

**Dharmendra Kumar Singh & Ors. V. High Court of Jharkhand & Ors.**

- ❖ **TOPIC :** Promotion As District Judges Under Merit- cum-Seniority Quota Can't Be Denied To Suitable Candidates Based On Merit List : Supreme Court
- ❖ **BENCH:** Justices BV Nagarathna and SC Sharma
- ❖ **FORUM:** Supreme Court
- ❖ **FACTS**
  - The plea where the appellants-Judicial Officers fulfilled the benchmark criteria for promotion as District Judges based on merit-cum-seniority quota of 65%.
  - They received more than 40 marks (passing marks) in the suitability test conducted for promotion based on merit-cum-seniority.
  - However, the appellants were not promoted and the persons junior to them were promoted by preparing a merit list and by promoting those who had more marks than the appellants.
  - The appellants' writ petition was dismissed by the Jharkhand High Court on the ground that appellant No. 1 got 50 marks, appellant No. 2 got 50 marks, and appellant no. 3 got 43 marks and the last selected candidate got 51 marks.
- ❖ **MAIN ISSUE**
  - Regarding relief to judicial officers of the Jharkhand Judiciary who were denied promotion
- ❖ **OBSERVATION**
  - Granting relief to judicial officers of the Jharkhand Judiciary who were denied promotion despite meeting the minimum marks required in the suitability test for the merit-cum- seniority quota, the Supreme Court reiterated that the merit- cum-seniority quota is not a competitive process.
  - Instead, it evaluates individual suitability and prioritizes promotions based on seniority once the minimum eligibility criteria are fulfilled, the Court said.
  - Finding force in the appellants' contention, the judgment authored by Justice Sharma observed that once they met the minimum threshold for promotion under the merit-cum-seniority quota, then it would not be appropriate to deny their right to promotion by comparing their marks with other candidates who scored more marks than the

Appellants.

- Since it was brought on record that during the pendency of the case before the Court the appellants were promoted, the court considered the issue of their seniority and directed that “the Appellants shall be entitled for notional promotion from the date other officers have been promoted to the post of District Judge in terms of notification dated 30.05.2019.
- They shall also be entitled for all consequential service benefits, including, seniority increments, notional pay fixation etc., however, they shall not be entitled for any back wages.”
- ❖ **IMPORTANT PROVISION DISCUSSE**
  - Article 32 Constitution (Remedies for enforcement of rights conferred by this Part)
  - Article 226 Constitution (Power of High Courts to issue certain writs)

**Krushna Chandra Behera & ors v. Narayan Nayak & ors**

- ❖ **TOPIC:** Injunction Suit Maintainable Without Declaratory Relief When Plaintiff's Title Isn't Disputed By Defendant : Supreme Court
- ❖ **BENCH:** Justice JB Pardiwala and Justice R Mahadevan
- ❖ **FORUM:** Supreme Court
- ❖ **FACTS**
  - The case arising out of the Orissa High Court's decision where the High Court in a second appeal reversed the trial court's order and held that the plaintiff's injunction simpliciter suit without seeking declaratory relief under Section 34 SRA would not be maintainable.
  - According to the Appellant/plaintiff, since the defendant didn't dispute its title over the suit property, and the fact was overlooked by the High Court, the High Court committed an error in interference with the well-reasoned order passed by the trial court.
- ❖ **MAIN ISSUE**
  - Whether a suit filed only for injunction simpliciter can be dismissed or not solely because it lacks a declaratory relief under Section 34 of the Specific Relief Act, 1963 (SRA), especially when the defendants do not dispute the plaintiffs' title

**FOLLOW US**



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



<https://www.youtube.com/@JudiciarybyPW>



<https://t.me/pwlawwallah>

❖ **OBSERVATION**

- The Supreme Court observed that a suit filed only for injunction simpliciter cannot be dismissed solely because it lacks a declaratory relief under Section 34 of the Specific Relief Act, 1963 (SRA), especially when the defendants do not dispute the plaintiffs' title.
- The Court found the High Court's judgment flawed due to its failure to consider material issues and relevant law. Within three months, the matter was remitted to the High Court for reconsideration.
- "The law is well settled that if the defendants do not dispute the title of the plaintiffs then the suit should not fail only on the ground that the matter has been filed only for injunction simpliciter and no main relief in the form of declaration has been prayed for.", the court observed
- Accepting the Appellant's contention, the Court noted that "In the entire impugned judgment of the High Court, we do not find any discussion as regard the dispute relating to the title of the property."
- According to the Court, when the High Court had not discussed the dispute relating to the title of the suit property, then how come the plaintiff's suit was dismissed just because it was filed as an injunction simpliciter suit without seeking declaratory relief?
- Justice Tiwari highlighted that the Supreme Court held that, the words "widowhood and divorce", which are mentioned in brackets at the tail end of Rule 3B(c) does not hinder interpretation of the rule because they are illustrative.
- "The change in material circumstances when a woman is abandoned by her family or her partner was also recognized by the Hon'ble Supreme Court," the Court added.
- In the light of the above, the Court allowed the plea and directed the petitioner "to approach the C.M.O. concerned within three days from the high court order, whereupon, the latter shall, in accordance with the requisite Act and Rules, take expeditious measures for medically terminating the

pregnancy of the petitioner."

❖ **IMPORTANT PROVISION DISCUSSED**

- Section 34 of the Specific Relief Act, 1963 (SRA) (Discretion of court as to declaration of status or right.)

**Citation: 2025 (AB) 16**

❖ **TOPIC:** Consumption Of Alcohol By Wife Not Cruelty Unless Followed By Unwarranted & Uncivilized Behavior: Allahabad High Court

❖ **BENCH:** Justice Om Prakash Shukla and Justice Vivek Chaudhary

❖ **FORUM:** Allahabad High Court

❖ **FACTS**

- The marriage between the parties was solemnized in 2015.
- Thereafter, there was drastic change in the wife's behavior
- Amongst other things, respondent-wife tried to force the appellant to leave his parents and move to Kolkata, to which he did not agree.
- Eventually, the wife moved to Kolkata with their minor son and refused to return despite the husband's requests.
- Appellant-husband had filed a divorce petition in Lucknow.
- Since the wife did not put in appearance, the Court proceeded ex-parte and rejected the divorce petition on grounds that cruelty by the wife remained unproved.
- It was further held that desertion was not proved as the it was not the case where the wife had stayed separately for a period of more than 2 years for work.
- Appellant challenged the order of the Family Court before the High Court. Since the wife did not put in appearance despite serval service of notice by the Court, the Court proceeded ex-parte.

❖ **MAIN ISSUE**

- Whether wife consumes alcohol does amount to cruelty or not unless it is followed by uncivilized behavior

❖ **OBSERVATION**

- While granting a decree of divorce on grounds of desertion, the Allahabad High Court has observed that merely because the wife consumes alcohol does not amount to cruelty unless it is followed by uncivilized behavior.

**FOLLOW  
US**



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



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



<https://t.me/pwlawwallah>

- Observing that the burden to prove cruelty is on the plaintiff/ appellant, the Court held that no specific incidents were pleaded to show change in behavior of the wife so as to amount to cruelty.
- Accordingly, the Court set aside the order of the Family Court rejecting the divorce petition and granted divorce on grounds of desertion by the wife.
- It was held that mere allegations of consuming alcohol cannot amount to cruelty unless it is followed by certain behaviors. It was observed that allegations of consumption of alcohol during pregnancy was not proven as there was nothing to show any signs of weakness or other medical ailments in the child.
- Accordingly, it was held that the appellant-husband was entitled to a divorce decree on grounds of cruelty.
- However, regarding the plea of desertion by the wife, the High Court observed that the wife had completely and wilfully neglected the husband so as to constitute “desertion” under Section 13 of the Hindu Marriage Act.
- Noting the conduct of the wife in ignoring summons and service of notice by the Family Court and the High Court, the Court held that the marriage between the parties was beyond repairs.

#### ❖ **IMPORTANT PROVISIONS DISCUSSED**

- Section 498 A IPC (Cruelty)
- Section 13 HMA (Divorce)

### Soni Kumar v. State of Punjab

- ❖ **TOPIC:** Setting Aside Of Main Case Only A Relevant Factor When Considering Quashing Plea For Offence U/S 174A IPC: Punjab & Haryana High Court
- ❖ **BENCH:** Justice Sanjay Kumar Singh
- ❖ **FORUM:** Allahabad High Court
- ❖ **FACTS**
  - In the present case, the FIR under 174-A IPC was lodged against the petitioner because he was declared as a proclaimed offender in a case under Section 138 of Negotiable Instruments Act.
  - However, the criminal complaint under Section 138 of the Act was withdrawn as the rival parties had entered into a settlement.

- Hence, counsel for the petitioner argued that no useful purpose would be served by continuation of the proceedings qua the impugned FIR.
- Hence, counsel for the petitioner argued that no useful purpose would be served by continuation of the proceedings qua the impugned FIR.

#### ❖ **MAIN ISSUE**

- Regarding quashing of an FIR under Section 174- A IPC.

#### ❖ **OBSERVATION**

- The Punjab & Haryana High Court has said that an FIR under Section 174-A IPC (non-appearance of a person in response to a court summons or warrant of arrest) does not get quashed merely because the main case is quashed or the parties have entered into compromise, however the same will be a relevant factor to consider in the quashing plea
- Justice Goel opined that while exercising its innate plenary powers under Section 528 of BNSS, 2023/428 of Cr.P.C., 1973, to ratiocinate that it should not apply the law in an austere, academic and exacting technical manner, without considering its practical implications
- The Court highlighted that, the inherent powers of a High Court are powers which are incidental replete powers, which if did not so exist, the Court would be obliged to sit still and helplessly see the process of law and Courts being abused for the purposes of injustice.
- In other words; such powers is intrinsic to a High Court, it is its very life-blood, its very essence, its immanent attribute.
- In the present case, the judge noted that the original offence being an offence under Section 138 of Negotiable Instruments Act, the original offence alleged to have been committed in the year 2021, the subject matter of the original offence having been settled amicably between the parties and the criminal complaint under Section 138 of the Act has already been withdrawn.

#### ❖ **IMPORTANT PROVISIONS DISCUSSED**

- Section 82 Cr.P.C. (Proclamation for person absconding)
- Section 174A (IPC) (Punishment for failing to appear in court when required)

FOLLOW  
US



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



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



<https://t.me/pwlawwallah>