

Shoor Singh & Anr. v. State Of Uttarakhand

- ❖ **TOPIC :** Sec 304 - B IPC, Factum of Dowry Demand Not Proved, Supreme court Acquits Parents-in-law
- ❖ **BENCH :** Justices JB Pardiwala and Manoj Misra



- ❖ **FORUM:** Supreme Court
- ❖ **MAIN ISSUE**
 - Whether the parents-in-law of a deceased wife who were charged with committing dowry death can be acquitted or not.
- ❖ **FACTS**
 - In this case, the parents of the deceased complained about the dowry death against the husband and parents-in-law of the deceased alleging that her death occurred unnaturally after she suffered burn injuries soon after the marriage.
- ❖ **BACKGROUND**
 - It was alleged that the deceased was subjected to cruelty and harassment in relation to a demand for a bike and Rs. 50,000/- cash when the daughter gave birth to a male child.
 - Invoking the presumption of dowry death under Section 113-B of the Evidence Act, the trial court convicted the appellants under Sections 304-B and 498-A IPC and sentenced them (husband and parents-in-law) to 10 years imprisonment.
 - The High Court upheld the conviction; however, the sentence was reduced to 7 years from 10 years.
 - Following this, an appeal was preferred before the Supreme Court by the parents-in-law.
- ❖ **OBSERVATIONS**
 - The husband of the deceased served out the sentence and did not file an appeal.
 - Before the Supreme Court, the appellants contended that their conviction for the offence of dowry death could not be sustained because the prosecution failed to prove the demand for dowry which is an essential ingredient to convict the accused of dowry death.
 - The Supreme Court acquitted the parents-in-law of a deceased wife who were charged with

committing dowry death since the factum of a dowry demand was not proved.

- The Court reiterated that for convicting an accused under Section 304-B of the Indian Penal Code, it must be proved that soon before her death, the deceased was subjected to cruelty or harassment in relation to the alleged demand of dowry in connection with marriage.
- Upon perusing the material evidence placed on record, the bench comprising Justices JB Pardiwala and Manoj Misra observed that the courts below erred in invoking the presumption under Section 113-B of the Evidence Act because unless the factum of demand of dowry in connection with marriage isn't proved, it would be unjustifiable to convict accused for dowry death merely because other ingredients of the offence are fulfilled.
- The Court doubted the testimonies of the parents of the deceased as they didn't seriously consider the concern of their daughter and termed it as a joke when asked about "whether they took up the issue of motorcycle /cash demand with the accused."
- The Court had termed the allegation labeled by the deceased parents as a knee-jerk reaction to the unnatural death of their daughter to make out a case of dowry death.
- As noted above, here harassment/ cruelty at the instance of the appellants in connection with any demand for dowry has not been proved beyond reasonable doubt...Be that as it may, once all the necessary ingredients of dowry death have not been proved beyond reasonable doubt, the presumption under Section 113-B of the Evidence Act would not be available to the prosecution.
- Hence, in our considered view, the appellants are entitled to be acquitted of the charge of offences punishable under Section 304-B and 498-A IPC.", the court held.
- Accordingly, the appeal was allowed and the order convicting and sentencing of the appellants under Section 304-B and 498-A IPC was set aside.

Munib Iqbal Memon (Criminal Appeal 491 of 2024)

- ❖ **TOPIC:** Bombay High Court Grants bail to Accused in Pune Serial Blasts Case After He spent 11 years in Jail without Trial
- ❖ **BENCH :** Justices Revati Mohite-Dere and Sharmila Deshmukh
- ❖ **FORUM:** Bombay High Court

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❖ MAIN ISSUE

- Whether a bail can be granted to a 42-year-old tailor or not, booked for allegedly conspiring and executing the serial bomb blasts in Pune in August 2012 for taking revenge for the custodial death of a terrorist of the banned Indian Mujahideen outfit.



❖ FACTS

- According to the prosecution case, five bombs had rocked the city of Pune on August 1, 2012 and one live bomb was detected within the vicinity of the spot where the five bombs exploded.
- The bombs which were used in the commission of the offences were placed in bicycle baskets.
- All the bicycles were placed in one of the prominent business and crowded areas in Pune.

❖ BACKGROUND

- It is the prosecution case, that the said bomb blasts were planned to avenge the death of one Quatil Siddique, a member of a banned terrorist organisation, Indian Mujahideen, who was arrested for conspiring to blast bombs at the famous Dagadu Sheth Ganpati Mandir in Pune.
- As regards the present Applicant's role in the blasts is concerned, the bench noted that he attended two meetings where the other co-accused together hatched a conspiracy to execute the blasts.
- It further noted that the applicant was instrumental in purchasing SIM cards on bogus documents, which were used for conspiring to execute the blasts
- The Bombay High Court on Friday granted bail to a 42-year-old tailor, booked for allegedly conspiring and executing the serial bomb blasts in Pune in August 2012 for taking revenge of the custodial death of a terrorist of the banned Indian Mujahideen outfit.

❖ OBSERVATIONS

- A division bench of Justices Revati Mohite-Dere and Sharmila Deshmukh noted that the appellant Munib Memon has been in custody for around 11 and a half years since his arrest in December 2012.
- Today, the appellant is in custody for more than 11 and 1/2 years with no prospect of the trial

concluding within a reasonable period. Although the incident took place in December 2012, charge was framed in the said case only in 2022 and it is only in February 2024 that the first witness stepped into the witness-box," the judges noted.

- The judgment authored by Justice Mohite-Dere, further takes note of the fact that as per the prosecution, although there are 300 witnesses cited in the charge-sheet, the prosecution intends to examine only 107 witnesses.
- Till date only about 8 witnesses have been examined and as such the possibility of the trial concluding in the immediate near future appears to be bleak.
- The right to a speedy trial under Article 21 of the Constitution of India, is a fundamental right," the judges underscored.
- The instant application was, however, allowed on the ground that the accused has been in custody for more than 11 years and the fact that the trial has been proceeding at a snail's pace.

Virender Singh and others. v. State of H.P. and another

- ❖ **TOPIC :** Criminal Complaint cannot be quashed solely on grounds of being initiated Due to Political Vendetta: Himachal Pradesh High court
- ❖ **BENCH :** Justice Rakesh Kainthla



- ❖ **FORUM:** Himachal Pradesh High Court
- ❖ **MAIN ISSUE**

- Whether a criminal complaint can be quashed or not solely because it was initiated due to political rivalry.

❖ FACTS

- The complaint was lodged by a political rival, who alleged that the petitioners were attempting to sway the election by distributing alcohol.
- The petitioners denied the accusations, asserting that the complaint was rooted in political vendetta. They also argued that the amount of liquor found in their vehicle did not violate the permissible

limits under the Excise Act and sought to have the FIR quashed on these grounds.

❖ **BACKGROUND**

- The petitioners also contended that no concrete evidence had been presented to support the claim that they were distributing liquor to voters.

❖ **OBSERVATIONS**

- The Himachal Pradesh High Court has recently held that a criminal complaint cannot be quashed solely because it was initiated due to political rivalry.
- The court was hearing a petition for the quashing of an FIR filed against the petitioners under Section 39(1)(a) of the Himachal Pradesh Excise Act and Section 171E read with Section 34 of the Indian Penal Code.
- The FIR stemmed from allegations that the petitioners had distributed liquor during Panchayat elections to influence voters.
- Justice Rakesh Kainthla, presiding over the matter, rejected the argument that the political motivations behind the complaint were reasonable grounds for quashing the FIR. The court emphasized that "the fact that the complaint may have been initiated by reason of political vendetta is not in itself grounds for quashing the criminal proceedings."
- The High Court reiterated that at this stage, it is not the role of the court to assess the adequacy of the evidence collected by the prosecution; such matters must be addressed during the trial.
- In examining the allegations under Section 171E of the IPC, which pertains to bribery during elections, the court found that the facts presented in the FIR, even if politically motivated, prima facie satisfied the legal requirements for an offence under this provision.
- The court emphasized that the political context in which the complaint was made does not negate the possibility that an offence was committed.
- The court underscored that the trial court is the appropriate forum to examine the sufficiency of evidence once a charge sheet has been filed.
- Although the petitioners argued for the quashing of the FIR, the court highlighted that the charge sheet had already been submitted, making it the trial court's responsibility to assess the evidence collected.
- In conclusion, Justice Kainthla refused to quash the FIR and reiterated that the High Court cannot conduct a mini-trial under the guise of exercising its powers under Section 482 of the CrPC.
- The petition to quash the FIR was dismissed, with the court clarifying that its observations were confined to the present petition and would not

impact the outcome of the trial.

UT Through Police Station Ganderbal v. Mohammad Yasin Mir

- ❖ **TOPIC :** State Doesn't Have Vested Right To File Belated Appeal Without Explaining Reasons, Diligence Expected In its Functioning
- ❖ **BENCH :** Justice Sanjay Dhar



- ❖ **FORUM:** Jammu and Kashmir and Ladakh High Court
- ❖ **MAIN ISSUE**
 - Whether state have vested the right to file a belated appeal without explaining reasons or not.
- ❖ **FACTS**
 - The case in question stemmed from the Union Territory of Jammu and Kashmir's appeal against a judgment of acquittal passed by the Sessions Judge, Ganderbal, on 25th September 2018, involving one Mohammad Yasin Mir.
- ❖ **BACKGROUND**
 - The appellant, represented by Mr. Satinder Singh Kala (AAG), sought the court's permission to condone a delay of 927 days in filing the appeal against Mir's acquittal.
- ❖ **OBSERVATIONS**
 - The delay arose from administrative and procedural missteps, as well as the impact of the COVID-19 pandemic.
 - The appellant, submitted that the delay was neither intentional nor deliberate. They attributed the delay to the time-consuming internal processes of obtaining sanction for filing the appeal, with the sanction order getting misplaced and sent to the wrong official.
 - It was only during a review meeting in June 2021 that the mistake came to light.
 - They also claimed that the COVID-19 pandemic further delayed their efforts to file the appeal.
 - The Jammu and Kashmir and Ladakh High Court has recently reinforced that government

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departments, despite their complex nature, are not entitled to special leniency when it comes to condoning delays.

- The court clarified that only bona fide and unintentional delays can be excused, and the State must demonstrate diligence and commitment in its functioning.
- Justice Dhar thoroughly examined the circumstances presented by both sides. The court acknowledged that the sanction for filing the appeal was indeed granted in January 2019, but faulted the appellant for misplacing it.
- While the court expressed some understanding regarding the delay up until the date of the sanction, it noted that beyond this, there was no reasonable explanation for the subsequent delay.
- Justice Dhar emphasized that not every delay must be condoned simply because the applicant is the State. Government functionaries, despite their impersonal nature, are not entitled to indefinitely file appeals without providing proper justification for any delays, the bench underscored.
- Furthermore, the court also dismissed the argument that the pandemic impeded the filing of the appeal, stating that the appellant was unaware of the sanction order long before the pandemic began, and thus the pandemic was irrelevant to the delay.
- Ultimately, the High Court dismissed the application for condonation of delay.
- As a result, the appeal against the acquittal was also dismissed.

Vikas v. State of Rajasthan & Anr

❖ **TOPIC :** Deadly Weapons Not Necessary To Commit Murder : Rajasthan HC Rejects Bail of Accused Who Fatally Injured Deceased Using 'Safety Shoes'

❖ **BENCH :** Justice Rajendra Prakash Soni



❖ **FORUM:** Rajasthan High Court

❖ **MAIN ISSUE**

- Whether it is always necessary for the accused to use a deadly weapon or to attack upon the vital body parts like the head, to commit murder or not.

❖ **FACTS**

- The facts were that the deceased was attending a wedding with his daughter. While dancing, the accused puts his hand on the daughter's shoulders which enraged the deceased who attempted to take away his daughter from the event.
- At this moment, the accused, who was wearing safety shoes, came running towards the deceased and inflicted blows and kicks on the deceased's stomach and private parts.

❖ **BACKGROUND**

- The deceased was taken to the hospital where he died. An FIR was filed against the accused charging him with murder of the deceased.
- It was the case of the accused that the postmortem report of the deceased revealed that the death was not caused by the blows and kicks but due to surgical wounds i.e. septicemic shock resulting from peritoneum perforation.

❖ **OBSERVATIONS**

- Rajasthan High Court has ruled that it is not always necessary for the accused to use a deadly weapon or to attack upon the vital body parts like the head, to commit murder. While dismissing the bail application for a murder accused, it was observed that even safety shoes, when used as a weapon, can significantly increase the potential for inflicting serious or fatal injuries.
- The bench of Justice Rajendra Prakash Soni was hearing the bail application
- The Court which firstly observed that the situation could not be considered as sudden provocation for the accused but rather the deceased who wanted to take her daughter away when the accused touched her publicly.
- Secondly, the Court observed that the manner in which the accused delivered blows and kicks to the deceased while wearing safety shoes, demonstrated his intention to cause the latter's death. It was opined that safety shoes were typically designed with hard and protective materials like metal toes or reinforced soles, hence, safety shoes were used as a weapon by the accused.
- It is not reasonable to believe that a person's death cannot result from kicks and punches, particularly in a situation where the accused, wearing safety shoes, kicks a person in the stomach and private parts.
- The kick could rupture blood vessels, leading to internal bleeding, which may be fatal if not treated

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immediately.

- The hard and reinforced nature of safety shoes has acted as a de facto weapon, increasing the lethality of the assault.
- Therefore, this act of petitioner prima facie meets the ingredients of murder.
- In the background of this analysis, the Court held that the accused had prima facie intended to cause death or serious bodily harm to the deceased by kicking him with safety shoes which met the mens rea requirement for murder.
- Hence, the Court found the accused not suitable to be granted bail.
- Accordingly, the bail application was dismissed.

Mrs. Sangeeta Kormel Yadav v. Union of India and Ors

- ❖ **TOPIC :** Part – time Contractual Employees Are Entitled For Maternity Benefits Even if Terms of Appointment State otherwise
- ❖ **BENCH :** Justice Nelson Sailo



- ❖ **FORUM:** Gauhati High Court
- ❖ **MAIN ISSUE**
 - Whether the part time contractual employees are entitled for maternity benefits or not.
- ❖ **FACTS**
 - The petitioner in the matter was a part-time contract teacher in Kendriya Vidyalaya from 29.06.2012 to 04.03.2015 with breaks between terms. She delivered her child on 12.04.2015 and after delivery of the baby boy, the petitioner did not apply for continuation of her service.

❖ **BACKGROUND**

- On filing an RTI, the petitioner's husband was informed that maternity leave benefits are extended to permanent teachers only and not to contractual teachers.
- It was further stated that reference may be made to their terms and conditions of appointment
- Sections 5 and 8 of the Maternity Benefit Act, 1961 grant the Right to payment of maternity benefit and medical bonus, respectively, to "every" woman, subject to the provisions of the Act.
- Relying on these sections, the petitioners submitted that no distinction has been drawn about the nature of appointment to be entitled to the benefits.
- Thus, a woman employee is entitled to receive maternity benefits irrespective of being a permanent, temporary or contract employee.
- The respondents argued that the petitioner had only raised the issue after her contract had ended and failed to disclose her pregnancy during her employment.
- They submitted that being a part-time contractual teacher, she was ineligible for maternity benefits as per KVS rules. Further, it was highlighted that the petitioner had signed an undertaking agreeing not to claim any benefits apart from her salary, nor to seek regular employment.

❖ **OBSERVATIONS**

- The Gauhati High Court disposed of a 2015 writ petition by setting aside with the communications informing the petitioners that maternity leave benefits are available only to regular employees of Kendriya Vidyalaya Sangathan (KVS).
- Justice Nelson Sailo, while dismissing the present writ petition, regarded the decisions of the Supreme Court and held that the petitioner would be entitled to maternity benefits in view of Section 5, 8 and 27 of the Act of 1961.
- It was directed by the Court to complete the entire exercise of disbursing the benefits within two months from the receipt of a certified copy of the order.

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- It was further clarified by Justice Nelson Sailo that "the amount to be received by the petitioner shall not be only restricted to the amount claimed by her but would also include any such other computation admissible in terms of the relevant provisions of the Act of 1961.
- Section 27 (1) of the Act states that- "The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law or in the terms of any award, agreement or contract of service, whether made before or after the coming into force of this Act."
- The Apex Court further opined that by virtue of the operation of Section 27, the same would override any agreement or contract of service found inconsistent with the Act of 1961.



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