K. Dhananjay V. Cabinet Secretary & Ors.

- **TOPIC :** S. 353 IPC | Shouting & Threatening someone Doesn't Amount to Assault : Supreme court
- **BENCH :** Justice Sudhanshu Dhulia and Justice Ahsanuddin Amanullah

- **FORUM:** Supreme Court
- **MAIN ISSUE**
  - Whether shouting and threatening someone will amount to an offence of assault or not.
- **OBSERVATIONS**
  - The Supreme Court has observed that shouting and threatening someone doesn't amount to committing an offence of assault.
  - The bench comprising Justice Sudhanshu Dhulia and Justice Ahsanuddin Amanullah heard a case where the FIR under Section 351 of IPC (Assault) was registered against the Indian Institute of Astrophysics employee for shouting and threatening the CAT's Staff while inspecting the files of his dismissal from service.
  - Assault is defined under Section 351 of the Indian Penal Code as under:-
  - ''351 Assault - Whoever makes any gesture, or any preparation intending or knowing it to be likely that such gesture or preparation will cause any person present to apprehend that he who makes that gesture or preparation is about to use criminal force to that person, is said to commit an assault.''
  - Upon perusing the entire complaint on record, the Court said that the High Court committed an error in refusing to quash the FIR as none of the ingredients of the offence of assault under Section 351 of IPC was fulfilled in the case. ''...only allegation against the appellant in the said complaint is that he was shouting and threatening the staff. This itself will not amount to any assault...The High Court, to our mind, has committed a mistake in not interfering in this case. This is a case which is nothing but an abuse of the process of law and therefore, in order to meet the ends of justice, we allow this appeal and quash the entire proceedings initiated against the appellant.'', the court observed.
  - Accordingly, the appeal was allowed.

S Kalavathi v. State and Others

- **TOPIC :** Prisoners Are Not Slaves, Cannot Be Tortured In Inhuman ways To punish Them For Their Crimes : Madras High court
- **BENCH :** Justice SM Subramaniam and Justice V Sivagnanam

- **FORUM:** Madras High Court
- **MAIN ISSUE**
  - Regarding the prisoners and inhumane treatment
- **OBSERVATIONS**
  - The Madras High Court recently observed that the prisoners were not slaves and could not be treated in inhuman ways to punish them for their crimes. The court added that torturing inmates would only propagate crimes and not mitigate them.
  - The bench of Justice SM Subramaniam and Justice V Sivagnanam made the observations in a plea by a prisoner's mother alleging that he was being treated inhumanly by the prison authorities and was even made to do household work of the officers.
  - '' It is to be understood that prisoners are neither slaves nor are they to be tortured in such inhuman ways to punish them for their crimes. In our legal system, any kind of torture to any fellow human being should be shunned. Human lives have its own value. The convicts ought to be punished only in the manner known to law,'' the court observed

- The court also observed that the power given to the jail authorities must be exercised with care and caution as abuse of power would create havoc and undermine the ethos of the criminal justice system. The court emphasized that nobody could unduly exercise power over another and such misuse of power had to be dealt with seriously.
- " Abuse of power when having control over powerless prisoners will create havoc and undermine the ethos of the criminal justice system. Nobody can unduly exercise power over another individual in this free world but it is only in places like prisons where authorities have been given power over certain rights of prisoners. When such is the case, any misuse or abuse of powers shall not be taken in a normal manner but needs to be dealt with seriously," the court said.
- The court had previously directed the Vellore Chief Judicial Magistrate to visit the prison, meet the petitioner's son and conduct an inquiry.
- The court remarked that the report of the Magistrate shocked the conscience of the court. The court had also directed the CBCID to register criminal cases. Following this, a status report was filed by the Superintendent of Police revealing that the prisoners were employed in the house of Deputy Inspector General of Prisons, in violation of the Tamil Nadu Prison Rules 1983. Thus, the report of the Superintendent made out a prima facie case against the prison authorities.
- The court thus noted that it was necessary to send out a strong message that prison authorities were not supposed to abuse their official position. The court added that the convicted prisoners were already in a disadvantageous position inside the jail and any kind of exploitation had to be dealt with seriously.
- "The convicted prisoners inside the prison are in a disadvantageous position. Therefore, any kind of exploitation by the Prison Authorities cannot be subjected to normal view, but serious actions are highly warranted. Prison Authorities are solely accountable and responsible for the happenings inside the prison to the convict prisoners. When the convict prisoners are utilized for residential works in the residences of the Prison Authorities and monitored by the Subordinate Prison Authorities, both the actions are offences and illegal, and serious actions against such Prison Authorities engaging prisoners as well as the Uniformed Personnel are just and necessary. There cannot be any comprise in dealing with such nature of offences and misconduct by the Prison Authorities," the court observed
- The court added that prisons should be for the reform of the prisoners and the jail authorities must be aware that their duties and powers should be used in a responsible manner. The court added that power is not given to be used against the powerless but rather to be used in a responsible manner for the benefit of the people and society at large.
- The court thus directed the Superintendent of CBCID to proceed with the investigation in the criminal case and directed the trial court to expedite the process.
- The court also directed the disciplinary proceedings to be proceeded with under the relevant rules.
- The court also directed the Principal Secretary to Government and the Director General of Police to conduct frequent and surprise inspections to ensure that the prisoners are not engaged or employed by the Prison authorities in their residence for household work and if any complaint was received, inquiry was to be conducted and all appropriate actions were to be initiated.

G V Prasad & ANR v. State of Karnataka

- **TOPIC :** Death By Negligence | Prosecution U/S 304 A IPC Not Permissible If Offence U/S 92 of Factories Act Already Initiated : Karnataka High court
- **BENCH :** Justice Mohammad Nawaz

- **FORUM:** Karnataka High Court
- **MAIN ISSUE**
  - Regarding 304-A (causing death by negligence) of the Indian Penal Code.
- **OBSERVATIONS**
  - The Karnataka High Court has reiterated that initiating prosecution under Section 304-A (causing death by negligence) of the Indian Penal Code, against the owners/manager of a factory is impermissible when already prosecution for the

offence punishable under Section 92 of the Factories Act, 1948, has been initiated.

- A single judge bench of Justice Mohammad Nawaz allowed the petitioner filed by G. V Prasad and another and quashed the proceedings initiated against him under Section 304-A of IPC.
- The court said, ‘‘This Court is of the considered view that prosecution under Section 304-A of IPC against the petitioners while prosecution for the offence punishable under Section 92 of the Factories Act, 1948, is initiated, is not permissible, as there cannot be a parallel or simultaneous prosecution in respect of the very same incident, in view of the punishment provided under Section 92 of the Factories Act, 1948.’’
- Deceased employee Sujeet Paswan had died due to electrocution while pumping water using an electric motor. As per the complaint filed by co-worker Sanjeet Kumar it was alleged that the electric motor was old and the manager of the Rice Mill without taking any precaution and providing safety measures, instructed the deceased to lift water from the tank by using the said electric motor. The police after investigation filed a chargesheet in the case.
- The petitioners contended that parallel proceedings, leading to parallel Act in respect of the very same incident, cannot go on and the culmination of the same, will result in double jeopardy.
- The bench noted that ‘‘A separate complaint under Section 200 of Cr.P.C. is filed by the State represented by the Assistant Director of Factories, Raichur Division, Raichur, against both the petitioners, namely occupier and manager of the factory, alleging violation of the provisions of the Factories Act, 1948 and Karnataka Factories Rules, 1969, wherein the said violations are made punishable under Section 92 of the Factories Act, 1948.’’
- Court relied on the coordinate bench judgment in the case of Ananthakumar vs. State of Karnataka, reported in AIR Online 2019 KAR 565, wherein it was held that offences made punishable under Section 92 of the Act and Section 304-A of Indian Penal Code are of the same kind and are punishable with same quantum of punishment and hence,
- Section 26 of the General Clauses Act becomes applicable requiring the offender to be prosecuted only under one enactment. The scheme of the Factories Act does not permit parallel prosecutions under two different Acts against a person accused of committing offences under the Factories Act.
- Accordingly, the court allowed the petition and quashed the prosecution.

Punjab and Sind Bank v. Jai Singh and ors

- **TOPIC** : Reasonable Time limit Applies Even Without Statutory Limitation ; P & H HC on Labor References
- **BENCH** : Justice Jagmohan Bansal

- **FORUM:** : Punjab & Haryana High Court
- **MAIN ISSUE**
  - Regarding time limit in respect to labor reference order
- **BACKGROUND**
  - A clerk-cum-cashier of Punjab and Sind Bank was dismissed from service in December 1991 following disciplinary proceedings for alleged misappropriation of Rs. 51,500/-.
  - After his dismissal order was confirmed by the appellate authority in October 1994, the employee remained inactive until his acquittal in criminal proceedings in April 2005. Following the acquittal, he approached the labor authorities, leading to a reference order dated August 28, 2006, by the Under Secretary, Ministry of Labour, Government of India to the Central Government Industrial Tribunal-cum-Labour Court, Chandigarh under Section 10 read with Section 2A of the Industrial Disputes Act, 1947.
- **OBSERVATIONS**
  - Punjab & Haryana High Court: A Single Judge Bench of Justice Jagmohan Bansal allowed Punjab and Sind Bank's petition challenging a labor reference order made after an 11-year delay.
  - The Court ruled that criminal acquittal cannot revive a dismissed labor dispute, especially when approached after an unreasonable delay.
  - Despite no statutory limitation period under Section 10 of the Industrial Disputes Act at the relevant time, the Court held that labor authorities must act within reasonable time limits and

emphasized the independence of departmental proceedings from criminal trials.

- Firstly, addressing the crucial issue of limitation, the court held that even in the absence of a prescribed limitation period under Section 10 of the Industrial Disputes Act, authorities are bound to act within a reasonable timeframe.
- While the labor authority acted promptly by making the reference in 2006 upon receiving the application in 2005, the employee's approach after 11 years from the dismissal of his appeal was deemed unreasonably delayed.
- The court noted that while the three-year limitation period introduced in Section 2A in 2010 couldn't be directly applied to pre-amendment cases, it could serve as a guideline for determining reasonable period.
- Secondly, the court dealt with the independence of departmental proceedings from criminal trials. Citing Kendriya Vidyalaya Sangathan v. T. Srinivas (2004) and State of Rajasthan v. B.K. Meena (1996), the court emphasized that departmental and criminal proceedings operate in distinct spheres with different approaches, objectives, and standards of proof. The court firmly established that an employee cannot revive a dead claim merely on the grounds of acquittal in criminal proceedings.
- Lastly, referring to Union of India v. Subrata Nath (2022), the court reiterated the limited scope of interference under Article 226 in disciplinary matters. It emphasized that departmental authorities are fact-finding bodies with discretion to impose appropriate punishment based on their assessment of evidence.
- The court highlighted that judicial review in such cases is restricted to specific grounds such as procedural irregularities, violation of natural justice, or conclusions that are wholly arbitrary and capricious. Thus, the court set aside the reference order dated August 28, 2006, holding it to be legally unsustainable due to the unreasonable delay in approaching the labor authorities.

Nainesh Panchal vs State of Maharashtra

- **TOPICS:** Bombay HC orders Enquiry Against Police Officers For using AC, Water- Cooler , TV, Computer At Police Station without Paying Supplier
- **BENCH :** Justices Sarang Kotwal and Dr Neela Gokhale
- **FORUM:** Bombay High Court

- **MAIN ISSUE**
  - Regarding Police station and officials
- **OBSERVATIONS**
  - The Bombay High Court was recently disturbed to note that a police station in Thane city used air-conditioners, water coolers, computers, LED TV, printers and other valuable electronic devices, for free and later on when the supplier demanded money, the station officers returned the equipment without paying a penny.
  - A division bench of Justices Sarang Kotwal and Dr Neela Gokhale ordered the Director General of Police, Maharashtra to look into the allegations and file a report before it.
  - "Before passing the operative part, we must note a disturbing feature in this case. The allegations in the complaint are quite serious. First of all it is hard to understand how the police officers from a particular police station can take such expensive articles from a private party without following due procedure. Secondly, if the allegations are true, some serious action needs to be taken," the judges observed in the order passed on October 23.
  - The observations were made while quashing a First Information Report (FIR) lodged against one Nainesh Panchal, a businessman from Thane, who was booked by the Kasarvadavli Police Station in Thane for cheating the informant, a supplier of electronic devices.
  - It was the complainant's case that Panchal purchased several valuable equipment like ACs, Coolers, TV etc from him and did not pay Rs 4.24 lakhs for the same.
  - It was alleged that Panchal did not pay any money for the purchase of the equipment and the cheques that he gave, were dishonoured. However, the dispute between the complainant and Panchal was now settled as the parties agreed to the petitioner making a payment of Rs 3.75 lakhs to the informant. The bench therefore, found it to be a 'civil dispute' and quashed the FIR and the subsequent proceedings arising from the same.

- While the bench was quashing the FIR, it sought to know from the Petitioner about the delay in making the payments. The petitioner then informed the judges that he had supplied some of the ACs, LED TVs, Computers, Water Coolers etc to the Kasarvadavali police station and also to some particular officers of the station. However, the cops did not make any payment to him and he therefore, filed a complaint about the same to the Commissioner of Police, Thane City in December 2018.
- "He was not given his money inspite of constantly pursuing his demand. He submitted that nothing came out of that complaint and his articles were returned but he had suffered heavy losses because of this, which resulted in his default in making payment to the first informant," the judges noted.
- The judges therefore, ordered the DGP, Maharashtra to inquire into the allegations.
- "The DGP, Maharashtra State, is requested to appoint a suitable police officer from the State CID of the rank of Deputy Commissioner of Police or of equal rank to conduct an inquiry in the complaint of the petitioner. The said appointed Officer shall conduct an inquiry expeditiously and in any case within a period of three months from today and submit a report before this Court," the judges said.
- The judges have adjourned the matter till February 2025.