

Vimal Babu Dhumadiya v. The State of Maharashtra

- ❖ **TOPIC :** High Court Judgment Cannot Be Declared Illegal Under Article 32 Of Constitution: Supreme Court
- ❖ **BENCH:** Justices Vikram Nath, Sanjay Karol and Sandeep Mehta.
- ❖ **FORUM:** Supreme Court
- ❖ **MAIN ISSUE :** Whether a High Court judgment can be declared illegal or not under Article 32 of the Constitution.
- ❖ **FACTS :**
 - The present petitioners had filed this writ petition against the Bombay High Court judgment. In the impugned judgment, the High Court had directed the respondent to demolish five apartment complexes.
 - The demolition was ordered on the ground of not having valid permits from the Mumbai Metropolitan Region Development Authority on government land.
 - Though a SLP was preferred, the same was dismissed by the Court as the petitioners wanted to explore other legal remedies.
 - Pursuant to this, an application seeking modification of the challenged judgment was filed before the High Court.
 - Therein, the respondents who were directed to deposit Rs.8 Crores submitted that they would rehabilitate flat owners by to each of the flat owners alternate suitable residential flats.
 - However, the same was also dismissed by the Court.
 - Subsequently, the petitioners filed this writ petition to declare the impugned judgment as illegal.
 - They contended that they were not impleaded as a party and thus were not heard. Apart from that, several directions were pleaded to be issued including a direction against the respondents to regularize the petitioners' apartments.
 - Further, the grant occupancy/leasehold rights over the alleged government lands over which their apartments have been constructed were also pleaded.
- ❖ **OBSERVATION :**
 - The Supreme Court held that a High Court judgment cannot be declared illegal under Article 32 of the Constitution.
 - The Court added that if petitioners are

aggrieved by the impugned judgment for not being heard, they can either pray for its recall or challenge the same through a special leave petition.

- Supreme Court dismissed the writ petition while leaving it open for them to avail such other remedy as may be available under law.
- ❖ **IMPORTANT PROVISION DISCUSSED**
 - Article 32 (Indian Constitution) guarantees the right to approach the Supreme Court for the enforcement of fundamental rights.

Dalip Kumar @ Dalli v. State of Uttarakhand

- ❖ **TOPIC:** Bodily Injuries Not Necessary To Prove Sexual Assault; Victims Respond To Trauma In Different Ways: Supreme Court
- ❖ **BENCH:** Justice Hrishikesh Roy Justice S.V.N Bhatti
- ❖ **FORUM:** Supreme Court
- ❖ **MAIN ISSUE :** Whether bodily injuries are necessary to prove sexual assault or not.
- ❖ **FACTS:**
 - An appeal against the appellant's conviction under Sections 363 (kidnapping) and 366-A (induces any minor girl to go from any place with the intent of illicit intercourse). The conviction was affirmed by the High Court. At the outset, the Apex Court pointed out that the victim's testimony indicated that she voluntarily went with the appellant.
 - Further, though her younger sister saw the victim going with the appellant near her school, unnaturally, she was never presented as a witness in the case.
 - Moving forward, the Court took into account the doctor's evidence. The doctor had observed no sign of injury on her person
- ❖ **OBSERVATION :**
 - The Supreme Court reiterated that bodily injuries are not necessary to prove sexual assault. It is a common myth that sexual assault must leave injuries., the Court said. Elaborating, the Court explained that victims react to trauma in different ways and it is not just to expect a uniform reaction.
 - Based on these observations, the Court said that section 366-A is not made out since the victim was not forcibly taken away.
 - As far as the offence of kidnapping is concerned, the Court opined that the victim's evidence does not support the case of

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prosecution.

- On the above counts, the Court concluded that sustaining the appellant's conviction would not be justified based on the given evidence. Thus, the appeal was allowed and the impugned judgment was set aside.

❖ **IMPORTANT PROVISION DISCUSSED :**

- Section 366 A IPC (Procuration of minor girl)

**Mahendra Awase v. State of Madhya Pradesh
Suresh Kumar**

- ❖ **TOPIC:** Rajasthan HC Stays Suspension Of Govt Medical Officer Arrested For Allegedly Aiding In Forging Marksheet, Says He Was Not A Beneficiary
- ❖ **BENCH:** Justice Abhay S Oka and Justice KV Viswanathan Justice Aran Morga
- ❖ **FORUM:** Supreme Court
- ❖ **MAIN ISSUE :** Whether a interim relief can be granted to a government Medical Officer or not who had been suspended by the State.
- ❖ **FACTS:**
 - The petitioner was a medical officer who had obtained a 3- year study leave in April 2022 for pursuing the PG course.
 - However, in 2024, a case was registered alleging fabrication of educational degree of one Kamla Kumari, wherein the petitioner was not initially named as an accused, but was later implicated based on the statement of a co-accused.
 - The FIR was registered under various IPC Sections including 420(cheating), 465(forgery) & 120-B(criminal conspiracy).
 - The petitioner was subsequently arrested and was on bail while the case was undergoing.
 - After his release, the State suspended the petitioner while exercising powers under the Rajasthan Civil Services (classification, Control and Appeal) Rules, 1958 on the ground of him having been in custody.
 - The petitioner moved the high court against his suspension.
- ❖ **OBSERVATION**
 - The Jodhpur bench of the Rajasthan High Court recently granted interim relief to a government Medical Officer who had been suspended by the State, after he was arrested in a case for allegedly helping the principal accused in preparing a fabricated mark-

sheet.

❖ **IMPORTANT PROVISIONS DISCUSSED**

- Section 420 (cheating)
- Section 465 (forgery)
- Section 120-B (criminal conspiracy)

**Vijay Kumar Yadav vs. State Of U.P. And 8
Others**

- ❖ **TOPIC:** Power Of Transfer Exercised As Substitute For Infliction Of Lawful Punishment Is Malice In Law: Allahabad High Court
- ❖ **BENCH:** J.J. Munir
- ❖ **FORUM:** Allahabad High Court
- ❖ **MAIN ISSUE**
 - Whether an order can be quashed or not for the transfer of the petitioner by the Purvanchal Vidyut Vitaran Nigam Limited as being malicious and without justification.
- ❖ **FACTS**
 - The petitioner, Vijay Kumar Yadav, was an employee of the U.P. Power Corporation Limited, Lucknow, since 2008.
 - He was posted at Gorakhpur Zone and transferred to Prayagraj (Prayagraj Region-II) on request by an order dated 28.06.2024, as his wife was serving as a Lecturer in a government institution.
 - Subsequently, by an order dated 30.06.2024, he was transferred to the Electricity Sub-Division, Katehara, Prayagraj.
 - Four months later, the petitioner was transferred to Electricity Distribution Sub-Division-City, Pratapgarh. This transfer order was challenged by the petitioner.
- ❖ **OBSERVATION**
 - The Allahabad High Court quashed the transfer order of the petitioner by the Purvanchal Vidyut Vitaran Nigam Limited, declaring it malicious and without justification.
 - It was held that the transfer order cannot be used as a measure for punishment.
 - The writ petition was allowed, and it was directed that the petitioner be permitted to join the station he was serving at prior to the order of transfer.

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