Union of India & Ors. v. Saroj Devi

- **TOPIC** : 'Soldier's widow should not have been Dragged To court' : SC Imposes Rs. 50 K cost on Centre For Challenging Pension order
- **BENCH :** Justice Abhay Oka and Justice Augustine George Masih
- **FORUM:** Supreme Court
- **MAIN ISSUE**
  - Regarding India's appeal against the order of the Armed Forces Tribunal granting a Liberalised Family Pension (LFP) and other benefits to the widow of a soldier who died while on an Area Domination Patrol along the Line of Control.
- **OBSERVATIONS**
  - The Supreme Court has dismissed Union of India's appeal against order of the Armed Forces Tribunal granting a Liberalised Family Pension (LFP) and other benefits to the widow of a soldier who died while on an Area Domination Patrol along the Line of Control.
  - A bench of Justice Abhay Oka and Justice Augustine George Masih imposed a cost of Rs. 50,000 on the appellant, observing that the widow of Naik Inderjeet Singh (deceased), should not have been dragged to court in such a case.
  - ''In our view, in a case like this, the respondent ought not to have been dragged to this Court, and the decision making authority of the appellants ought to have been sympathetic to the widow of a deceased soldier who died in harness. Therefore, we propose to impose costs quantified as Rs.50,000/-, which will be payable to the respondent'', the Court observed.
  - Naik Inderjeet Singh was employed in the Indian Army on February 27, 1996. On January 23, 2013, while serving as part of an Area Domination Patrol under Operation Rakshak near the Line of Control (LoC) in Jammu and Kashmir, Singh complained of breathlessness while on duty in extreme climatic conditions between 1:00 a.m. and 3:30 a.m.
  - Adverse weather conditions necessitated his evacuation on foot to the nearest MI room at Chowkibal, where he was declared dead. The cause of death was recorded as cardiopulmonary arrest.
  - Initially, his death was classified as a ''battle casualty'' but was later changed to a ''physical casualty attributable to military service.'' His widow, Saroj Devi, was granted terminal benefits, including a special family pension.
  - However, her request for an LFP was denied, leading her to file an application before the Armed Forces Tribunal (AFT). The Tribunal allowed her plea on August 23, 2019, and directed that she be granted the LFP and an ex-gratia lump sum amount payable for battle casualties. The Union of India challenged this decision in the Supreme Court.
  - Additional Solicitor General Vikramjeet Banerjee argued that LFP is governed by the order dated January 31, 2001, issued by the Director (Pensions), Ministry of Defence. He submitted that LFP is admissible only in cases falling under categories D and E of paragraph 4.1 of the order. While category D was admittedly not applicable, he argued that the death did not fall under category E either, as it was classified as a ''physical casualty.''
  - Senior Counsel K Parameshwar for the widow supported the tribunal's decision.
  - The Commanding Officer initially classified the death as a ''battle casualty,'' and issued a Battle Casualty Certificate. Clause 1(g) of Appendix A of Army Order 1 of 2003 classifies casualties occurring due to natural calamities or illness caused by climatic conditions near the LoC as ''battle casualties.''
  - The Court held that the death resulted from illness caused by extreme climatic conditions, falling under the category of ''Battle Casualties'' as per Clause 1(g).
  - The Court further analysed category E of paragraph 4.1 of the January 31, 2001 order. Sub-clause (f) under category E, which includes deaths arising from war-like situations, applied to the deceased, the Court held. The Court held that ''war-like situations'' is an inclusive term and cannot be confined to specific instances listed under the clause.
  - ''Clause (f) of category E is attracted when death arises as a result of war-like situations. The definition of death as a result of war-like situations is an inclusive definition, and the case cannot remain confined to sub clauses (i) to (iii) of category E (f). In this case, the death has occurred as a result of a war-like situation prevailing near LC. Therefore, we concur with the view taken by the Tribunal that clause (f) of category E was

applicable'', the court held.

- The Court dismissed the appeal and directed that the Tribunal's directions be implemented within three months. It further directed the appellant to pay costs of Rs. 50,000 to the respondent within two months.

XXX v. State of Kerala

- **TOPIC :** Mother was 'Shocked' to Find Unmarried Daughter Pregnant, Delay in Reporting To Police Justified : Kerala HC Quashes Case U/S 19 POSCO Act
- **BENCH :** Justice A. Badharudeen
- **FORUM:** Kerala High Court
- **MAIN ISSUE**
  - Regarding the trauma and shock of a mother coming to know of her minor, unmarried daughter's pregnancy.
- **OBSERVATIONS**
  - The Kerala High Court has held that the trauma and shock of a mother coming to know of her minor, unmarried daughter's pregnancy is a justifiable reason for delay in informing the POCSO offence to the police.
  - Justice A. Badharudeen observed that in one way the mother can also be considered the victim of the crime and thus, prosecuting her under Section 19 of the Act is like ''putting chilly powder on the deep wound''. '' .. the trauma and shock in the mind of the mother when she hears information that her unmarried daughter is 18 weeks pregnant would normally marque the mind of a mother to indecisiveness, inactiveness and dilemma. In such cases, the mother would definitely need some reasonable time to return to normalcy. Then also the trauma may dangle on the intellectual capabilities of the mother for quite a long time. During the initial stages of the said period, omission, if any, to inform the matter to the police, is justifiable from the attending circumstances as discussed''
  - The petitioner found out that her 17-year old daughter was 18 weeks pregnant when she took her daughter to hospital as she was complaining of abdominal pain. The daughter was referred to Government Medical College for further care but the mother took her daughter to a private medical hospital to give her proper care.
  - Meanwhile, the doctor informed the police about the issue and the statement of the victim was recorded in the presence of her mother. There was a 4-day period between when the mother realized her daughter was pregnant and when the police took the victim's statement. The mother was then booked under Section 20 and 19(1) of the POCSO Act for failure to report the incident to police.
  - The mother was arraigned as the 2nd accused in the POCSO case. She approached the High Court to quash the case. The petitioner pointed to the ordeal and trauma she would have to face if she is forced to face trial along with the offender who committed the crime against her daughter.
  - The prosecutor agreed that the mother would have been in a state of shock after she was informed about her daughter's pregnancy.
  - However, he said that it would not save her from prosecution for not following the statutory mandate under Section 19(1) of PoCSO Act.
  - The Court said that it cannot be held that there was deliberate or wilful failure on the part of the mother to report the incident.
  - Accordingly, the Court allowed the petition.

Lob Das v. The State Of West Bengal & Another.

- **TOPIC :** Accused Claiming ''Non – Access'' to Rape Victim can Seek Paternity Test To Prove His Claim : Calcutta High Court
- **BENCH :** Justice Shampa (Dutt) Paul
- **FORUM:** Calcutta High Court
- **MAIN ISSUE**
  - Regarding an accused in a rape case to undergo a paternity test in order to prove his claim.
- **OBSERVATIONS**
  - The Calcutta High Court has allowed an accused in a rape case to undergo a paternity test in order to prove his claim that he had "non-access" to the alleged victim who claimed to have been raped by him and subsequently become pregnant.
  - Justice Shampa (Dutt) Paul relied on the Supreme Court case of Dipanwita Roy vs. Ronobroto Roy and held:
  - "In the present case, there is admittedly no marriage between the parties. The victim girl claims the child to be that of the petitioner. On the other hand, the petitioner denying the paternity of the child has claimed non access to the relationship. Thus, when ''non-access'' is claimed in such a relationship, it is the right of the accused to have the same proved by way of evidence available/possible."

- The Court was dealing with the case of the accused who had been charged under Sections 376 and 420 of the IPC after the victim's father complained that his daughter fell in love with the petitioner/accused when she was 17 or 18 years old. Later, the complainant came to know that due to intimacy and a promise to marry, his daughter was in a physical relationship during which she conceived.
- On completion of investigation, the investigating agency filed a charge sheet under Sections 376 and 420 of IPC. Charge was also framed under the said Sections and the trial commenced. During cross-examination, the victim girl specifically agreed to undergo a paternal test for herself and her son to prove that he was the son of the petitioner.
- Petitioner/accused stated that the victim girl was in a relationship with one Ramkrishna Das and it was admitted by the victim girl in her cross-examination.
- The petitioner filed an application for DNA test of the victim girl and her child, but the Judge rejected the said application of the petitioner on the ground that the specific test will waste the Court's time.
- Accordingly, in relying on Supreme Court precedents, the bench held that in such a case when there are contradictory submissions, the petitioner would have a right to claim a paternity test in order to absolve himself of the accusations.
- Thus, it ordered a paternity test to be carried out by the trial court, to be completed within 60 days.

Chandru and Others v. State

- **TOPIC** : Madras High Court Grants Bail To 4 Students Involved in Clashes That Resulted In Death of A Student, Asks Them To Assist In Trauma Ward
- **BENCH :** Justice AD Jagadish Chandira
- **FORUM:** Madras High Court
- **MAIN ISSUE**
  - Regarding bail to four students who were allegedly involved in group rivalry clashes that resulted in the death of a student.
- **OBSERVATIONS**
  - The Madras High Court has granted bail to four students who were allegedly involved in group rivalry clashes that resulted in the death of a student.
  - Justice AD Jagadish Chandira ordered the students to be released on bail after executing a bond for Rs 15,000 with two sureties, one of whom should be the father or mother of the student.
  - The court also asked all four students to assist in the Trauma ward of Rajiv Gandhi Government General Hospital & the Government Kilpauk Medical College Hospital and to prepare a writeup of their experience.
  - The prosecution case was that the students, who were pursuing bachelor degree in Pachaiyappa's College were allegedly involved in a group rivalry with the students of another College over a ''Route Thala'' issue – a tradition among Chennai college students where a group of boys gather at the doors of bus and sing songs, often praising them and their colleges. The issue however took an ugly turn when a student, Sundar was assaulted leading to his death. The petitioners however argued that they were innocent and were falsely implicated in the case.
  - When the bail petitions first came up before Justice Jagadish Chandira, noting an increase in clashes among college students, the judge asked the Registry to instruct the Secretary to Government, Higher Education Department to explore the possibility to have a check on the issue. The court noted that while sympathy was being shown to the victims, no empathy was shown to the students, who could be guided at the sprouting stage instead of drowning themselves in unwanted groupism.
  - The court noted that it was necessary to appraise the youngsters through parent teacher meetings. ''It is much painful to note that while mere sympathy is being shown for the victim student, no empathy is being manifested from any quarter, which alone could prevent any such predicament in future. Students are only at the sprouting stage and they can, very well, be guided through enlightenment towards their aspirations instead of ruining their career by drowning themselves into unwanted groupism. This could be achieved only by constant teacher-parent meets in School level itself and apprising the young ones about the bright side of the power of unity and preventing them from being lured by the dark side of the same,'' the court said.
  - During the proceedings, the State also informed the court that a total of 231 cases involving students had been recorded in the last decade and the cases predominantly involved altercations and disturbances among student commotion.
  - The Government Secretary informed the court that communications had been sent to the Principals of Pachaiyappa's College and Presidency College, whose students were often involved in these incidents, to sensitise the students.
  - Emphasising the importance of regular Teacher-

Parent-Student meetings to mould the personality of the students, the court also expressed doubts on whether the meetings were conducted at regular intervals.

- The court remarked that often teachers and lecturers of Government Institutions, who were supposed to be the role model of students, indulged themselves in other professions and set up proxies for them.
- ‘‘The present scenario leaves a doubt in the mind of the court as to whether such meets are being conducted efficiently, rather, in reality. It would be apposite to note that of late, many cases come to surface where well paid Teachers/Lecturers of Government Institutions, who need be a good role model to their students, engage somebody for proxying them and indulge themselves in some other occupation or financial transactions, without bothering the education and career of the students,’’ the court observed.

Pradipsingh Thakur v. State of Maharashtra

- **TOPIC :** Strangulating Pregnant wife to Death Not Exceptionally Violent or Brutal : Bombay High court Declares Husband Eligible for Remission
- **BENCH :** Justices Nitin Sambre and Vrushali Joshi
- **FORUM:** Bombay High Court
- **MAIN ISSUE**
  - Regarding pregnant wife to death over unfulfilled dowry demands
- **OBSERVATIONS**
  - Strangulating a pregnant wife to death over unfulfilled dowry demands, is not exceptionally violent or brutal, held the Bombay High Court at Nagpur, while granting remission to a police personnel, convicted for killing his pregnant wife.
  - A division bench of Justices Nitin Sambre and Vrushali Joshi held that the petitioner - Pradipsingh Thakur was eligible for remission under the Government Resolution (GR) issued on March 15, 2010, and therefore, categorised him for 22 years imprisonment - a category, which does not apply on offences where offender exhibited exceptional violence or brutality.
  - "Of course, the act of strangulation, which is attributed to the petitioner is a violent act but whether such an act can be termed as one causing death with brutality or with exceptional violence, is required to be looked into. ....we are of the view that it cannot be inferred that the petitioner has caused the murder of his wife with exceptional violence or that with brutality," the bench held in its order.
  - We are required to be sensitive to the nature of injuries suffered by the deceased. In this case, the victim suffered two injuries; one ligature mark on neck and another nail abrasion on right side of neck, the judges noted.
  - "The aforesaid injuries have also prompted us to form an opinion that the case of the petitioner cannot fall under exceptional circumstances so as to make him liable to undergo 26 years of imprisonment for murdering his wife with exceptional violence or brutality. As such, the contention canvassed by the Additional Public Prosecutor that the petitioner can be categorized under category 2(c) of Annexure-I appended to the Government Resolution dated March 15, 2010 is liable to be rejected," the bench said while refusing to hand over 26 years imprisonment to Thakur. The judges were dealing with a plea filed by Thakur seeking his categorisation in category 2(b) of the GR of March 2010, by which he would be entitled to 22 years of imprisonment under his conviction of life imprisonment.
  - The petitioner was convicted in 2001 and since then has been serving his life sentence and thus sought remission.
  - The State had turned down his request in September 2018 on the ground that he was a police personnel at the time of the incident and also the fact that his wife was pregnant.
  - The judges, however, refused to accept this argument on the ground that the GR intends to grant remission to all categories of convicts except few specifically carved out therein.
  - "Just because the petitioner was an employee of the Police department and the fact that he murdered his pregnant wife by itself would not entitle him to get the benefit of remission which is provided under the legal provision. Rather there is no separate category carved out as an exception to the normal Rules of remission provided under Section 432 of the Criminal Procedure Code for a Police personnel committing the heinous crime of murdering his pregnant wife," the judges underscored.
  - With these observations, the bench held that the petitioner was entitled to serve 22 years of imprisonment.

UT Of J&K v. Showkat Ali

- **TOPIC :** ‘‘False In one , False In All’’ Doctrine Doesn’t Apply in India : J & K High court Partially Overturns Acquittal In 24 –Yr - old Assault Case
- **BENCH :** Justices Rajnesh Oswal and Sanjay Dhar
- **FORUM:** High Court of Jammu and Kashmir and Ladakh
- **MAIN ISSUE**
  - Regarding the doctrine of falsus in uno, falsus in omnibus—"false in one thing, false in everything" is inapplicable in Indian courts.
- **OBSERVATIONS**
  - The High Court of Jammu and Kashmir and Ladakh has reaffirmed that the doctrine of falsus in uno, falsus in omnibus—"false in one thing, false in everything" is inapplicable in Indian courts.
  - Instead, the court comprising Justices Rajnesh Oswal and Sanjay Dhar emphasized the necessity of carefully sifting through evidence, separating unreliable portions while relying on credible and corroborated testimony.
  - Partly overturning the acquittal of one Showkat Ali, who was charged in a 2000 assault case and convicting him under Section 325 of the Ranbir Penal Code (RPC) Justice Dhar for the bench stated,
  - ‘‘The job of the Court is to discard that portion of the evidence which appears to be unreliable and while doing so, that part of testimony of the witnesses, which is reliable and is corroborated by other circumstances in the case, has to be relied upon.
  - When we adopt the said approach to the instant case, we have no manner of doubt in holding that the prosecution has succeeded in proving beyond reasonable doubt that respondent No.1/Accused Showkat Ali did launch an attack upon the injured’’
  - The case originated from an FIR registered on April 5, 2000, at Police Station Bagh-e-Bahu, Jammu, following a violent altercation stemming from a longstanding land dispute.
  - According to the prosecution, Mohd Ashraf was attacked with a Pathi by Showkat Ali, leading to grievous injuries.
  - The trial court, in its judgment in 2012 acquitted all the accused, citing contradictions in witness testimonies and lack of corroborative evidence. Dissatisfied with the verdict, the State filed a criminal acquittal appeal.
  - The State, represented by Additional Advocate General Mr. Amit Gupta, argued that the trial court had failed to properly assess the evidence, dismissing credible testimony on flimsy grounds.
  - The prosecution maintained that there was sufficient evidence to convict the accused, particularly the testimony of Mohd Ashraf, which was supported by medical reports.
  - In contrast, the defence counsel, Mr. S.M. Chowdhary, contended that the case was rooted in personal animosity, leading to exaggerated and fabricated allegations by the complainant's side.
  - In delivering the judgment the bench meticulously dissected the trial court's reasoning, pointing out critical errors in the blanket rejection of prosecution evidence. The court observed that while some parts of the testimony were contradictory, this did not warrant dismissing the entire case.
  - Indian courts, unlike those adhering strictly to the doctrine of falsus in uno, falsus in omnibus, are required to evaluate evidence holistically, discarding falsehoods and retaining reliable facts, the court underscored.
  - The court found the testimony of Mohd Ashraf, the injured victim, to be credible and consistent. His account, corroborated by medical evidence, clearly established that Showkat Ali attacked him with a Pathi, causing grievous injuries. Despite minor contradictions in other witnesses' statements, the court held that Ashraf's testimony, supported by the medical report, was sufficient to establish guilt.
  - However, the court noted discrepancies in the claims regarding injuries to other witnesses. These contradictions, coupled with the absence of medical corroboration, led the court to conclude that the testimonies were exaggerated, possibly influenced by prior enmity between the parties. Consequently, the court upheld the trial court's findings that no reliable evidence supported the injuries claimed by these witnesses.
  - Furthermore, the court scrutinized the prosecution's failure to prove the recovery of the weapon as the investigating officer admitted that no independent witnesses were present during the recovery, rendering the evidence unreliable.
  - ‘‘This makes the disclosure statement and the recovery of weapons of offence ‘‘Pathi‘‘ highly unreliable. In the absence of recovery of weapons of offence, the prosecution has failed to prove that the grievous injury‘‘ that was sustained by PW Mohd Ashraf, was caused by a ‘‘Pathi‘‘ which is

definitely a dangerous weapon. Thus, charge for offence under Section 326 RPC is not established against respondent'', the court reasoned.

- The Court thus found Ali guilty of voluntarily causing grievous hurt under Section 325 RPC, while acquitting him of charges under Sections 307 and 448.
- Given the prolonged legal process spanning over two decades, the court took a lenient view, sentencing Ali to one month of rigorous imprisonment and a fine of ₹10,000.