

### Vishwajeet Kerba Masalkar v. The State of Maharashtra

- ❖ **TOPIC :** Supreme Court Acquits Man Sentenced to Death For Alleged Murder of mother , Wife and 2 Yrs old Daughter
- ❖ **BENCH :** Justices BR Gavai, Prashant Kumar Mishra and KV Viswanathan



- ❖ **FORUM:** Supreme Court
- ❖ **MAIN ISSUE**
  - Whether the conviction and the death sentence of a man can be set aside or not for the alleged murder of his mother, wife and two-year-old daughter.
- ❖ **OBSERVATIONS**
  - The Supreme Court has set aside the conviction and the death sentence of a man for the alleged murder of his mother, wife and two-year-old daughter, noting that the prosecution was unable to prove an unbroken chain of events.
  - A bench of Justices BR Gavai, Prashant Kumar Mishra and KV Viswanathan delivered the verdict.
  - Pronouncing the decision, Justice Gavai said: "We have found that the prosecution has failed to prove any of the intervening circumstances...and since it's a case of circumstantial evidence, in no case the prosecution has been possible to prove an unbroken chain of events which can lead to .Therefore, we have allowed the appeal."
  - Briefly put, appellant-Vishwajeet Kerba Masalkar was convicted by the Trial Court under Sections 302, 307 and 201 of IPC. In appeal, the Bombay High Court confirmed the death penalty, being of the view that the case deserved to be treated as "rarest of the rare".
  - Reflecting on the brutality of the murder, the High Court observed that Masalkar committed planned, cold-blooded murder of his mother, wife and daughter. "By finishing the family, the accused has tried to shatter the basic foundation of the society" it said. As such, the case pricked at the judicial conscience of the Court.

- Aggrieved by the High Court decision, Masalkar approached the Supreme Court.
- Masalkar was working as a Facility Executive in a Pune-based company. He informed the police that a theft took place at his house, in which his mother, wife and daughter were killed and his neighbour injured.
- The said information was treated as a complaint and case registered under Sections 302 and 397 of IPC.
- During the investigation, it was noticed that theft of gold ornaments or cash did not take place from the house, nor was there any forcible entry. It was further found that Masalkar was having a love affair outside marriage.
- The police suspected Masalkar of committing the murder of his wife, mother and child, as well as of causing injuries to his neighbour as he might have witnessed the said murder. Accordingly, an investigation was conducted and Masalkar was arrested.
- After the investigation was concluded, the Trial Judge examined the material and convicted Masalkar, sentencing him to death. Against this decision, Masalkar approached the High Court.
- Before the High Court, the State counsel submitted that initially, the police was misled by Masalkar to believe that a theft took place resulting in the death of his wife, mother and daughter.
- However, later, the gold ornaments alleged to have been stolen were discovered hidden behind a photo frame in the house itself. Further, it was stated that a hammer was recovered at Masalkar's instance.
- After examining all the material, the High Court confirmed the death sentence, observing, "we have drawn an elaborate balance sheet of the aggravating and mitigating circumstances. There are only 6 aggravating circumstances available in the present case. As against this, none of the mitigating circumstances are available. The balance sheet of aggravating and mitigating circumstances tilts in favour of the aggravating circumstances. In view thereof, we find that the present case deserves to be treated as the rarest of rare case. It has been made clear by the Hon'ble the Apex Court that the rarest of rare case test depends upon the perception of the Society and the approach should be "society-centric" and not "judge centric". The test has to be applied whether the society will address awarding of the death sentence to the crime in question."
- Challenging this decision, Masalkar approached the Supreme Court.

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## Chhattisgarh State Civil Supplies Corporation v. Shailendra Kumar Khamparia

- ❖ **TOPIC** : Resignation Rejected due to incomplete formalities; Chhattisgarh HC Dismisses Employer's Appeal To enforce it, Holds Incomplete Resignation cannot be Acted upon
- ❖ **BENCH** : Chief Justice Ramesh Sinha and Justice Bibhu Datta Guru



- ❖ **FORUM**: Chhattisgarh High Court
- ❖ **MAIN ISSUE**
  - Whether a resignation can be rejected or not due to incomplete formalities.
- ❖ **BACKGROUND**
  - Shailendra Kumar Khamparia, a Deputy Manager with the Chhattisgarh State Civil Supplies Corporation, tendered his resignation via email on March 26, 2016, citing personal reasons.
  - The resignation was initially rejected by the corporation for being incomplete—lacking a specified date and failing to meet the condition of depositing three months' salary.
  - Nevertheless, the corporation later accepted his resignation in September 2016. Khamparia, who had not fulfilled the required conditions, sought to withdraw his resignation in October 2016, but the corporation denied his request.
- ❖ **OBSERVATIONS**
  - Chief Justice Ramesh Sinha and Justice Bibhu Datta Guru dismissed the corporation's appeal and upheld the Single Judge's decision that the acceptance of Shailendra Kumar Khamparia's resignation was invalid due to non-compliance with required conditions.
  - The court ruled that Khamparia's resignation could not take effect without fulfilling the prescribed procedures, and allowed his subsequent request to withdraw the resignation. It further held that once the resignation was rejected for non-compliance, the burden shifts on the employer to ensure that all

conditions were met before proceeding with acceptance.

- Firstly, the court emphasized that a resignation must comply with all prescribed conditions before it can be validly accepted. In this case, Khamparia's resignation was initially rejected because it lacked a specific date and the required deposit of three months' salary.
- Although the resignation was accepted later, these conditions remained unmet, making the acceptance procedurally defective.
- The court further noted that once the resignation was rejected for non-compliance, the burden shifted to the corporation to ensure that all conditions were met before proceeding with acceptance. Since Khamparia did not submit a revised resignation fulfilling these conditions, the resignation should not have been accepted at all.
- Additionally, the court highlighted that the corporation had transferred Khamparia and assigned him various responsibilities after receiving the incomplete resignation, further indicating that his resignation was not effectively accepted.
- By continuing to engage him, the corporation's actions contradicted its acceptance of the resignation.
- Moreover, the court considered Khamparia's multiple requests to withdraw his resignation and noted that the corporation did not act on them, which was improper given that the resignation had not taken effect due to the unfulfilled conditions.
- The court cited Rakesh Kumar Bhartiya v. Union of India to support the principle that an incomplete resignation cannot be acted upon and emphasized that the corporation's attempt to enforce the resignation was legally impermissible.
- Thus, the court held that the resignation was invalid due to procedural lapses, and Khamparia was entitled to withdraw it. The court dismissed the appeal, affirming the Single Judge's ruling in favor of the employee.

## XXX v. State of Kerala

- ❖ **TOPIC**: Principal, Teacher Not Guilty of Failure To Report Crime When student's complaint was sent to police The very next Day : Kerala HC
- ❖ **BENCH** : Justice A. Badharudeen
- ❖ **FORUM**: Kerala High Court

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❖ **MAIN ISSUE**

- Whether a final report can be quashed or not against a school principal and teacher for failing to report a sexual offence complaint received from a minor student on the same day

❖ **BACKGROUND**

- In the facts of the case, a school principal and teacher who were arrayed as the 3rd and 4th accused have approached the High Court to quash the final report against them under Section 19 read 21 of the POCSO Act for failing to report sexual offences on receiving a complaint from a minor student.
- Section 19 pertains to reporting offenses and Section 21 provides the punishment for failure to report a case.
- As per the prosecution case, the first accused sexually assaulted and sexually harassed a minor student on November 16, 2022.
- It is stated that the victim complained about the sexual offences to the principal on November 17, 2022 but the police were not informed on that day.
- It is alleged that the petitioners showed reluctance to inform the police on the same day and reported the sexual offence only on November 18, the next day after receiving the complaint.
- The petitioners stated that there was no wilful reluctance on their part in reporting the offence to the police.
- On the other hand, the Public Prosecutor stated that the principal showed some reluctance stating that the victim would have to face an ordeal since she would have to appear before the Court many times.
- It was also submitted that the Principal stated that the first also has a family and children and this would affect him also. It is stated that even the teacher showed hesitation in registering the FIR.

❖ **OBSERVATIONS**

- The Kerala High Court has quashed the final report against a school principal and teacher for failing to report a sexual offence complaint received from a minor student on the same day.
- The Court stated that it cannot be justified to say

that there was a wilful omission since the complaint was lodged with the police and FIR was registered on the next day itself.

- Justice A. Badharudeen stated that it was harsh to hold that the principal and teacher were liable since they reported the crime to the police on the next day.
- The Court noted that failing to report to the police about the offence at least within 24 hours would attract an offence under Section 19 of the POCSO Act.
- In the same breath, the Court stated that it would be harsh to hold that the petitioners were liable since the police were informed the next day itself.
- The Court stated that making the petitioners liable for such a short omission could not be justified.
- As such, the Court quashed the final report against the principal and the teacher.

**Suraj Parkash v. State of Jammu and  
Kashmir through Commissioner**

- ❖ **TOPIC:** Employee of state Road Transport Corporation Entitled to Pay Revision And Benefits of 5th And 6th Pay commissions, Jammu & Kashmir High Court

- ❖ **BENCH :** Justice M.A. Chowdhary



- ❖ **FORUM:** Jammu and Kashmir High Court

❖ **MAIN ISSUE**

- Whether Employees of State Road Transport Corporation are entitled to pay Revision and benefits of 5th and 6th pay Commission or not .

❖ **BACKGROUND**

- Suraj Parkash, employed by the Jammu & Kashmir State Road Transport Corporation (SRTC), sought the release of higher pay grades in line with SRO 18 (1998) and SRO 93 (2009), which implemented the recommendations of the 5th and 6th Pay Commissions.
- He contended that other state corporations had adopted these revisions, but his pay scale remained stagnant. Although the petitioner was due for a

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promotion to the position of Assistant Work Manager, he had not received this promotion for 25 years.

- The petitioner retired in 2017 and sought to limit his claim to the pay fixation benefits under SROs 18 and 93, which had been denied, while benefits under the 7th Pay Commission were already extended.
- Justice M.A. Chowdhary ruled in favor of the petitioner, recognizing his entitlement to the pay revisions under the 5th and 6th Pay Commissions, despite his superannuation.

#### ❖ **OBSERVATIONS**

- The court held that since the petitioner had been treated as a government employee for pension purposes, he was also entitled to the pay revisions granted under the relevant Statutory Rules and Orders (SROs).
- Firstly, the court considered that the petitioner had already been granted benefits under the 7th Pay Commission. The court emphasized that pensionary benefits and 7th Pay Commission revisions are typically granted to government employees holding pensionable posts.
- Since the petitioner had been treated as a government employee for these purposes, the court found no justification for withholding the benefits of the 5th and 6th Pay Commissions, which had been implemented through SROs 18 and 93.
- The court also highlighted the petitioner's consistent service history, including his employment as a Senior Driver and later a Vehicle Inspector, which entitled him to the revised pay scales. His superannuation did not negate his right to these pay revisions.
- In the present case, the petitioner had been treated as a government employee for pension purposes, and his claims to the benefits under the 5th and 6th Pay Commissions could not be denied merely because he was no longer in active service.
- Additionally, the court underscored the principle that the state and its corporations must act fairly as model employers.
- The respondents' refusal to extend the pay revisions to the petitioner, when similarly placed employees had been granted the benefits, was arbitrary and violated principles of fairness.
- Finally, the court declared the rejection order dated 24 April 2018, which denied the petitioner's claim, as "inconsequential and ineffective." The court directed the respondents to conduct a fresh review of the petitioner's entitlements and to place him in the appropriate pay scale as per SROs 18 and 93.
- It further instructed the authorities to pay all

differential arrears owed to the petitioner within eight weeks. Thus, the court quashed the rejection order issued by the respondent corporation, declaring it void. It directed the respondents to place the petitioner in the revised pay scales as per SRO 18 of 1998 and SRO 93 of 2009, and to pay the differential arrears within eight weeks.

### **Kishore Singh Mertiya v. State of Rajasthan & Anr.**

- ❖ **TOPIC** : Resolving Family Disputes Using criminal law an abuse of legal Processes, Rajasthan high court Quashes Nephew's FIR Over Property Dispute
- ❖ **BENCH** : Justice Arun Monga



- ❖ **FORUM**: Rajasthan High Court
- ❖ **MAIN ISSUE**

- Whether a nephew's FIR against his uncle for offences of cheating and forgery can be quashed or not.

#### ❖ **OBSERVATIONS**

- While quashing a nephew's FIR against his uncle for offences of cheating and forgery, Rajasthan High Court reiterated that using criminal justice system to settle family property issues is a misuse of legal process, unless there is a clear prima-facie evidence of criminal intent.
- The complainant alleged that the petitioner forged papers of his father's property to take over the same and was threatening the complainant to vacate the property after his father's death.
- On the other hand, it was the case of the petitioner that the property in question was actually purchased by him in which the complainant's father and the petitioner's brother stood as a guarantor.
- It was also submitted by the counsel for the petitioner that the petitioner had already filed a suit in 2007, in relation to the said property, against a third person for illegal construction. Owing to this suit, the complainant was well aware that the property belonged to the petitioner, however, the

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FIR was filed after so many years with an ill intention to take over the property.

- After hearing both sides, the bench of Justice Arun Monga highlighted that the core issue between the parties was fundamentally a family property dispute of civil nature concerning inheritance and ownership that needed to be decided based on documentary evidence and applicable inheritance laws. In this light, criminal law could not be invoked.
- “This dispute should be resolved through civil litigation regarding inheritance rights, not through criminal charges. Criminal law cannot be used to settle civil disputes, and the FIR appears to be an attempt to escalate a family property dispute into a criminal case.”
- The Court also opined that despite being aware of the property related legal proceedings initiated by the petitioner in 2007, the inordinate delay on part of the complainant in claiming title over the property weakened credibility in the allegations raised by him suggesting it to be merely a retaliatory measure.

- "The petitioner has been involved in legal proceedings regarding the property (Suit No. 34/2007) long before this FIR was lodged. The complainant's filing of the FIR only after these civil proceedings indicates that it is being used as a tool to exert undue pressure on the petitioner in the ongoing property dispute.”
- Finally, the Court observed that the FIR lacked sufficient facts to establish the elements for the offences of cheating and forgery as alleged by the complainant and there was no direct evidence of fraud or criminal intent on part of the petitioner.
- Hence, it was ruled that continuing the criminal proceedings would be an abuse of legal process since it would not only subject the petitioner to harassment, humiliation and hardship but also waste judicial resources on a civil matter.
- Accordingly, the FIR was quashed.



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