it directed ‘‘Disciplinary proceedings/departmental inquiry shall be initiated against the Station House Officer/ Empowered Officer and the Investigating Officer/2nd respondent.
  - The action taken report as per direction No. (iv) supra shall be placed before this Court within 12 weeks from the date of a copy of this order.’’
  - The prosecution seeking dismissal of the petition agreed that the FSL report and the charge sheet filed by the respondent/Police was contradictory to each other. It was claimed that the petitioners were found in possession of 15 grams of ganja but it was not sent to FSL as is required in law.
  - The court on going through the records noted that Section 27 makes it an offence of any person consuming any narcotic drugs or psychotropic substance. The punishment that is impossible is one year with or without fine. But, nonetheless, it is an offence under the Act. If consumption has to be proved, the primary evidence would be the presence of contraband substances in the blood sample.
  - Then it said ‘‘The blood sample is drawn and sent to FSL and the report of FSL indicates no contraband substance of any kind in the blood samples of the petitioners. The charge sheet, therefore, with mala fide intention, is deliberately filed by the Station House Officer and the Police Sub-Inspector of Varthur Police Station.’’
  - Before the court the station house officer admitted to have committed a mistake in filing the chargesheet.
  - The court said ‘‘For the mistake committed by the Station House Officer or the Investigating Officer who have deliberately and wantonly filed the charge sheet against these petitioners, the careers

of the petitioners are put to jeopardy. They have suffered ignominy for 5 years in a case concerning narcotics.''

- Repelling the claim of the prosecution that 15 grams of ganja was found on the petitioners, the court observed ''If 15 grams of ganja was found in possession of these petitioners, nothing stopped the search party i.e., the 2nd respondent to mark the seizure in terms of Section 50 of the Act.''
- Stating that the seizure is neither reported nor an inventory is drawn nor the sample is sent to FSL, the court said that the presence of 15 grams of ganja as drawn in the panchnama is a canard and shrouded with improbability and to be disbelieved.
- The court held ''It is, therefore, a clear case where there is blatant violation of Sections 50 and 52A of the Act, which are mandatory to be followed, if there is an allegation of the offence punishable under the Act.''
- It added ''It is the deliberate act on the part of both the Investigating Officer and the Empowered Officer who have filed the charge sheet before the concerned Court to face the wrath of the criminal justice system for maliciously prosecuting these petitioners. The maliciousness is apparent on the face of the record.''
- Before parting, the court said it had come across a plethora of cases where there is complete violation of Sections 50 and 52A of the Act, despite the law being very clear that it should be mandatorily followed.
- Thus it directed DG & IG or the Secretary of the Home Department shall forthwith issue a circular notifying all the Empowered Officers who are empowered to conduct search and seize contraband substances to mandatorily follow Sections 50 and 52A of the Act and their interpretation by the Apex Court, in letter and spirit, failing which officers would become open to disciplinary proceedings against them.
- Allowing the petition the court said ''In the light of quashing of proceedings, any kind of embargo hanging on the head of the petitioners for travel beyond the shores of the nation is also obliterated, except otherwise disentitled.''

Smt. Pinki v. Pushpendra Kumar

- **TOPIC :** Family Court Cannot Grant Divorce Based On Earlier Consent When It Is Later Withdrawn During Divorce Proceedings
- **BENCH :** Justice Saumitra Dayal Singh and Justice Donadi Ramesh

- **FORUM:** Allahabad High Court
- **MAIN ISSUE**
  - Whether Family Court can grant divorce based only on earlier consent given at the time of filing the divorce petition if the consent was withdrawn at a later stage in the divorce proceedings or not.
- **FACTS**
  - Parties were married in 2006. After the appellant deserted her husband, he instituted the divorce proceedings on grounds of infertility attributable to appellant-wife. In her written statement, appellant disputed the fact, and the case was referred to mediation which failed.
- **BACKGROUND**
  - Subsequently, the case remained pending for 2 years after which the appellant-wife filed a second written statement stating that she moved to her paternal home while she was pregnant only because she faced threat from the relatives of the husband. She pleaded that the divorce petition be dismissed.
  - The second mediation between the parties failed. However, in the third mediation dated 17.11.2009, it was recorded that the parties be given a separate residence without interference from relatives of either party.
  - Further, in her statement dated 03.02.2011, the appellant-wife specifically stated that she does not consent to divorce.
  - She produced documents and evidence that two children were born to the parties in 2008 and 2011. Relying on Order VIII Rule 9 CPC, respondent-husband challenged the maintainability of the

second written statement.

- Appellant-wife approached the High Court, challenging the decree of divorce granted by the Additional District Judge, Court no.8, Bulandshahar.

❖ **OBSERVATIONS**

- The Allahabad High Court has held that the Family Court cannot grant divorce based only on earlier consent given at the time of filing the divorce petition if the consent was withdrawn at a later stage in the divorce proceedings.
- The Court observed that though the date was fixed for hearing the objections regarding maintainability of the second written statement, but on the said date, the Family Court upheld the objections and disregarded the second written statement filed by the wife.
- It was further observed that thereafter the suit was heard on merits and decreed the next day, i.e., on 30.03.2011.
- The Court observed that the divorce proceedings were instituted under Section 13 of the Hindu Marriage Act by the respondent-husband and not under Section 13-B of the Act which provides for divorce by mutual consent.
- It was observed that the Family Court erred in overlooking the oral statements made by the appellant-wife and the joint statement of the parties in the third mediation, wherein they had expressed desire to cohabit.
- It was observed that the subsequent written statement filed by the appellant and evidence contradicted the stand taken by the parties at the time of filing of the divorce petition and the first written statement which was ignored by the Family Court.
- The Court observed that ‘‘it is true that after filing of a Written Statement, no further Written Statement may arise (at the instance of the defendant), by way of a procedural right - except with the leave of the Court and upon such terms as the Court may provide.At the same time, that fetter placed on the procedural right of the parties, did not prevent the learned Court below from itself requiring additional Written Statement to be filed - if that appeared necessary to it to dispense true justice.’’
- Since three years had passed since the filing of the divorce petition, the Court observed that the Family Court ought to have sought a written statement from the appellant regarding subsequent developments.
- It was further held that since there was lack of proven facts stated in the plaint and the first written statement, the Family Court could not have granted a divorce decree.
- The Court observed that Section 13-B of the Hindu Marriage Act provides that the petition for divorce by mutual consent must be decided within 18 months of its presentation unless it is withdrawn by the parties in the meantime.
- The bench comprising Justice Saumitra Dayal Singh and Justice Donadi Ramesh held ‘‘In granting the divorce on the strength of mutual consent, the learned Court below may have dissolved the marriage between the parties only in the event of that consent continuing to exist on the date of the order being passed. Once the appellant claimed to have withdrawn her consent and that fact was on the record, it never became open to the learned court below to act on that (withdrawn) consent, belatedly.In any case, it never became open to the learned court below to force the appellant to abide by the original consent given by her that too almost three years later. To do that would be a travesty of justice. Here, it may be noted, no money was paid to the appellant by way of permanent alimony etc., in lieu of her consent.’’
- The Court observed that while the appellant gave her consent on 01.04.2008 and 25.04.2008, 18 months had lapsed and thereafter she withdrew her consent in February, 2011 which was ignored by the Family Court while passing the divorce decree on 30.03.2011.
- Holding that on the day of the decree, there was no consent on behalf of the appellant-wife, the Court set aside the divorce decree. The case was remitted back to the Family Court to proceed in accordance with law.

CRL. RC NO. 2 OF 2024 (Criminal Revision Against The Order/Judgment Dated In Cc No.1076 Of 2018 Of Judicial First Class Magistrate Court, Tripunithura)

❖ **TOPIC:** Victim/ Informant Must Be Communicated About Deletion Of Names From Array Of Accused In Final Report: Kerala High Court

❖ **BENCH :** Justice K Babu

❖ **FORUM:** Kerala High Court

❖ MAIN ISSUE

- Whether Victim/ Informant should be Communicated About Deletion Of Names From Array Of Accused In Final Report or not.

❖ OBSERVATIONS

- The Kerala High Court has held that an investigating officer must notify the informant or victim about removing individuals from the list of accused in the final report, if they were initially named as accused in the FIR.
- Additionally, the Court emphasized that upon taking cognizance of the offences based on the final report, the Magistrate must also inform the informant or victim of this change.
- Allowing the criminal revision case, Justice K Babu stated thus, ‘‘The learned Magistrate shall issue notice to the informant / victim regarding the finding of the Investigating Officer that there is no sufficient ground to proceed against some of the accused.’’
- In this case, while dismissing a criminal revision petition filed by an accused, the Court observed that the Police did not notify informant/victim under Section 157 (2) of the CrPC regarding the removal of some of them from the array of accused in the final report.
- The High Court relying upon Bhagwant Singh v. Commissioner of Police and another (1985) and Anil Kumar v. Latha Mohan and Others (2021) stated that notice should have been given to the informant before removing the accused from the party array.
- The Court thus directed the registration of the present Criminal Revision Petition.
- The Court noted that nine persons were initially arrayed as accused in the FIR. After investigation under Section 157 of CrPC, the final report was filed arraying only five of those originally named as accused, while four individuals were removed from the array of accused.
- Additionally, the investigating officer added one more person as the accused.
- It was submitted before the Court that the Investigating Officer on investigating as per Section 157 of CrPC should have notified the informant/victim that there would be no investigation against the persons deleted from the array of accused and that no offences have been revealed against them.
- The Court thus said that the investigating officer should have informed the informant/victim regarding the removal of persons from array of accused in the final report, who were initially named as accused in the FIR.
- ‘‘As per Section 157(2) of Cr.P.C, if it appears to the Officer in Charge of a Police Station that there is no sufficient ground for entering into an investigation, he shall forthwith notify the said fact to the informant / victim.’’
- In the facts of the case, the Court noted that the Magistrate took cognizance of offences only against five persons and did not proceed against four persons who were arraigned as accused initially in the FIR without issuing notice and informing the informant/victim.
- ‘‘There is no justification for depriving the informant of the opportunity to be heard at the time when the report was considered by the Magistrate’’, added the Court
- As such, the Court directed the Magistrate to issue notice to the informant/victim on the Investigating Officer's finding that there is no sufficient ground to proceed against some of the accused who were initially arraigned as accused in the FIR and that they are removed from the party array.