RAMKRISHNA MEDICAL COLLEGE HOSPITAL & RESEARCH CENTRE v. STATE OF MADHYA PRADESH & ORS.,

- **TOPIC :** Courts should Exercise caution Before Passing Interim Orders Directing Colleges To Keep seat Vacant : Supreme Court
- **BENCH :** Justices BR Gavai and KV Viswanathan

- **FORUM:** Supreme Court
- **MAIN ISSUE**
  - Regarding college vacant seat
- **OBSERVATIONS**
  - Coming to the aid of two medical colleges, which were directed to keep a medical seat vacant pursuant to a High Court order but incurred loss as the said seat ultimately remained unfilled, the Supreme Court recently paved way for monetary restitution through adjustment of the colleges' pr[illegible] fees for successive batches.
  - "[illegible]ring that it is a case of one seat in each college, we feel that ends of justice will be served if we grant liberty to the appellant colleges to make a representation to the Fee Fixation Committee/Fee Fixation Authority of the State highlighting the vacancy caused due to the interim order of the High Court. If such a representation is made, the Fee Fixation Committee/Fee Fixation Authority shall, while fixing the fees for college (for future batches) reckon the deficit in fees that has resulted due to the single vacant seat and fix the fees by adding such amount to the total fees proposed to be fixed which will restitute the colleges monetarily", said a bench of Justices BR Gavai and KV Viswanathan.
  - The Court was of the view that its direction was the best possible option to neutralize the effect of the High Court order, which operated to the prejudice of the medical colleges.
  - Further, the fee being spread over 5 years, the financial impact on whom the burden will fall was considered to be marginal.
  - Briefly stated, the matter pertained to two medical colleges (appellants) to whom the Director, Medical Education issued orders directing that one MBBS seat be kept vacant, with a clarification that the said seat will not be included in the College Level Counseling Round for the academic year 2023-24.
  - The direction was pursuant to an interim order passed by the Madhya Pradesh High Court in writ petitions filed by respondent-students.
  - Ultimately, both the writ petitions were dismissed by the High Court. Thereafter, the appellant-colleges approached the Supreme Court seeking a compensatory seat in the next academic year, alleging that they were deprived of the opportunity to fill a seat due to an act of a Court and incurred loss.
  - As per the appellant-colleges, seat which was directed to be kept vacant has gone waste since the writ petitions could not be disposed of before the cut-off date for admissions. It was further their case that the vacant seat would result in underutilization and wastage of resources, causing financial harm to them, and result in meritorious candidates being denied admission to that seat.
  - After hearing the parties, the Supreme Court observed that the vacant seat ordered could not be filled because by the time the writ petitions were disposed of, the counselling had concluded and the cut-off date for admissions was also over.
  - Further, it noted that the interim order of the High Court was cryptic, where neither the prima facie case, nor the balance of convenience and irreparable loss aspects were discussed.
  - The Court opined that in rare and exceptional circumstances, increase in seats can be directed for the same academic year (not exceeding one or two seats), if a candidate has suffered for no fault attributable to him or due to the fault of the authorities. However, that is vastly different from directing the creation of an additional seat at the behest of a college (as prayed for in the present cases).
  - Additionally, it was observed that if provisional admission seats are not to be given casually, the said principle should also apply for directions to keep seats vacant. "Only if there is a cast iron case for the petitioner and the petitioner is bound to succeed in cases where the error of the respondent authorities is so gross as to negate any other conclusion, interim orders keeping seats vacant could be made."

- The Court also observed that disposal of such cases shall be endeavored before counselling for admissions is over and that it is justified to direct a petitioner-student to provide security to the concerned college (as a guarantee in case the petitioner's case is dismissed).
- "Though courts have power to make orders directing seats to be kept vacant in such cases, great caution and circumspection should be shown in exercising the power. In appropriate cases... the court will be justified in directing the petitioner to provide security, to the concerned college-institution where the seat is ultimately directed to be kept vacant or on whom ultimately the liability of the vacant seat would fall. The security is to guarantee that in the event of the Writ Petition/Appeal being dismissed and the seat going unfilled for the academic year the Petitioner/Appellant would make good the loss which the college may incur financially... where orders for keeping seats vacant are made, every endeavor must be made by the Court to dispose of the matter before the counselling for admissions are over."
- It was further underlined that if a seat goes vacant in a college, the college is deprived of fees not just for one year, but for the entire duration of the course (which can be 4 or more years).
- The Court added that the principle of restitution is not excluded from its application to interim order.
- On facts, it remarked that the appellant-colleges were prejudiced for "no fault of theirs" and would have to carry the vacant seats for the entire duration of the course, incurring the same expenditure but being deprived of the fees.
- Accordingly, the Court granted the appellant-colleges liberty to make a representation to the Fee Fixation Committee of the State, which in turn shall reckon the deficit in fees incurred by the colleges as a result of the High Court interim order, while fixing the fees for successive batches.

Ravinder Mandal v. DLF Universal Ltd

- **TOPIC :** Minor Children's Difficulty In Adapting To New Academic Environments Insufficient Grounds To void Transfer order : Delhi High court
- **BENCH :** Justice Girish Kathpalia
- **FORUM:** Delhi High court
- **MAIN ISSUE**
  - Regarding Minor's children adaptability

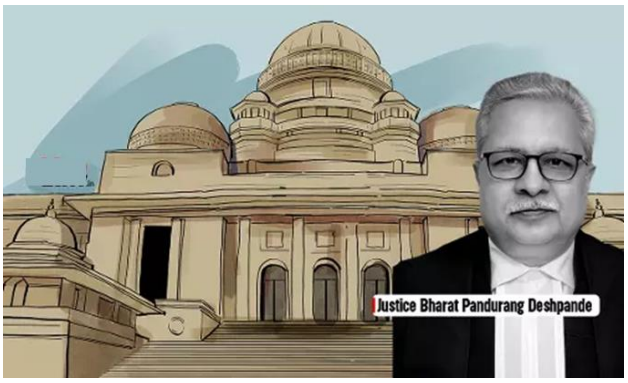
- **BACKGROUND**
  - Ravinder Mandal, a Senior Foreman with DLF Universal Ltd., claimed that his continuous employment from 25th September 2007 to 21st January 2017 ended abruptly following a transfer order to Chennai.
  - He alleged that this order was punitive, issued in retaliation for his refusal to assist the management in exchanging currency notes during the 2016 demonetization period.
  - According to Mandal, senior officials grew hostile and told him that his services would end by March 2017.
  - Despite his request to delay the transfer until March for his children's education, he was denied the ability to continue work in Delhi and instructed to report to Chennai. DLF countered by arguing that Mandal was a transferrable employee and that his role as Senior Foreman did not make him a ''workman'' under Section 2(s) of the Industrial Disputes Act.
  - They asserted that the transfer arose from administrative needs, and despite several reminders, Mandal had refused to comply.
- **OBSERVATIONS**
  - Justice Girish Kathpalia dismissed the writ petition filed by Ravinder Mandal and found no grounds for malafide intent behind the issuance of his transfer order. The High Court concluded that the transfer was a legitimate administrative action aligned with Mandal's contractual obligations as a transferable employee, and his non-compliance with the order constituted misconduct.
  - Firstly, the High Court reiterated that transfers are a natural service incident and administrative exigencies, not arbitrary will, guide them. Unless compelling evidence of malafide is produced, judicial interference is minimal. The court stated that the ''transfer of an employee being an incident of service, is purely in the domain of the employer based on administrative exigencies.''

- Secondly, Justice Kathpalia underscored that Mandal's job was explicitly transferrable under his employment terms. The petitioner himself admitted that DLF had made several attempts to serve him the transfer order, but he had refused to accept it.
- The court highlighted that defiance of transfer instructions constituted misconduct. Furthermore, the High Court assessed the HR Manual, emphasizing that the onus was on Mandal to estimate and claim shifting expenses, which he failed to do. It was highlighted that the petitioner should have pursued reimbursement post-transfer, not defied the transfer altogether.
- Lastly, regarding the children's education claim, the court found that the Labour Court had rightly noted that minor children aged six and four years could easily adapt to new academic environments. The High Court affirmed that these were insufficient grounds to void a transfer order.
- The High Court concluded that the transfer was a genuine administrative requirement, not an act of retribution. Mandal's non-compliance, therefore, had no valid justification. Consequently, the Labour Court's ruling was upheld.

State through Canacona Police Station vs Gulsher Ahmed

❖ **TOPIC** : Girl Booking Hotel Room, Entering It with Boy Does Not Mean She Consented To Sex : Bombay High court

❖ **BENCH :** Justice Bharat Deshpande



❖ **FORUM:** Bombay High Court

❖ **MAIN ISSUE**

- Regarding Girl consent

❖ **OBSERVATIONS**

- In a significant ruling, the Bombay High Court at Goa held that even if a girl books a hotel room along with a man and goes inside the room, it would not mean that she has consented to sexual intercourse.
- Single-judge Justice Bharat Deshpande quashed an order passed by a Trial Court in Margao on March 3, 2021, discharging a man from rape charge.
- The Trial Court in its order, opined that since the girl was instrumental in booking the room in the hotel, she 'consented' to the sexual activity that took place inside the room and thus a rape charge cannot be slapped against Gulsher Ahmed.
- In his order passed on September 3 but made available recently, Justice Deshpande observed that the Trial judge 'clearly committed an error' by making the observation that since the victim went inside the room, she consented to sexual intercourse.
- "Drawing such an inference is clearly against the settled proposition and specifically when the complaint was lodged immediately after the incident. Even if it is accepted that the victim went inside the room along with the accused, the same cannot by any stretch of imagination be considered as her consent for sexual intercourse," Justice Deshpande said in the order.
- The Trial Court, Justice Deshpande opined, mixed two aspects i.e. going inside with the accused in a room without any protest and secondly, giving consent for what happened in the room.
- "The action on the part of the victim immediately after coming out of the room and that too crying, calling the Police and lodging a complaint on that day itself show that the overt act allegedly carried out in the room by the accused was not consensual," the judge said.
- The incident took place on March 3, 2020, when the accused promised the victim a private job abroad. He took the victim to a hotel in Margao allegedly on the pretext of meeting an agent for the said purpose. The victim and the accused, both together booked the room in the hotel.
- However, as per the victim, soon after entering the hotel room, the accused threatened to kill her and raped her. When he went into the bathroom, she left the room and came running out of the hotel, crying, and called the police and the accused was immediately arrested.
- Justice Deshpande noted that this entire scene was also narrated by the employees of the hotel. The judge, junked the contention of the accused that the victim girl, had no problem in booking the hotel

room and in fact, before entering the room, they had lunch together and thus, she consented to the sexual intercourse.

- "It is no doubt true that there is material to show that the accused and the victim were instrumental in booking the room, however, that would not be considered as consent given by the Victim for the purpose of sexual intercourse," the judge reiterated.

Syed Shaifta Arifeen Balkhi v. J&K Public Service Commission & Ors

- **TOPIC :** J & K Reservation Rules| 4% Quota For Physically challenged Persons is overall Horizontal Reservation, Not compartmentalized : High court
- **BENCH :** Justices Rajnesh Oswal and Sanjay Dhar

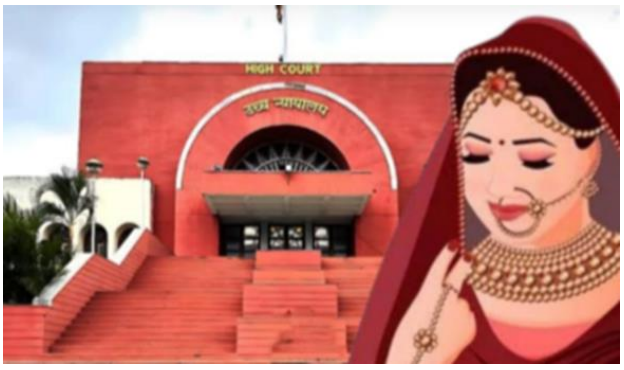
- **FORUM:** Jammu and Kashmir and Ladakh High Court
- **MAIN ISSUE**
  - Regarding reservation rules
- **OBSERVATIONS**
  - Resolving a significant question regarding reservation rules for physically challenged persons the Jammu and Kashmir and Ladakh High Court has clarified that the 4% reservation for physically challenged individuals, as outlined in the J&K Reservation Rules of 2005, constitutes an overall horizontal reservation, which applies broadly and does not operate as a compartmentalised category-specific quota.
  - Expounding on the mandate of Amended Rule 4 of J&K Reservation Rules 2005 a bench of Justices Rajnesh Oswal and Sanjay Dhar observed, ‘‘.. this court is of the considered view that the reservation of 4% provided to the physically challenged persons under the Reservation Rules of 2005, is an overall horizontal reservation and not compartmentalized horizontal reservation’’
  - These observations came while hearing a petition by Syed Shaifta Arifeen Balkhi, who challenged the selection of candidates for the post of Civil Judge (Junior Division) in Jammu and Kashmir. A notification issued in August 2023 advertised 69 such positions, including three reserved for physically challenged candidates.
  - Balkhi, who had participated in the examination under the Open Merit category, argued that the reservation for physically challenged candidates should be compartmentalized, meaning that the reserved seats should be allocated separately within each vertical category (e.g., Open Merit, Scheduled Caste, Scheduled Tribe).
  - The petitioner contended that by granting the reservation exclusively within the Open Merit category, the selection process disregarded this principle, resulting in the exclusion of candidates from other vertical categories who might have benefited from the physically challenged quota.
  - Meanwhile, the J&K Public Service Commission countered that its process complied strictly with the 2005 Reservation Rules, which classify the 4% quota as an overall horizontal reservation. As such, the quota should be applied to the total merit list rather than separately within each vertical category, they stated.
  - The Court engaged in an extensive analysis of horizontal reservation, distinguishing between overall and compartmentalized forms. Drawing from Supreme Court precedents, the Court explained the two primary types of horizontal reservation:
  - Compartmentalised Horizontal Reservation: This approach allocates reserved seats within each vertical category independently. For example, if reservations for physically challenged individuals were compartmentalized, the seats would be divided across categories such as Scheduled Caste, Scheduled Tribe, and Open Merit.
  - Overall Horizontal Reservation: In this approach, the reservation is calculated based on the total seats, with physically challenged candidates allocated across the vertical categories according to their merit ranking within that overall pool.
  - The Court examined the wording in Rule 4 of the J&K Reservation Rules, 2005, particularly Explanation B. The rules specify that candidates benefiting from horizontal reservation should be adjusted within their respective vertical categories.
  - Citing the landmark case Anil Kumar Gupta v. State of U.P., the Court highlighted that under an overall horizontal reservation, seats are allocated across categories based on overall merit rather than by compartmentalizing each category.
  - Additionally the court also referenced Rajesh Kumar Daria v. Rajasthan Public Service

Commission (2007) & Rekha Sharma vs. the Rajasthan High Court, Jodhpur and Anr. 2024 to reinforce the principle that where reservations are not specifically compartmentalized, they should be applied across the board based on total merit and adjusted within the relevant vertical categories.

- The Court found that the J&K Reservation Rules explicitly adopt an overall approach for physically challenged individuals, requiring them to be placed within their respective vertical category based on merit.
- The Court added that the architectural framework of Explanation B in Rule 4 confirms this interpretation, stating that the intent is to interlink the reservations across categories, rather than confining them within each vertical classification.
- Further, the Court observed that the petitioner's reliance on a 2018 government memorandum and Office Memorandum dated 15.01.2018 was misplaced.
- These documents have not been formally adopted in the UT of Jammu and Kashmir, and therefore, the guidelines mentioned therein do not hold regulatory authority in this case, the court opined.
- Concluding that the 4% reservation for physically challenged individuals under the J&K Reservation Rules of 2005 is indeed an overall horizontal reservation, the Court found the petition devoid of any merit and dismissed the same.

X v. State of Maharashtra

- **TOPIC :** Not allowing Daughter – In – law To watch T.V meet Neighbours, Go To Temple Alone and making Her sleep on Carpet Is Not Cruelty : Bombay High court
- **BENCH :** Justice Abhay S Waghwase



- **FORUM:** Bombay High Court
- **MAIN ISSUE**
  - Regarding cruelty to daughter in law
- **OBSERVATIONS**
  - Quashing a 20-year-old order convicting a man and his family for cruelty towards his deceased wife, the Aurangabad bench of the Bombay High Court said that the allegations of taunting the deceased, not allowing her to watch TV, not allowing her to go alone to the temple and making her sleep on a carpet would not constitute the offence of cruelty under IPC Section 498A, as none of these actions were ‘‘severe.’’
  - In doing so, the high court observed that the nature of allegations would not constitute physical and mental cruelty as the allegations pertained to the domestic affairs of the house of the accused. The high court acquitted the man and his family (parents and brother) convicted under IPC Sections 498A as well as 306 (abetment to suicide). The trial court had convicted the man and his family for these offences, against which they appealed before the high court.
  - A single judge bench of Justice Abhay S Waghwase in its October 17 order noted that the major allegations of the appellants meeting the deceased with cruelty were by taunting her for the meals that she prepared, not allowing her to watch TV, not letting her to meet neighbours or even to go to temple alone, making her sleep on a carpet, to go alone to throw garbage. Further, the allegations included the one wherein the family members of the deceased woman claimed that she was compelled to fetch water at midnight.
  - However, the judge noted from the testimony of the witnesses, that the village (Varangaon) where the deceased and her in-laws lived, usually got water supply at midnight and all the households there, daily fetched water at 1:30 AM in the night.
  - It said, "Informant levelled general allegations that her deceased daughter was subjected to physical and mental cruelty.
  - Similar allegations are also levelled by uncle regarding humiliation, making her fetch water at 1:30 a.m., disliking meals, taunting, not allowing to watch T.V. along with others. Even aunt...deposed about above behavior...It is admitted by witnesses that, in Varangaon, water supply is made at late night and therefore when the entire village is required to fetch water after 1:00 a.m., there is nothing unusual to expect deceased to fetch water at 1:30 a.m. or 1:00 a.m.
  - They are all levelling allegations of taunting, not allowing to watch T.V., not allowing to go alone temple, but in the considered opinion of this court, none of the allegations has any severity or such nature of allegations would not constitute physical

and mental cruelty as almost allegations are pertaining to domestic affairs of the house of accused".

- Referring to the settled legal position on IPC Section 498A the court observed that the allegations made against the man and his family would not constitute an offence under the provision.
- It further said, "Merely sleeping on carpet also would not amount to cruelty. Similarly, what sort of taunting was made and by which accused is not getting clear. Likewise, preventing her from mixing with neighbour also cannot be termed as harassment".
- It further said that cruelty can be either mental or physical, however it is difficult to put the term in a "straitjacket" by means of a definition as it is relative.
- As per the prosecution case, the deceased and the appellant were married on December 24, 2002. It was the prosecution's case that the man and his family ill-treated deceased and subjected her to cruelty and harassment and because of this treatment the deceased committed suicide on May 1, 2002.
- Based on the evidence on record, in April 2004 a trial court in Jalgaon district, convicted the in-laws and the husband under sections 498A and 306 of the IPC.
- In its order, the bench noted from the testimony of the deceased woman's mother, uncle and aunt that she visited their place (her parental house) in March 2003 during Holi and had committed suicide on May 1, 2003.
- "There is a gap of almost two months since the deceased, complainant and witnesses met each other.
- They (mother, uncle and aunt of deceased) have admitted that, there was no communication from deceased either written or oral, she has not conveyed that there was any instances of cruelty in proximity to suicide. There is no evidence to show that at that relevant point or any proximity to the suicide, there was any demand, cruelty or mal-treatment so as to connect them with the suicidal death. What triggered the suicide has remained a mystery," the high court said.
- It further observed that even though there was no evidence that conduct of accused towards deceased was "incessant or consistent", the trial court had appeared to have said that "ill treatment became intolerable to her and therefore she committed suicide". These observations, the high court said, "are out of place" and are not based on a strong foundation.
- Allowing the appeal, the High Court quashed and set aside the conviction of the appellants.

Prema & ANR v. State of Karnataka

- **TOPIC :** Husband Committing suicide Due to Wife's lllicit Relationship No Ground To convict For Abetment of Suicide: Karnataka High court
- **BENCH :** Justice Shivashankar Amarannavar

- **FORUM:** Karnataka High Court
- **MAIN ISSUE**
  - Regarding Abetment of suicide
- **OBSERVATIONS**
  - The Karnataka High Court has said that a husband committing suicide allegedly due to his wife having an illicit relationship with another man cannot be a ground to convict the wife for charges of abetment to suicide.
  - A single-judge bench of Justice Shivashankar Amarannavar allowed the appeal filed by Prema and Basavalinge Gowda and set aside the conviction order passed by the trial court.
  - Court noted that as per the definition of abutment, there should be instigation to do that thing and then it amounts to abetment. A person is said to have instigated another to an act when he actively suggests or stimulates him to act by means of language, direct or indirect, whether it takes the form of express solicitation, or of hints, insinuation or encouragement.
  - It said "The act of accused persons having illicit relationship does not amount to abetment to commit suicide. There should be evidence capable of suggesting that accused persons intended, by specific acts, to instigate the deceased to commit suicide. Unless the ingredients of instigation/abetment to commit suicide are satisfied, the accused cannot be convicted for an

offence punishable under Section 306 of IPC.''

- As per the prosecution case, the accused were having illicit relations, and the deceased – Shivamadashetty – husband of accused No. 1 (Prema) used to object. In spite of that, accused No.1 continued illicit relations with accused No. 2. It is alleged that on 10.07.2010, at about 04.00 pm, accused No. 2, in front of the house of the deceased, called the deceased and asked him to die so that they both will live happily. Following this the deceased committed suicide on 15.07.2010 by hanging to a tree.
- On recording the evidence of witnesses the trial court found the accused guilty and convicted them. In appeal, they argued that merely having an illicit relationship and quarreling with the deceased does not amount to abetment as defined under Section 107 of IPC. Moreover, persons who are residing in the neighbourhood of the house of the deceased and accused No.1 have not been examined.
- It was also claimed that there was enmity between P.W.1 and accused No. 1 with regard to a quarrel and accused No. 1 had consumed poison, a false case came to foisted by P.W.1 against the accused persons.
- The prosecution opposed the appeal saying the evidence of witnesses is sufficient to convict the accused.
- On going through the evidence and records the court noted that it is stated by the witnesses that a panchayat was held with regard to the said illicit relationship between accused Nos.1 and 2. However, none of the panchayatdars have been examined with regard to the panchayat held, the date of the said panchayat is also not stated by the prosecution witnesses.
- Disbelieving the evidence of a witness who claimed that she came to know that accused No. 2 had assaulted the deceased 15 days prior to the deceased committing suicide. The court said, '' If accused No. 2 had assaulted the deceased, the option open for the deceased was to file a complaint and not to commit suicide.''
- "Assertion made by the accused to the deceased to go and die" so that they can live happily, the court said, ''Will not amount to abetment.'' It added, ''Accused Nos. 1 and 2 had not intended that the deceased should commit suicide.''
- Further, the court observed, ''It appears, that the deceased was sensitive as his wife - accused No. 1 had illicit relationship with accused No. 2 and upset by that, he might have committed suicide.''
- The court held ''The evidence on record will not establish that the accused persons, by their acts, abetted the deceased to commit suicide. Without considering all these aspects the learned Sessions Judge has erred in convicting the accused persons for offence punishable under Section 306 of IPC.''
- Accordingly, it allowed the appeal.