

Avuthu Srinivas Reddy v. The Station House Officer

- ❖ **TOPIC :** Failure of Accused To produce His Mobile Phone During custody Not 'Non – Cooperation'
- ❖ **BENCH :** Justice Dr. V.R.K. Krupa Sagar
- ❖ **FORUM:** Andhra Pradesh High Court
- ❖ **MAIN ISSUE**
 - Whether the accused's failure to submit their mobile phones to the police while in custody can be considered 'non-cooperation' or not.
- ❖ **OBSERVATIONS**
 - The Andhra Pradesh High Court has observed that the accused's failure to submit their mobile phones to the police while in custody cannot be considered 'non-cooperation' as the accused is protected under Article 20(3) of the Constitution.
 - A single judge bench of Justice Dr. V.R.K. Krupa Sagar was considering the bail pleas of N.Suresh Babu, a former Member of Parliament, and Avutu Srinivasa Reddy, a businessman (petitioners).
 - The prosecution's case is that the petitioners along with 70 others belonging to the YSRCP party forcibly entered the TDP State office and attacked TDP supporters and employees.
 - One of the reasons given by the State for opposing the bail plea was that Babu failed to provide his mobile phone to the police. It contended that the mobile phone is crucial for further investigation of the case.
 - The Court referred to a Delhi High Court case of Sanket Bhadrash Modi V. Central Bureau of Investigation, where it was observed that the accused cannot be coerced to disclose the passwords or any other similar details of the digital devices or gadgets seized during the investigation while the trial is ongoing, in view of the protection guaranteed under Article 20(3) of the Constitution of India.
 - The Court was of the view that failure to provide a mobile phone to the police cannot be termed as non-cooperation as the accused is protected under Article 20(3) of the Constitution of India
 - The Court remarked "In the light of the above principles, the failure of the accused in submitting their mobile phones while in custody cannot be termed as non-cooperation from the accused. Investigation agency may not feel deterred in securing further electronic evidence simply because it could not take hold of the mobile phones from the accused."

- Here, the Court noted that material objects and electronic evidence were collected by the police.
- It noted around 34 accused have been released on bail and stated that their occupation, residences and availability for previous years indicate that they are not likely to avoid the process of law.
- It opined that continued detention was unnecessary. It thus granted bail to the petitioners/accused.

Dr Jacob Mani v. State of Kerala

- ❖ **TOPIC :** S.413 BNSS, Person Cannot Be Treated As victim To prefer An Appeal When Damage or Loss Suffered Is Not direct Consequence of Crime
- ❖ **BENCH :** Justice C Jayachandran
- ❖ **FORUM:** Kerala High Court
- ❖ **MAIN ISSUE**
 - Whether a victim under the proviso to Section 413 of BNSS is a person who suffered damages or loss as a direct consequence of the crime or not.
- ❖ **OBSERVATIONS**
 - The Kerala High Court stated that a victim under the proviso to Section 413 of BNSS is a person who suffered damages or loss as a direct consequence of the crime.
 - Section 413 of BNSS corresponds to Section 372 of CrPC, where the proviso laid down the right of a victim to appeal against an order of acquittal, or an order convicting the accused for a lesser offence, or imposing inadequate compensation.
 - Section 2 (y) of the BNSS defines victim as someone who has suffered loss or injury due to the actions or omissions of the accused.
 - Justice C Jayachandran quashed the appeal preferred by the appellant who claims to be a victim. The Court observed that the loss or damage claimed to have been suffered is too remote a cause while considering the allegations made by the appellant.
 - The appellant in this case is a Professor who agreed to be a surety for one of his students (3rd respondent) to help him with financial problems. It was stated that instead of showing him as surety, he was made the principal borrower and the loan was taken in his name with the help of other respondents, bank employees.
 - It was stated that this manipulation allowed the loan to be taken out in the appellant's name, effectively ensuring that the 3rd respondent would not have to repay it and that the appellant's property would be at risk of seizure.
 - The appellant herein pointed out irregularities in

**FOLLOW
US**



PW Mobile APP
<https://www.pw.live/>



[https://www.youtube.com/
@JudiciarybyPW](https://www.youtube.com/@JudiciarybyPW)



<https://t.me/pwlawwallah>

the functioning of the Bank to the Bank Manager. This led to the registration of a case with the CBI. It was submitted that even though the Bank Manager is the de facto complainant, the appellant is the victim here.

- The appellant thus challenges the order of the Special Court, CBI acquitting the accused by way of an appeal under proviso to Section 413 of the BNSS. It was argued that he was cheated and that a person who suffers financial loss and economic disadvantage is a victim and the appeal was maintainable.
- On the other hand, the Public Prosecutor stated appellant is a witness and cannot claim the status of a victim to prefer an appeal under Section 413 of the BNSS. It was argued that compliant to the CBI was preferred by the Bank Manager and not by the appellant.
- The respondents also contended that the appeal under Section 413 of BNSS was not maintainable since the appellant cannot be considered as victim.
- Court noted that Section 2 (wa) of CrPC defines a victim as someone who has suffered loss or injury due to the actions or omissions of the accused for which he has been charged with. However, the Court noted that Section 2 (y) of the BNSS defines a victim as someone who has suffered loss or injury due to the actions or omissions of the accused.
- The Court stated that the scope of the term victim as provided in Section 2 (wa) of the CrPC has been expanded by way of the definition in Section 2 (y) of the BNSS.
- In the facts of the case, the Court stated that even as a surety, the property of the appellant is at the risk of being proceeded against.
- The Court further stated that the complaint that led to the acquittal of the accused was not one moved by the appellant.
- As such the Court held that the appeal was not maintainable and dismissed it.

State Of J&K v. Rakesh Kumar

- ❖ **TOPIC :** Heated Exchanges Between Couple/Family member over Non – Preparedness of Food Not Sufficient To Prove Abetment to Suicide, J & K HC
- ❖ **BENCH :** Justice M.A. Chowdhary
- ❖ **FORUM:** Jammu and Kashmir and Ladakh High Court

❖ MAIN ISSUE

- Whether a heated exchange between family members over domestic matters such as the preparation of food can be construed as abetment to suicide under Section 306 of the Ranbir Penal Code or not.

❖ OBSERVATIONS

- The Jammu and Kashmir and Ladakh High Court has held that a heated exchange between family members over domestic matters such as the preparation of food cannot be construed as abetment to suicide under Section 306 of the Ranbir Penal Code (RPC).
- Justice M.A. Chowdhary made these observations while dismissing the state's criminal appeal challenging the acquittal of two accused, Rakesh Kumar and Harbans Lal, by the Principal Sessions Judge, Rajouri.
- The case stemmed from the suicide of Sanjokta Kumari, wife of Rakesh Kumar, on May 1, 2009. According to the police report, Sanjokta consumed poison after allegedly being harassed by her husband and brother-in-law, particularly over dowry demands and household matters.
- The day of the incident, a religious event (Ramayan Path) was organized at the accused's residence, and an argument ensued when Sanjokta was scolded for not preparing food on time. Later that day, she ingested insecticide and passed away while being transported to the hospital.
- The police initially charged the husband and brother-in-law under Section 306 RPC, alleging abetment of suicide. However, the trial court found the evidence insufficient and acquitted the accused. Dissatisfied, the state filed an appeal, leading to the present proceedings.
- The state argued that the trial court ignored critical evidence, including testimonies suggesting continuous harassment of the deceased by the accused.
- It was submitted that the witnesses testified that Sanjokta was mistreated for not meeting dowry demands and for her perceived inadequacy in household chores. State further argued that the trial court's judgment was "hyper-technical" for failing to appreciate circumstantial evidence.
- Upon meticulous examination of the trial court's findings the bench observed that the prosecution had failed to establish abetment of suicide beyond reasonable doubt.
- The Court emphasized:
- There is admittedly no eyewitness to the commission of the offence as no witness has been cited to depose that the deceased had been

**FOLLOW
US**



PW Mobile APP
<https://www.pw.live/>



[https://www.youtube.com/
@JudiciarybyPW](https://www.youtube.com/@JudiciarybyPW)



<https://t.me/pwlawwallah>

instigated, coerced, or abetted to take poison in anyone's presence.”

- Furthermore, the Court stressed that the argument between the deceased and her family over preparing food for the religious event could not be interpreted as abetment.
- The Court cited several precedents from the Supreme Court to underline that mere domestic disagreements or petty quarrels are insufficient to constitute abetment unless a clear and proximate act of instigation is proven.
- Additionally, the High Court noted that other allegations, including those related to dowry demands, were vague as the statements from the deceased's family were general in nature, with no specific details or evidence about dowry demands or severe cruelty.
- The victim's frustrations, including her employment struggles, also lacked credible linkage to any abetting act by the accused, the court ruled.
- Stating that to sustain a conviction under Section 306, there must be concrete evidence that the accused actively facilitated the victim's suicide Justice Chowdhary found no reason to interfere with the trial court's judgment.
- The appeal was thus dismissed and the acquittal of the accused was upheld

O. P. Ashraf v. The State of Kerala and Others

- ❖ **TOPIC** : Ingredients of Copyright Infringement not made out, Kerala High court sets Aside Conviction of man Allegedly Selling Fake Cassettes on Footpath
- ❖ **BENCH** : Justice K. Babu
- ❖ **FORUM**: Kerala High Court
- ❖ **MAIN ISSUE**
 - Whether the conviction of a man for allegedly selling fake audio cassettes on the footpath in Kannur can be set aside or not.
- ❖ **OBSERVATIONS**
 - The Kerala High Court, noting that the prosecution could not establish the ingredients of copyright infringement under Section 51(a) of the Copyright Act, set aside the conviction of a man for allegedly selling fake audio cassettes on the footpath in Kannur.
 - The police had seized 38 cassettes from the revision petitioner. He was convicted under Sections 51(a) and 52A r/w 63 of the Copyright Act by the Magistrate Court, upheld by the Sessions Court.
 - Section 51 relates to copyrights infringement,

Justice K. Babu noted that the prosecution has not verified the contents of the cassettes seized. They did not ascertain who the copyright holder was or whether the copyright holder has retained any exclusive right or whether any license has been granted.

- As per Section 52A of the Act, a publisher of the sound recording has to display the name and details of the person who made the sound recording, the copyright owner and the year of its first publication.
- The court noted that the prosecution has no case that the seized cassettes contained any sound recording and the particular required under Section 52A was not displayed.
- The Court reversed the conviction noting that conviction without establishing necessary ingredients of the offence is unreasonable

RL v. State of Rajasthan

- **TOPIC** : Rajasthan HC Refuses Bail To Uncle Booked for Rape; Says Sexual offence Involving Family Graver, Slight Contradictions in Minor's Testimony Not Fatal
- **BENCH** : Justice Rajendra Prakash Soni
- **FORUM**: Rajasthan High Court
- **MAIN ISSUE**
 - Whether bail can be granted to a uncle booked for rape
- **OBSERVATIONS**
 - Rajasthan High Court has ruled that certain contradictions in the statements of a minor victim, especially of sexual abuse, was likely due to traumatic nature of such incidents, and such minor inconsistencies in the victim's testimony were not sufficient to grant bail to the accused when the overall credibility of the allegations remained intact.
 - The bench of Justice Rajendra Prakash Soni also observed that the seriousness of sexual offences, particularly those involving familial relationship, makes the crime graver and warranted stricter consideration.
 - The Court was hearing a bail application in a case in which it was alleged by the father of the victim that her minor daughter was kidnapped and raped by her maternal uncle (“mausaji”).
 - It was argued by the counsel for the petitioner that the girl had left the house on her own volition, without informing any of her family members, which indicated her consent.
 - Furthermore, it was submitted that there were

**FOLLOW
US**



PW Mobile APP
<https://www.pw.live/>



[https://www.youtube.com/
@JudiciarybyPW](https://www.youtube.com/@JudiciarybyPW)



<https://t.me/pwlawwallah>

contradictions in her statement made to the police and during the trial making her testimony unreliable. The counsel argued that the entire narrative was just to falsely implicate the petitioner due to a family dispute.

- Rejecting the argument presented by the counsel for the petitioner, the Court opined that, “I am clearly of the view that in this case, husband of the victim's mother's sister (Mousaji) has raped the minor victim. Upon perusal, the contradictions in various statements of the victim are of a minor nature and do not carry significant weight.”
- Furthermore, it was observed that due to the traumatic nature of sexual abuses involving minors, minor contradictions were likely and not sufficient to grant bail to the accused.
- The Court also highlighted that under POCSO, a presumption of guilt was created once a victim's testimony was found reliable after which the burden shifted to the accused to prove his innocence in which the petitioner had failed.
- “Given the vulnerable state of the victim and the fact that instant child sexual abuse case, involves an individual who have access to minor victim within the family, I am of the considered opinion that the petitioner is not entitled to be released on bail.”
- Accordingly, the bail application was rejected.

Ajay Kumar Pandey v. State Of U.P. And 3 Others

- ❖ **TOPIC :** Allahabad HC Awards Rs.5 Lakh compensation To 35 Yr – old Law student who was Admitted By Fault on College's Part
- ❖ **BENCH :** Justice Manoj Kumar Gupta and Justice Vikas Budhwar
- ❖ **FORUM:** Allahabad High Court
- ❖ **MAIN ISSUE**
 - Whether compensation can be granted to a 35 year old law student who was granted admission in Law College against the rules of the brochure and was cancelled after being successful in first semester examination.
- ❖ **BACKGROUND**
 - Appellant-petitioner approached the High Court under Article 226 of the Constitution of India seeking reevaluation of his answer sheets for the first semester examination of the LLB course for

the year 2019-20 as though the petitioner had appeared in the same, he was not awarded marks to his satisfaction.

- The writ court directed the petitioner to approach the University and apply for viewing of answer sheets. Assurance was given by the counsel for the University that petitioner would be supplied copies if he applies for the same.
 - Thereafter, though on re-evaluation his marks were increased from 36 to 42, he was not allowed to appear in viva voice for the second year examination. Petitioner again approached the writ Court where the University took a stand that the admission of the petitioner and 54 others was illegal and their admissions were cancelled.
 - Petitioner challenged this order in a separate writ petition which was dismissed on grounds that rules of admission were not challenged and therefore, there was no illegality in the order cancelling his admission. Against the order of the writ Court, petitioner filed an intra-court appeal.
 - Counsel for appellant argued that the student cannot be penalized for the fault of University. It was argued that the appellant is a meritorious student who had been successful in his first semester examination.
 - It was argued that though the admission brochure stated that undergraduate degree of the candidate should be of 2016 or afterwards, but having a degree of 2008 did not disentitle the appellant from admission in 3-year LLB course per contra, counsel for Prabha Devi Bhagwati Prasad Vidhi Mahavidyalay, Anantpur, Harpur-Budhahat, Gorakhpur (Law College) affiliated to Deen Dayal Upadhyay Gorakhpur University, Gorakhpur argued that the appellant knowing the terms of brochure had posed as having completed Undergraduate degree in 2015 despite being a graduate of 2008. It was argued that such conduct warranted no relief from the Court.
- ❖ **OBSERVATIONS**
- The Allahabad High Court awarded a compensation of Rs. 5 lakhs to a 35 year old law student who was granted admission in Law College against the rules of the brochure and was cancelled after being successful in first semester examination.
 - Observing that the student had not played fraud on the College, the bench of Justice Manoj Kumar Gupta and Justice Vikas Budhwar observed, “It is rather amazing that the Law College has acted not only in a careless and reckless manner but also exhibited a conduct other than bona fide just in order to enrol and admit students in order to charge

FOLLOW
US



PW Mobile APP
<https://www.pw.live/>



[https://www.youtube.com/
@JudiciarybyPW](https://www.youtube.com/@JudiciarybyPW)



<https://t.me/pwlawwallah>

fees playing with their future.”

- The Court held that the relief sought regarding being permitted to give second year examination could not be awarded to the petitioner as his admission was against the rules laid down in the brochure. Further, since the rules of admission were not challenged by the appellant-petitioner, the same could not be gone into on merits.
- Regarding the question of appellant's entitlement to compensation, the Court observed that the Writ Court had awarded a compensation of Rs. 30,000 which was not challenged by the University. It was observed that the Law College being the one that processes applications and forwards its recommendations to the University for grant of admission, the Law College was at fault.

- When asked, the counsel for Law College stated that the College was not in a position to pay Rs. 5 lakhs as compensation.
- However, while granting the said compensation, the Court observed that "We have bestowed our consideration on the said aspect and we find that once it is admitted to the Law College that the appellant-writ petitioner had not practised fraud and he submitted all the relevant documents and was accorded admission due to the fault of the Law College then in order to compensate the appellant-writ petitioner for jeopardising his academic career the amount of Rs. 5,00,000/- to be awarded as monetary compensation is reasonable and not excessive.”
- Accordingly, the order of the writ court was modified only to that extent and no direction was issued permitting the appellant-petitioner to appear in the second year examination.



JUDICIARY
—WALLAH—

**FOLLOW
US**



PW Mobile APP
<https://www.pw.live/>



[https://www.youtube.com/
@JudiciarybyPW](https://www.youtube.com/@JudiciarybyPW)



<https://t.me/pwlawwallah>