Shivkumar Ramsundar Saket v. State of Maharashtra

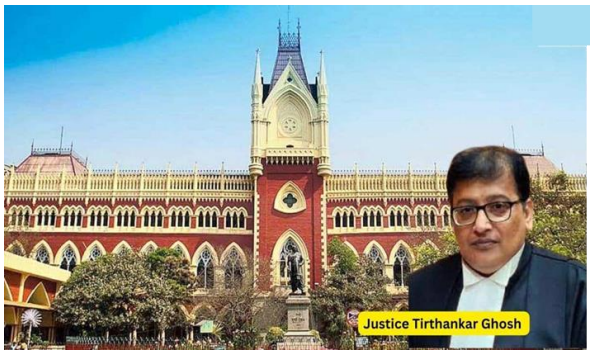
- **TOPIC :** Supreme Court Sets Aside Death Sentence Of Watchman Convicted For Dacoity And Murder
- **BENCH :** Justice BR Gavai, Justice PK Mishra, and Justice KV Vishwanathan

- **FORUM:** Supreme Court
- **MAIN ISSUE**
  - Whether the death sentence of a watchman convicted for dacoity and murder can be set aside or not.
- **BACKGROUND**
  - On the night of December 2, 2007, Saket and his co-conspirators entered the Munots' bungalow, tied up the night guard, and murdered the couple. Ramesh Munot was stabbed multiple times, while his wife, Chitra, was tied to a chair, and her throat was slit. The group stole jewellery, foreign currency, and other valuables worth Rs. 9 lakhs before attempting to flee the city.
  - The trial court had sentenced all six accused to life imprisonment in 2013 for offences under various sections of the IPC, including murder, dacoity, and conspiracy.
  - The watchman Shiv Kumar Saket was convicted of the brutal murder of businessman Ramesh Munot and his wife, Chitra, at their residence in Ahmednagar, Maharashtra, in 2007.
  - Saket, along with two of his friends and three former employees of the Munots, executed a planned robbery and murder.While the trial court initially sentenced all six convicts to life imprisonment, the Bombay HC later enhanced Saket's punishment to a death sentence, citing betrayal of trust as an aggravating factor.
- **OBSERVATIONS**
  - The Supreme Court recently set aside the death sentence of a watchman convicted for the dacoity and murder of his employers to life imprisonment.
  - A bench of Justice BR Gavai, Justice PK Mishra, and Justice KV Vishwanathan set aside the death penalty imposed by the Bombay High Court in 2022.
  - ‘‘The learned Trial Judge upon consideration of the material placed on record had come to a considered conclusion that the present case does not fit in the category of the 'rarest of rare' cases. Therefore, unless the finding recorded by the learned Trial Judge was found to be perverse or impossible, the High Court ought not to have interfered with the same’’, the Court held.
  - The Supreme Court, however, disagreed with the High Court's decision. While the Supreme Court upheld the conviction, it set aside the death penalty and restored the trial court's sentence of life imprisonment. The Court noted that the High Court had not recorded a finding that the trial court's observation that the case did not fall under the category of the ‘‘rarest of rare’’ cases was perverse.
  - The Supreme Court further noted that the role played by Saket was similar to the other accused involved in the crime. Therefore, he could not have been singled out for a separate, harsher punishment.
  - The Bombay HC had awarded Saket the death penalty in an appeal from the Maharashtra government, which sought to enhance his punishment.
  - The HC found that Saket, being a day watchman employed by the Munots, had betrayed the trust placed in him by the couple, setting him apart from the other convicts. The HC had described the murders as ‘‘calculated and cold-blooded,’’ and held that the crime fell into the rarest of rare category.

The State of West Bengal v. Union of India & Anr

- **TOPIC :** Calcutta High Court Directs Post-Mortem At AIIMS Hospital For Child Rape Victim, Orders Inclusion Of POCSO Charges
- **BENCH :** Justice Tirthankar Ghosh
- **FORUM:** Calcutta High Court
- **MAIN ISSUE**
  - Regarding an autopsy of a nine-year-old child rape-murder victim.
- **BACKGROUND**
  - The Calcutta High Court has ordered an autopsy of a nine-year-old child rape-murder victim to take

place at AIIMS Hospital, in Kalyani, West Bengal. The child was allegedly raped and murdered in Bengal's Jayanagar area.



❖ **OBSERVATIONS**

- A single bench of Justice Tirthankar Ghosh also directed that charges under the Protection of Children Against Sexual Offences (POCSO) Act, be added against the accused.
- The State of West Bengal has approached the High Court with an application under Section 482 read with Section 401 of the Code of Criminal Procedure, 1973/ Section 528 read with Section 442 of the Bharatiya Nagarik Suraksha Sanhita, 2023.
- The state challenged the order dated 5th October 2024 passed by the A.C.J.M., Baruipur in connection with Joynagar Police Station case no. 793 of 2024 dated 5th October, 2024, relating to the rape and murder of the nine-year-old girl.
- The investigating agency prayed before the ACJM Baruipur, South-24-Parganas for conducting the post-mortem examination in the presence of a Judicial Magistrate at Mominpur Police Morgue Hospital on 6th October 2024 which was turned down by the Magistrate by order dated 5th October, 2024.
- It was stated that there was a prayer by the father of the deceased who requested that necessary arrangements be made for a post-mortem examination by a hospital supervised and controlled by the Central Government.
- The Advocate General submitted that the State has the infrastructure, but the prayer of the father for conducting the post-mortem at a Central Government Hospital has been accepted by the State.
- Court accordingly considered directing AIIMS Kalyani Hospital to conduct the post-mortem of the deceased. During the course of the hearing, however, it was seen that although there were sexual offences committed against a minor, charges under the POCSO Act had not been levelled.
- This Court, prima facie, is of the opinion, that at the initial stage of investigation prior to the post mortem examination having been conducted, the inquest report suggest acts of sexual offences being committed upon the person of the deceased, so appropriate provisions of law under relevant statutes should have been incorporated by the investigating agency.
- Accordingly, this Court directs that henceforth the accused be produced before the Special Court under the POCSO Act, Baruipur for further directions to be obtained in course of investigation, it held.
- Accordingly, the court passed a spate of directions for conducting the post-mortem of the deceased at AIIMS Kalyani.

State of Punjab v. Jasbir Singh and others

❖ **TOPIC :** Even If Fatal Injury Is Caused By Only One Member Of Unlawful Assembly, All Co-Accused Will Be Liable For Murder, Punjab & Haryana High Court

❖ **BENCH :** Justice Sureshwar Thakur and Sudeepti Sharma

❖ **FORUM:** Punjab and Haryana High Court

❖ **MAIN ISSUE**

- Whether all Co-Accused can be Liable For Murder or not If Fatal Injury Is Caused By Only One Member Of Unlawful Assembly.

❖ **BACKGROUND**

- The case dates back to 1998, the accused Jasbir Singh gave some blows to the deceased and the main accused gave a fatal blow to the deceased.
- The Court trial made an objective analysis of the incriminatory material and framed charges against the accused, for the commission of offences punishable under Sections 148, 302, 324, 323/149 of the IPC.

❖ **OBSERVATIONS**

- After hearing the submissions and examining the submissions on record, the Court noted that the chain of circumstantial evidence were linked with each other.
- The bench considered that the prosecution witnesses have identified the accused and the witnesses identified the accused without any prior test identification parade.It further noted that the disclosure statements were made by the accused thereafter the weapons were recovered and it could not be proved that the evidence was planted.
- "Significantly, since the appellants have not been able to either ably deny their signatures as occur on the exhibits (supra) nor when they have been able to prove the opposite denial.
- Moreover, since they have also not been able to bring forth tangible evidence but suggestive that the recoveries are either contrived or invented. Therefore, all the exhibits are prima facie concluded to be holding the utmost evidentiary tenacity," the bench said.
- Furthermore, the Court highlighted that the "accused were not bystanders to the crime event there upon, when they did evidently made incriminatory participations in the crime event, thereby thus reiteratively all of them became vicariously liable for the offence of murder, as became committed by the principal accused and/or by the principal in the first degree, inasmuch as, by convict Jasbir Singh."
- Consequently, the Court allowed the appeal filed by the State and modified the conviction under Section 304-I IPC to Section 302 IPC.

CHHINDER SINGH V. STATE

❖ **TOPIC :** Intentional Insult, Intimidation Under SC/ST Act Must Be Made In Public, Rajasthan HC Sets Aside "Mechanical" Cognizance Order

❖ **BENCH** : Justice Arun Monga

❖ **FORUM:** Rajasthan High Court

❖ **MAIN ISSUE**

- Whether the provision requires that the intentional insult or intimidation takes place in public in the presence of other people or not.

❖ **OBSERVATIONS**

- While setting aside an order taking cognizance of an offence under Section 3(1)(x) SC/ST (Prevention of Atrocities) Act, the Rajasthan High Court said that the provision requires that the intentional insult or intimidation takes place in public in the presence of other people.
- In observing so, the high court said that in the present case, it was the complainant who had visited the petitioner (accused) at a location which was not a public place and there was no evidence of the remarks being made in public, and that the trial court and special judge failed to note this element.
- The court was hearing a petition against an order of the Special Judge SC/ST Cases who had affirmed the order of the trial court which took cognizance of offence under Section 3(1)(x) of the Act against the petitioner even though the police had submitted a negative final report pursuant to the complaint.
- Taking note of the trial court's order a single judge bench of Justice Arun Monga in its order said, "Having thus reviewed the impugned order, it transpires that the cognizance order by the learned trial Court has been passed in the most mechanical manner without there being any application of mind. It is simply recorded that in view of the statements recorded of the complainant, the cognizance is being taken. There is no whisper or discussion of any kind qua the detailed negative Final Report which was filed by the prosecution".
- For context, Section 3(1)(x) of the SC/ST (Prevention of Atrocities) Act states that a person who is not a member of a Scheduled Caste or a Scheduled Tribe intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view is liable to be punished.
- The court thereafter referred to the high court's decision in Bhagwan Sahai Khandelwal & ors. v. State of Rajasthan where it was held that in cases where a complaint/FIR was followed by a negative report, and subsequently followed by a protest petition, then while allowing the protest petition a Judicial Magistrate was legally bound to discuss the negative report and the order must contain sufficient reasons showing application of a judicious mind for disagreeing with the negative final report.

- It thereafter said, "I am in respectful agreement with the views as expressed as aforesaid. Facts in the present case are analogous and the above observations in Bhagwan Sahai ibid seem applicable here. I see no reason why the benefit of the same be not granted to the petitioner herein".
- In the present case, the Court noted that as per the FIR, the complainant personally visited the petitioner and inquired about preparation of a false affidavit.
- During such a visit, the petitioner allegedly made caste-based remarks in a sarcastic manner. The Complainant's statements recorded by the IO did not reveal that such remarks were made in public.
- It was only subsequently that three additional witnesses testified that the petitioner had abused the complainant in public.
- However, the complainant's statement to the IO indicated that these witnesses were neither present at the scene nor did they accompany the complainant.
- "Both learned Courts failed to notice that Section 3(1)(x) of the SC/ST Act requires that the insult or intimidation be made in the presence of others at a public place.
- In the case in hand, the complainant visited the petitioner at a location that was not a public place, and there is no evidence that the petitioner's remarks were made in public. Thus, without such preliminary evidence, the offence under Section 3(1)(x) of the SC/ST Act is not substantiated," it said.
- The Court further observed that there was no discussion of the negative report filed by the police, and referred to the Bhagwan Sahai Case which gave three reasons for why an order disagreeing with the negative final report must contain sufficient reasons showing application of mind.
- The High Court in Bhagwan Sahai had said, ‘‘firstly, the Principles of Natural Justice demand and dictate that any order adversely affecting a right should be a speaking order...Secondly, since the cognizance order is a revisionable order, the Higher Judicial Authorities have a right to know the reasons which weighed in the mind of the Judicial Magistrate for disagreeing with the negative Final Report...Thirdly, it is a settled doctrine of law that justice should not only be done, but also must appear to be done...In case, such reasons are not stated, alleged offender may find it difficulty to question the validity of the reasoning...’’.
- The high court had referred to the Supreme Court's decision in Sampat Singh v. State of Haryana in which it was stated that the Magistrate must give reasons for disagreeing with the negative final report.
- In case, no such reasons were given, then the order would be unsustainable in the eyes of law.
- The high court thereafter allowed the plea and set aside the orders of the trial court as well as the Special judge.

MAHFOOZ V. STATE OF U.P.

- **TOPIC:** Allahabad High Court Acquits Murder Convict Who Spent 17 Years In Jail By According Benefit Of Doubt
- **BENCH :** Justice Arvind Singh Sangwan and Justice Mohd Azhar Husain

- **FORUM:** Allahabad High Court
- **MAIN ISSUE**
  - Whether a murder convict who spent 17 years in jail by according benefit of doubt can be acquitted or not
- **OBSERVATIONS**
  - The Allahabad High Court last week acquitted a man convicted for the offence of murder by a Sessions Court in May 2013 and sentenced to life imprisonment, as it noted that there were material contradictions in the statement of the informant and the eye-witness.
  - The acquittal has been granted based on the benefit of the doubt.
  - A bench of Justice Arvind Singh Sangwan and Justice Mohd Azhar Husain Idrisi also considered the fact that the appellant-accused was in judicial custody for 17 years of actual sentence and 20 years of total sentence with remission, and despite this, his case was not considered for premature release.

- As per the prosecution's case, the informant, brother of the deceased/Dinesh, alleged in the complaint that on October 19, 2006, he and his brother, a fish seller, were returning home when the appellant-accused (Mahfooz) and one Muddu stopped his brother on the way and demanded money.
- When the deceased refused, Muddu grabbed him, and Mahfooz shot him with the pistol that he was holding, resulting in his death. The informant witnessed the entire incident.
- It was further alleged that villagers gathered at the scene and tried to catch Muddu, who sustained minor injuries (and died later on) but managed to escape by brandishing his gun.
- Interestingly, in this case, although two persons were murdered, i.e. Dinesh, who is the brother of the informant and Muddu, who is the brother of the accused-appellant, no FIR was registered regarding the murder of Muddu.
- However, as mentioned above, the Trial Court convicted the appellant and sentenced him to life imprisonment in its impugned judgment.
- Now, challenging his conviction, Mehfooz moved the High Court, wherein his counsel argued that despite two deaths occurring (Dinesh and Muddu), an FIR was registered only for Dinesh's murder and not for Muddu's death.
- The Counsel for the accused-appellant also claimed that PW-1 (informant) and PW-6 (Naresh) had killed Muddu, but the police had not registered an FIR to protect them. It was also submitted that there were material contradictions in the statements of both the witnesses, i.e. PW-1 and PW-6.
- In view of above, the Court allowed the appeal and set aside the impugned judgment of conviction and order of sentence.

X v. Y

- **TOPIC:** Father-In-Law Contributing To Husband's Growth To Help Save Daughter's Marriage Not Cruelty Sans Contrary Evidence
- **BENCH** : Justice Biren Vaishnav and Justice Nisha M Thakore
- **FORUM:** Gujarat High Court
- **MAIN ISSUE**
  - Whether Father-In-Law Contributing To Husband's Growth To Help Save Daughter's Marriage will be cruelty or not.
- **OBSERVATIONS**
  - Dismissing a man's plea for divorce due to alleged cruelty by his wife, the Gujarat High Court said that even if his father-in-law made efforts to support him for the sake of family's welfare then in the absence of any evidence, it would not amount to interference in the couple's family life for it to be termed as cruelty.

Justice Biren Vaishnav

- The order was passed in the husband's appeal against a family court's order which had dismissed his plea for divorce on the ground of cruelty by his wife under Section 13(1)(ia) of the Hindu Marriage Act.
- A division bench of Justice Biren Vaishnav and Justice Nisha M Thakore in its order said, "Merely because for the welfare of the family if the father of the respondent (respondent wife) had at some stage in the life of son-in-law tried to contribute to the growth of his son-in-law to see that the family remains viable and the marriage survives, in absence of any evidence to the contrary, it cannot be said that this would amount to interference in the family life of the couple so as to brand it as 'Cruelty'".
- Taking note of the evidence produced, the bench while examining the trial court's order further observed that there was a difference of opinion post marriage, particularly on the wife's insistence to stay at Surat and the involvement of the husband's father-in-law in initially setting up the husband's business which seemingly was a "thorn in the matrimonial life of the parties".
- The bench however said, "Nothing extraordinary which shocks the conscience of this Court, inasmuch as, to suggest that the respondent (wife) had been cruel to the appellant-husband has been brought out before the Trial Court".
- The bench further noted that the trial court had discussed the concept of cruelty in light of Supreme Court decisions and had found that the instances are not so serious which would warrant an inference that the behaviour of the wife be termed as ‘‘cruel’’.

- The high court said that on viewing the marriage life as a whole, the incidents alleged are not ones which can be termed as conduct tantamounting (equivalent) to cruelty by the wife.
- The couple got married in July 2008 in Kolkata and had a daughter in March 2012. Thereafter the couple went to the USA and then to Canada.
- The husband claimed that he was pressurized to come back to Surat and engage in the business of a transport agency arranged by his father-in-law. He claimed that there was continuous interference in the family matters by his in-laws and this resulted in cruelty at the hands of wife, and therefore, he sought divorce.
- The husband alleged that the wife used vulgar language against his parents. He claimed that she resided at her parental home and would not let him meet their daughter.
- He claimed that once when he was out of town, his in-laws allegedly broke into the bungalow to retrieve certain documents. His counsel said that the couple has been living separately since April 2013 and the attempts to reconcile have failed. He said that it was a case of an "irretrievable breakdown of marriage" and therefore, the court should modify the decree and grant divorce to the parties
- The wife alleged that the husband had a habit of gambling and she came to know of it after went to the USA. She claimed that he would beat her on flimsy and trivial issues.
- As a result of this, her father persuaded both to come back to Surat. The husband was requested to involve himself in the business of the wife's father which he did; subsequently he started his own business.
- When the husband demanded the money for purchase of a new bungalow, her father was constrained to lend money so that she could save her marriage, she said. She also alleged that she was being harassed by her in-laws after she gave birth to her daughter.
- The wife's counsel said that merely because there has been an irretrievable breakdown of marriage in the perception of the husband, the same would not make his case better.
- Finding that the trial court had not committed any error, the high court dismissed the man's plea.