

**Indian Evangelical Lutheran Church Trust
Association vs Sri Bala & Co.**

- ❖ **TOPIC :** Second Suit On Same Cause Of Action Must Be Filed Within 3 Years Of Rejection Of Earlier Plaintiff
- ❖ **BENCH :** Justices BV Nagarathna and N Kotiswar Singh
- ❖ **FORUM:** Supreme Court
- ❖ **FACTS**
 - The appeal filed against the Madras High Court decision which affirmed the trial court's decision dismissing the Appellant's application under Order VII Rule 11(d) of CPC seeking rejection of the Respondent's subsequent suit filed after nine years of the rejection of the earlier plaintiff.
 - The Appellant contended that both the Court's erred in dismissing the Appellant's application for the rejection of the subsequent suit on the grounds of limitation.
 - The Respondent took the defence of Order VII Rule 13 CPC to contend that rejection of the earlier plaintiff does not bar re-filing.
- ❖ **MAIN ISSUE**
 - Whether the subsequent suit on the same cause of action would be barred by limitation or not if filed beyond three years after the rejection of an earlier plaintiff
- ❖ **OBSERVATION**
 - The Supreme Court observed that the subsequent suit on the same cause of action would be barred by limitation if filed beyond three years after the rejection of an earlier plaintiff.
 - The Court rejected the argument that Order VII Rule 13 of the Code of Civil Procedure ("CPC") justifies filing a fresh suit after the rejection of the earlier plaintiff.
 - Instead, the Court said the subsequent suit would be barred by Limitation if filed beyond the period of three years after the rejection of an earlier suit.
 - It added that the subsequent suit would be rejected under Order VII Rule 11(d) being barred under limitation law because Rule 13 does not override the law of limitation i.e., the new suit must still comply with the limitation period under the Limitation Act.
 - Setting aside the High Court's decision, the judgment authored by Nagarathna J. emphasized that the subsequent suit has to

- be filed within a limitation period of three years starting from the date of rejection of the earlier plaintiff, and the Respondent cannot
- The Court observed that the Respondent cannot rely on Rule 13 of Order VII, as the provisions of the CPC do not override the Limitation Act.
- While filing a subsequent suit after the rejection of an earlier plaintiff is not prohibited, such a suit is maintainable only if filed within the stipulated three-year limitation period prescribed under Article 113 of the Limitation Act (time commences to run when the right to sue accrues).
- "it is observed that the respondent/plaintiff had filed the suit for specific performance of the agreement to sell dated 26.04.1991 in the year 1993 itself.
- The plaintiff in the said suit was rejected on 12.01.1998. The plaintiff could have filed the second suit on or before 12.01.2001 as it got right to file the suit on 12.01.1998 on the rejection of the plaintiff in the earlier suit filed by it. This is on the basis of Order VII Rule 13 of the Code.
- However, the limitation period expired in January, 2001 itself and the second suit was filed belatedly in the year 2007. The cause of action by then faded and paled into oblivion.
- The right to sue stood extinguished. The suit was barred in law as being filed beyond the prescribed period of limitation as per Article 113 to the Schedule to the Limitation Act.
- Hence the second suit is barred under Order VII Rule 11(d) of the Code.", the court observed.
- "We therefore have no hesitation in rejecting the plaintiff in O.S No.49/2007 filed by the respondent herein even in the absence of any evidence being recorded on the issue of limitation. This is on the admitted facts.
- Thus, on the basis of Order VII Rule 11(d) of the Code read with Article 113 of the Limitation Act by setting aside the impugned orders of the High Court and the trial court and by allowing the application filed under Order VII Rule 11(d) of the Code. Consequently, this appeal is allowed.", the court observed.

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❖ **Important Provision discussed**

- Order VII Rule 11 (d) CPC (A plaint can be rejected if the suit appears to be barred by any law, including the law of limitation, as stated in the plaint)
- Order VII Rule 13 CPC (a plaintiff to file a fresh plaint on the same cause of action after a plaint has been rejected)
- Article 113 of Limitation Act (Any suit for which no period of limitation is provided elsewhere in this Schedule)

Ram Bali Ram v. State of UP and another

❖ **TOPIC:** Chargesheet Issued In 2009, No Inquiry For 15 Years: Allahabad High Court Terminates Disciplinary Proceedings

❖ **BENCH :** Justice Neeraj Tiwari

❖ **FORUM:** Allahabad High Court

❖ **FACTS**

- Petitioner was a Gram Panchayat Adhikari.
- Though he was set to retire on 31.12.2009, he was suspended on 29.12.2009 due to a pending inquiry against him.
- He was served a chargesheet on 29.12.2009. After his retirement, the post-retiral dues were withheld and there was no action regarding the disciplinary proceedings initiated against him.
- Petitioner approached the High Court seeking payment of retiral dues and conclusion of the disciplinary proceedings.

❖ **MAIN ISSUE**

- Regarding the disciplinary proceedings against petitioner employee in which chargesheet had been issued in 2009 and no action was taken since then.

❖ **OBSERVATION**

- The Allahabad High Court terminated the disciplinary proceedings against petitioner-employee in which chargesheet had been issued in 2009 and no action was taken since then.
- The Court observed that the District Panchayat Raj Officer, Ghazipur, in his personal affidavit, could not explain the reasons for 15 years delay in concluding the disciplinary proceedings
- It was observed that in another writ petition, compliance affidavit had been filed in 2012 stating that almost the entire provisional pension as well as GPF had been paid to the petitioner. It was noted that the disciplinary

proceedings were still pending.

- “In the present case, there is Justice Neeraj Tiwari explanation as to why departmental proceedings have not been concluded even after completion of 15 years.
- Therefore, under the facts of the case, once charge sheet was served upon petitioner on 29.12.2009 and till date, departmental proceeding has not been completed, there is no occasion for the Court to permit respondent-authorities to continue with departmental proceeding initiated pursuant to the charge sheet dated 29.12.2009.
- Accordingly, departmental proceedings are terminated.”
- It was directed that petitioner be paid full post retiral dues from the date of his retirement, i.e., 31.12.2009 along with 6% interest from the date the dues arose to the actual date of payment. Further, the Court directed that if the dues were not cleared in 4 months, then 12% interest rate would be applicable.

❖ **Important Provision Discussed**

- Section 173 Crpc (rules and procedures for filing a charge sheet)

Arvind vs. State Of U.P. And 3 Others

❖ **TOPIC :** Rape Survivor Faces Dual Crises, Crime Wounds Her Dignity & Trial Forces Her To Relive Traumatic Experience

❖ **BENCH :** Justice Sanjay Kumar Singh

❖ **FORUM:** Allahabad High Court

❖ **FACTS**

- In this case, the complainant (mother of the minor victim) lodged an FIR under Sections 376(2), 328, 120-B, 506, 452, 323 I.P.C. and Sections 5L, 5J(ii) and 6 POCSO Act on July 9, 2023, alleging that on the applicant raped her daughter.
- On the day of the lodging of the FIR, the victim was carrying a pregnancy of four months.
- Seeking bail in the case, the applicant's counsel argued that the DNA tests had confirmed that the applicant and the victim were the biological parents of the victim's child and on July 30, 2024, the applicant was granted interim bail after expressing willingness to marry the victim and take responsibility for the child.

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- However, since the marriage could not take place, the applicant surrendered before the concerned court on November 20, 2024, and has been in jail since then.
- The counsel for the applicant sought bail on the grounds of the detention period of the applicant
- ❖ **MAIN ISSUE**
 - Regarding the bail to the accused of rape.
- ❖ **OBSERVATION**
 - The Allahabad High Court has observed that a woman who is raped undergoes two crises- the commission of a crime, where her dignity is wounded and her sense of security is destroyed and the subsequent trial, where she is forced to relive the traumatic experience.
 - Hence, prima facie, the Court did not find any reasonable ground for the false implication of the applicant, and thus, the bail application was dismissed.
 - Furthermore, the Court also underscored that sexual violence, apart from being a dehumanizing act, is an unlawful intrusion of the right to privacy and sanctity of a female.
 - Having heard the counsel for the parties and examined the matter in its entirety, the Court noted that it was not in dispute that on account of forceful physical relations between the applicant and the victim, she became pregnant and delivered a child.
 - The Court further noted that in the DNA report, the applicant was found to be the biological father of the baby of the victim
- ❖ **Important Provisions discussed**
 - Section 376 of IPC (Punishment for rape)
 - Section 6 of POCSO Act (Punishment for aggravated penetrative sexual assault)
 - Section 64 BNS (Punishment for rape)

George P.O v. State of Kerela and another

- ❖ **TOPIC :** Mandate U/S 19 POCSO Act To Report Offence Is To Be Performed By A Person In Personal Capacity: Kerala HC Quashes Case Against Ex-CWC Head
- ❖ **BENCH :** Justice K Babu
- ❖ **FORUM:** Kerala High Court
- ❖ **FACTS**
 - In the present case, the allegations against the accused, a former chairman of the Child

- Welfare Committee, Thrissur, were of non-reporting offences under the Act to the police.
- However, the accused claimed that he directly informed the police about the matter on the very next day.
- ❖ **Main Issue**
 - Regarding the mandate of reporting offences provided under Section 19 of the Protection of Children from Sexual Offences Act, 2012
- ❖ **OBSERVATION**
 - The Kerala High Court observed that the mandate of reporting offences provided under Section 19 of the Protection of Children from Sexual Offences Act, 2012 is not of an official character and the person has to report it in his personal capacity.
 - “Section 19 of the POCSO Act casts a mandate on any person to report the commission of an offence.
 - The mandate to report does not relate to his official character. The mandate to report contained in Section 19 of the POCSO Act is to be performed in his private capacity,” held Justice K Babu.
 - The Court observed that the mandate of Section 19 is not of an official character.
 - Adverting to the facts of the case, it pointed out that the CWC was apprised about the victim's case through a letter. However, the details of the abuse were not mentioned in the letter.
 - There was a general mention of the abuse.
 - “The charge against the petitioner is that he failed to report the matter.
 - The petitioner got information only on 05.02.2014. He reported the matter to the police on the very next day. The necessary conclusion is that the petitioner has discharged the mandate cast on him in his private capacity under Section 19 of the POCSO Act.”
 - The Bench discussed that as per Section 42A (Act not in derogation of any other law) of POCSO Act, its provisions shall be in addition to and not in derogation of the provisions of any other law.
 - Further, in case of any inconsistency, the provisions of the Act shall have an overriding effect to the extent of such

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inconsistency.

- Taking cue from this, the Court said that the non-obstante clause in Section 19 is to be constructed strictly so that its overriding effect is restricted only to the contradictory provisions of the CrPC.
- The Court then referred to Sections 39 and 40 of CrPC, which also talks about reporting the commission of offences. Marking the inconsistencies, the Court said that, unlike in the Act, the failure to report under Section 39 by itself is not defined as an offence.

- Having cemented this background, the Court found that the accused's defence is based on sound, reasonable and indubitable facts.
- Therefore, the proceedings initiated against him would result in the abuse of the process of the Court. Resultantly, the criminal proceedings against him were quashed.

❖ **Important Provisions discussed**

- Section 19 of POCSO Act (Reporting of offences)
- Section 42A of POCSO Act (Act not in derogation of any other law)



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