H. N. Pandakumar v. The State of Karnataka

- **TOPIC :** Offence Of Grievous Hurt By Dangerous Weapons(S.326 IPC) Can Be Compromised In Exceptional Circumstances
- **BENCH :** Justice Vikram Nath and Justice Prasanna B. Varale.
- **FORUM:** Supreme Court
- **FACTS**
  - A complaint was filed alleging that the accused persons had formed an unlawful assembly and assaulted the complainant and his family members, causing grievous injuries.
  - Consequently, the Trial Court convicted the accused persons for the offence of grievous hurt.
  - As the matter reached the High Court, it reduced the sentence to one year and instead enhanced the compensation amount.
  - Pursuant to this, in the very same appeal, the petitioner had filed an application seeking relief for compounding the said offence.
  - It was his case that a compromise was reached between the parties and all the disputes have been amicably resolved
- **MAIN ISSUE**
  - Regarding an application filed in an appeal upholding the conviction of the present petitioner
- **OBSERVATION**
  - The Supreme Court observed that while Section 326 (punishment for grievous hurt by dangerous weapons) of the Indian Penal Code, 1860, is non-compoundable, the Court can, in exceptional circumstances, invoke its inherent power to give effect to compromise. Such circumstance also includes voluntary settlement between the parties.
  - ‘‘In light of the amicable settlement and the complainant's unequivocal consent, as evidenced by the Interlocutory Application, this Court finds it appropriate to allow the present M.A.
  - While the offence under Section 326 IPC is non compoundable under the provisions of the Criminal. Procedure Code, 1973, the exceptional circumstances of this case, including the voluntary settlement between the parties, warrant the exercise of this Court's inherent powers to give effect to the compromise.’’
  - The Court took several factors into consideration including the close proximity within which both the parties reside and that any lingering hostility will affect the neighbourhood.
  - ‘‘The complainant and the petitioner reside in close proximity, with only a road separating their houses, making it essential to maintain a peaceful relationship between the two families
  - The parties are also distantly related, and any lingering hostility is likely to disturb the social fabric of their neighbourhood.
  - The compromise covers not only the criminal case but also related property disputes, including the right of way, which had been a point of contention for years.
  - The applicant/petitioner's commitment to paying the agreed compensation reflects a genuine effort to end the discord and uphold the terms of the settlement.,’’ the Court observed.
  - Apart from this, the Court also highlighted that the support of the complainant in this regard reflects the voluntary nature of this dispute.
  - Thus, in light of these observations, the Court allowed the present application and the sentence was reduced to the period already undergone.
  - Important Provision Discussed
  - Section 326 (Punishment for grievous hurt by dangerous weapons)
  - Section 320 (Grievous Hurt)

Om Prakash @ Israel @ Raju @ Raju Das v State of Uttarakhand

- **TOPIC :** 'Time He Lost Can't Be Restored' : Supreme Court Frees Prisoner After 25 Years, Finds He Was A Minor At The Time Of Offence
- **BENCH** :Justice MM Sundresh and Justice Aravind Kumar .
- **FORUM:** Supreme Court
- **FACTS**
  - The appellant before the Supreme Court, Om Prakash, was initially sentenced to death for the offence of murder alleged to have been committed in the year 1994.

- Although he raised the plea of juvenility at the time of sentence hearing, the trial court treated him as a major, having regard to a reply given by him under Section 313 of the Code of Criminal Procedure and also the fact that he had a bank account.
- The High Court also affirmed the trial court's judgment.
- The Supreme Court too dismissed his appeal, affirming the death sentence.
- After that, he filed a curative petition in the Supreme Court, producing a school certificate, showing him to be a minor at the time of the offence.
- In the curative petition, the State of Uttarakhand certified that the appellant was only 14 years old at the time of the offence. However, the curative petition was dismissed.
- Later, the appellant filed a mercy petition before the President.
- In 2012, the President commuted the appellant's death sentence to life imprisonment but with a condition that he should not be released until he attained the age of 60 years.
- Meanwhile, the appellant got an ossification test done on him and a medical certificate was issued to him stating that he was aged 14 years old at the time of the crime
- He also got information under the RTI Act that it was possible for a minor to open a bank account.
- In 2019, he filed a writ petition in the High Court of Uttarakhand against the Presidential order.
- The High Court dismissed the writ petition citing limited scope of judicial review over Presidential orders.
- The present appeal was filed against the said judgment of the High Court.

❖ MAIN ISSUE

- Regarding the release of a prisoner, who has been under incarceration for nearly 25 years.

❖ OBSERVATION

- In a remarkable judgment, the Supreme Court ordered the release of a prisoner, who has been under incarceration for nearly 25 years, after finding that he was a juvenile at the time of the offence in the year 1994.
- A bench comprising Justice MM Sundresh and Justice Aravind Kumar found that he was was only 14 years old at the time of the commission of the offence
- During the hearing, the Supreme Court asked the State to obtain fresh instructions on its earlier admission in the curative proceedings regarding the juvenility of the appellant.
- The State reiterated its stance that he was a minor.
- The judgment authored by Justice Sundresh stated that the approach taken by the Courts in the earlier proceedings cannot be sustained.
- There could not have been any reliance on the statement recorded under Section 313 of CrPC, particularly when he was asked to give his particulars for the purpose of recording his statement.
- Even the said statement shows that he was 20 years of age at the time of making his deposition, which could only mean that he was 14 years of age at the time of the commission of the offence, the Court said.
- The Supreme Court also faulted the High Court for not taking note of Section 9(2) of the Juvenile Justice Act 2015, which specifies that the plea of juvenility can be raised at any stage.
- When the plea of juvenility was raised, it should have been dealt with under the existing laws at the relevant point of time(2015 Act).
- While ordering his immediate release, the Court clarified that its judgment was not a review of the 2012 Presidential order but a case of giving the benefit of the provisions of the 2015 Act to a deserving person.
- The Court directed the Uttarakhand State Legal Services Authority to play a proactive role in identifying any welfare scheme of the State/Central Government, facilitating the appellant's rehabilitation and smooth reintegration into society upon his release, with particular emphasis on his right to livelihood, shelter and sustenance guaranteed under Article 21 of the Constitution.
- The State was also directed to assist him in availing the benefit of any welfare scheme.

❖ Important Provision Discussed

- Section 313 Crpc (Power to examine the accused)
- Section 9 Juvenile Justice Act 2015 (Procedure to be followed by a Magistrate who has not been empowered under this Act)

Hyder Ali v. State of Karnataka

- **TOPIC:** S.187 BNSS | Supreme Court Affirms HC Judgment That Police Custody Must Be Within First 40 Days For Offences Punishable Upto 10 Yrs Imprisonment
- **BENCH:** Justice Sudhanshu Dhulia and Justice Prashant Kumar Mishra
- **FORUM:** Supreme Court
- **FACTS**
  - In this case, the Magistrate refused to grant police custody of certain persons who were accused of offences under Section 108, 308(2), 308(5), 351(2) and 352 of BNS, which are punishable with imprisonment up to 10 years.
  - Challenging the Magistrate's order, the State approached the High Court. Rejecting their plea, the High Court held that the period of investigation in the case at hand was 60 days and the police custody available in terms of Section 187 of BNSS is within 40 days.
  - Those 40 days have lapsed, there was no warrant to grant police custody.
  - In the case at hand, the offence is punishable up to ten years, Therefore, the police custody is only from day one to day forty,'' the High Court held.
- **MAIN ISSUE**
  - Regarding the interfere with the judgment of the Karnataka High Court
- **OBSERVATION**
  - The Supreme Court refused to interfere with the judgment of the Karnataka High Court which held that as per Section 187 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), the 15-day police custody must be sought within the first forty days in cases of offences which are punishable upto ten years of imprisonment.
  - A bench comprising Justice Sudhanshu Dhulia and Justice Prashant Kumar Mishra dismissed the Special Leave Petition filed by the complainant challenging the High Court's judgment delivered on December 13, 2024.
  - Section 187(3) states that the Magistrate may authorise the detention of the accused person, beyond 15 days, if he is satisfied that adequate grounds exist for doing so.
  - However, no Magistrate shall authorise the detention of the accused person in custody under this sub-section for a total period exceeding—(i) 90 days where the investigation relates to an offence punishable with death, imprisonment for life or imprisonment for a term of ten years or more; (ii) 60 days, where the investigation relates to any other offence.
  - Section 187(3) of BNSS was Section 167(2) of Criminal Procedure Code. Under Section 167 (2) CrPC investigation, has its completion period of 90 days, where the investigation relates to an offence punishable with death, imprisonment for life or imprisonment for a period of ten years or more and for the remaining offences, it is 60 days. In BNSS, the same 90 days is permitted where imprisonment is for a term of ten years or more.
- **Important Provisions discussed**
  - Section 187 of BNSS (Procedure when investigation cannot be completed in twenty-four hours.)
  - Section 167 of Crpc (Procedure when investigation cannot be completed in twenty-four hours)

XYZ vs State of Maharashtra

- **TOPIC:** Husband's Inability To Develop Sexual Relations With Wife Is Generally Not Known To Even Nearest Relatives: Bombay High Court Quashes FIR
- **BENCH:** Justices Ravindra Ghuge and Rajesh Patil
- **FORUM:** Bombay High Court
- **FACTS**
  - A plea filed by a man, his parents, brother and maternal uncles and aunts, all seeking to quash the FIR lodged against them under provisions of Section 498A of the Indian Penal Code (IPC).
  - The allegation as regards both the uncles and aunts was that they were well aware of the fact that their nephew was unable to cohabit with any wife and despite that they got him married with the complainant woman. She claimed that the husband was unable to develop physical relations with her

❖ **MAIN ISSUE**
- Regarding a First Information Report (FIR) lodged against two maternal uncles and aunts of a man at the behest of his wife.

❖ **OBSERVATION**
- The Bombay High Court recently quashed a First Information Report (FIR) lodged against two maternal uncles and aunts of a man at the behest of his wife, on the ground that they got him married to the complainant woman, despite knowing that he could not develop physical relations with any woman.
- A division bench of Justices Ravindra Ghuge and Rajesh Patil said whether a husband suffers from such a medical condition or not, is usually known to himself and generally such information is not known even to the nearest relatives.
- The judges noted that the maternal uncles and aunts of the man in the instant case, did not force or coerce the complainant to get married to him.
- "The contention is that they were keen that the marriage be solemnised between the complainant and their nephew," the judges noted.
- Therefore, the bench opined that no case is made out against uncles and the aunts in the case.
- As regards the husband, his brother and their parents are concerned, the judges took into account the fact that serious allegations of dowry demand, physical torture and mental torture, were made against them.
- The bench, therefore, refused to quash the FIR as regards the husband and his parents and brother. However, the judges, quashed the FIR as against the two maternal uncles and aunties observing that they had no knowledge of the condition of the husband and that they lived separately in Solapur while the husband and his family lived in Solapur City.

❖ **Important Provisions discussed**
- Section 498 A Indian Penal Code (Cruelty)