

Prabhavathi @ Prabhamani v. Lakshmeesha M.C

- ❖ **TOPIC :** Irretrievable Breakdown of Marriage Can't Be Used To Advantage of Party Responsible For Collapse of Marriage
- ❖ **BENCH :** Justice Surya Kant and Justice Ujjal Bhuyan



- ❖ **FORUM:** Supreme Court
- ❖ **MAIN ISSUE**
 - Whether the Irretrievable breakdown of marriage can be used by a party responsible for the collapse of marriage .
- ❖ **FACTS**
 - It was a case where soon after a child was born out of wedlock, the husband/respondent deserted his wife/appellant and the child.
 - Consequently, a divorce petition was filed by the husband on the ground of cruelty which was decreed by the family court against the wife, following which on appeal the High Court set aside the decree and remanded the matter back to the family court.
- ❖ **BACKGROUND**
 - Subsequently, another decree was passed by the family court on the ground of irretrievable breakdown of marriage which, on appeal, was set aside by the High Court and the matter was remanded back to the Family Court.
 - The third time also luck did not favor the wife, as the husband secured a decree of divorce from the Family Court.
 - However, this time decree was granted on payment of permanent alimony of Rs.25,00,000/- (Rupees twenty-five lakhs). The High Court didn't interfere with the decree but reduced the permanent alimony amount to Rs. 20,00,000/- (Rupees Twenty Lakhs).
 - The husband didn't prefer an appeal against the grant of a permanent alimony amount, however, the wife preferred the appeal before the Supreme Court against the High Court's decision reducing the permanent alimony amount granted by the

family court.

❖ **OBSERVATIONS**

- Upon perusing the facts of the case, the Supreme Court opined that it was the husband who deserted his wife and son and subjected her to extreme cruelty all these years, and never came forward to render any assistance for securing a better future for his own son or offered to pay even for his school education.
- The Supreme Court expressed dismay over the mechanical approach adopted by the Family Court in granting a divorce decree against the wife despite no fault being attributed to her.
- The Court said that the husband cannot be benefitted from seeking annulment of the marriage when he was solely responsible for the breakdown of the marital relationship.
- Since the parties were living separately since the year 1992 or so, therefore the Court deemed fit to sustain the decree of divorce granted by the Family Court.
- However, the Court directed the respondent/husband to pay an additional Rs. 10,00,000/- (Ten Lakhs Rupees) to the appellant/wife over and above the sum already paid to the appellant.
- Further, the Court granted ownership over the property where the Appellant along with her son are living and directed the respondent to not interfere in the peaceful ownership and possessory rights of the appellant and her son.

Tusharbhai Rajnikantbhai Shah v. State Of Gujarat

- ❖ **TOPIC:** SC Accepts Magistrate's Apology For Remanding Accused Violating SC Order, Imposes Rs 25000 Fine On Police Officer
- ❖ **BENCH :** Justices B.R. Gavai and Sandeep Mehta



- ❖ **FORUM:** Supreme Court

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❖ MAIN ISSUE

- Whether a sentence can be passed in the contempt case against a Police Officer and the Judicial Magistrate from Gujarat for the arrest and remand of an accused in violation of its order granting him interim anticipatory bail.

❖ FACTS

- The petitioner, who was named as an accused in an FIR for the offence of cheating, approached the Supreme Court after the Gujarat High Court denied him bail.
- On December 8, 2023, while issuing notice on his petition, the Court granted him interim anticipatory bail with the condition that he should continue to cooperate with the investigation.

❖ BACKGROUND

- However, it is the petitioner's case that despite the interim anticipatory bail order of the Supreme Court, he was served with a notice on December 12, 2023, directing him to remain present before the Magistrate in response to the police's custody application.
- The Magistrate remanded him to police custody for four days till December 16, 2023. He alleged that while in police custody, he was threatened and beaten.

❖ OBSERVATIONS

- The Supreme Court had held them guilty of contempt of court and directed their presence today for hearing on sentence.
- The Supreme Court passed the sentence in the contempt case against a Police Officer and the Judicial Magistrate from Gujarat for the arrest and remand of an accused in violation of its order granting him interim anticipatory bail.
- While the bench comprising Justices BR Gavai and Sandeep Mehta accepted the unconditional apology tendered by the Magistrate, it imposed a fine Rs. 25,000 on the Police Officer.
- The Court considered that the judicial officer has a 14-year unblemished career record and that there was an erroneous practice followed by the Gujarat Courts whereby police are allowed to seek remand of the accused despite the grant of anticipatory bail.
- Justice Gavai remarked that the police officer was accused of fabricating CCTV, giving third-degree treatment, misusing the criminal proceedings, and acting as a delivery agent for a rival person. He said: "How conveniently the CCTV [footage] is not available only during the time period...It's aptly clear why he has done it."
- Solicitor General of India Tushar Mehta requested the bench to remove the conviction of the judicial

officer.

- Justice Mehta remarked that the court is not sitting in review of the conviction order and the findings of the court cannot be washed away.
- However, the Court expunged the findings against the judicial officer in paragraph 59.4 of its order, which states: "The contemnor-respondent No. 7's contumacious actions also contributed to the illegal detention of the petitioner for almost 48 hours after the period of police remand had come to an end."

Bibhav Kumar v. State of NCT of Delhi

- ❖ **TOPIC :** Supreme Court Grants Bail To Kejriwal's PA Bibhav Kumar In Swati Maliwal Assault Case
- ❖ **BENCH :** Justices Surya Kant and Ujjal Bhuyan
- ❖ **FORUM:** Supreme Court



❖ MAIN ISSUE

- The matter is related to bail of Bibhav Kumar

❖ FACTS

- An FIR was registered against Kumar on the written complaint of AAM Aadmi Party's Rajya Sabha MP Swati Maliwal, who alleged that Kumar assaulted her when she went to meet Kejriwal at his residence on May 13.

❖ BACKGROUND

- Following the complaint, Kumar was arrested on May 18. As per Delhi Police, he was non-co-operative during investigation and gave evasive answers to its questions. It was also alleged that he deliberately did not disclose the password of his mobile phone, which is an important piece of information in the probe to unearth the truth.
- Initially, Kumar moved the trial court for bail, but was denied relief on May 27. His second regular bail plea was rejected by the Sessions Court on June 7.
- Aggrieved, Kumar approached the Delhi High Court, however, a bench presided by Justice Anoop Kumar Mendiratta rejected his bail plea, observing

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that though he happens to be only designated as a personal secretary to the Chief Minister, he yields considerable influence.

- The judge said that at the current stage, it could not be ruled out that witnesses may be influenced or evidence may be tampered with, in case Kumar is released on bail.
- Against the Delhi High Court order, Kumar approached the Supreme Court

❖ **OBSERVATIONS**

- The Supreme Court granted bail to Delhi Chief Minister Arvind Kejriwal's Personal Assistant Bibhav Kumar in the Swati Maliwal assault case.
- A bench of Justices Surya Kant and Ujjal Bhuyan noted that there are more than 51 witnesses proposed to be examined by the prosecution, and hence, the conclusion of the trial will take some time.
- Also, the petitioner has been under custody for over 100 days. Since the chargesheet has already been filed, his release will not cause any prejudice to the investigation which is already complete, the bench noted.

State By Mahadevapura Police Station v. Padmavathamma

- ❖ **TOPIC:** Trial Court Can Order Further Investigation In a Case, But Cannot Transfer It To Another Agency
- ❖ **BENCH :** Justice M Nagaprasanna



- ❖ **FORUM:** Karnataka High Court
- ❖ **MAIN ISSUE**
 - Whether the trial court can direct further investigation to be done in a murder case by a different agency, or whether its power is restricted only to order further investigation by the same investigating agency or not.
- ❖ **FACTS**
 - The Mahadevapura police had investigated and filed a chargesheet against the accused under Section 302 r/w Section 34 of the Indian Penal

Code.

- The mother of the deceased filed an application under Section 156(3) of the Cr.P.C. seeking further investigation to be done in the case. The concerned court allowed the application and directed the investigation to the hands of a different Investigating Agency.

❖ **BACKGROUND**

- The Karnataka High Court has held that the trial court cannot direct further investigation to be done in a murder case by a different agency, its power is restricted only to order further investigation by the same investigating agency.
- A single judge bench of Justice M Nagaprasanna held thus while allowing the petition filed by the State Government and set aside the order of the special court directing further investigation to be carried out by CID.

❖ **OBSERVATIONS**

- It was said "Power of this Court under Section 482 of the Cr.P.C. cannot be exercised by the concerned Court. It is too well settled principle of law that a power to order investigation, reinvestigation or further investigation is only with the hands of this Court."
- Allowing the petition the court set aside the trial court order and allowed the application of the mother to direct further investigation under Section 173(8) of the Cr.P.C. to be conducted by the jurisdictional police who had submitted their final report and concluded it within three months.

Dr.Rajeshkumar Somabhai Katara, Asst.Professor Microbiology v. State Of Gujarat & Anr.

- ❖ **TOPIC :** Wife Having Extramarital Affair may Not Be Guilty of Abetting Husband's Suicide
- ❖ **BENCH :** Justice Diyesh A Joshi
- ❖ **FORUM:** Gujarat High Court
- ❖ **MAIN ISSUE**
 - Whether the FIR lodged by a woman's mother-in-law, accusing her and her partner of abetting the suicide of her husband is correct or not.
 - The Gujarat High Court has quashed the FIR lodged by a woman's mother-in-law, accusing her and her partner of abetting the suicide of her husband.
- ❖ **OBSERVATIONS**
 - The Court observed that even if the contents of the FIR were accepted as true, it could not be established that there was any intention on the part

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of the accused to abet the commission of suicide by the deceased, who was the husband of the first accused.



- Consequently, the Court found no mens rea attributable to the accused, thereby ruling out the element of abetment required under Section 306 of the Indian Penal Code (IPC).
- The ruling came in response to two Criminal Miscellaneous petitions seeking to quash the FIR that accused the applicants of offences punishable under Sections 306 and 114 of the IPC. The prosecution alleged that the complainant's son committed suicide after discovering his wife's extramarital relationship, which led him to take his own life.

- The Court emphasized that while inherent powers should not be used to stifle legitimate prosecution, they could be exercised if continuing the proceedings would constitute an abuse of process or if the ends of justice required quashing the proceedings.
- I am conscious of the pain and suffering of the complainant, who is the mother of the deceased.
- It is also very unfortunate that the deceased has lost his life but as observed by the Hon'ble Apex Court in the case of Geo Verghese, the sympathy of the Court and pain and suffering of the complainant, cannot translate into a legal remedy, much less a criminal prosecution," the court added while allowing the applications and quashing the FIR.



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