

RAM PYAREY V. STATE OF UTTAR PRADESH

- ❖ **TOPIC :** S.113B Evidence Act | Dowry Death Can't Be Presumed Without Clear Evidence Of Incessant Harassment: Supreme Court
- ❖ **BENCH:** Justices J.B. Pardiwala and R. Mahadevan
- ❖ **FORUM:** Supreme Court
- ❖ **FACTS**
 - The present appellant was the brother-in-law of the deceased.
 - It was the prosecution's case that there was harassment at the end of the husband, in-laws and the appellant.
 - Resultantly, the deceased doused herself with kerosene and set herself on fire.
 - Consequently, the Trial Court convicted him under Sections 306 (Abetment of suicide) and 498-A (Husband or relative of husband of a woman subjecting her to cruelty) of the Indian Penal Code and under the Dowry Prohibition Act.
 - This order was affirmed by the High Court. Thus, the present appeal.
- ❖ **MAIN ISSUE**
 - Regarding acquitting an accused of cruelty and abetment of suicide.
- ❖ **OBSERVATION**
 - The Supreme Court, while acquitting an accused of cruelty and abetment of suicide, observed that to apply Section 113B (Presumption as to dowry death) of the Indian Evidence Act, clear evidence for incessant harassment is essential.
 - The Court stressed that in the absence of such evidence, it cannot straightaway invoke this provision.
 - Based on these observations, the Court had set aside the impugned orders and allowed the present appeal.
 - The Bench of Justices J.B. Pardiwala and R. Mahadevan pointed out that there is "practically no evidence" against the appellant for abetting the suicide.
 - The Court also drew a distinction between Section 113 A (presumption as to abetment of suicide by a married woman) and Section 113 B of the Evidence Act.

- It is relevant to note that under Section 113B, the Court may presume unlike Section 113A where the statute says that Court shall presume.
- This is a vital difference between the two provisions which raises presumption as regards abetment of suicide.
- In the absence of any cogent evidence as regards harassment or abetment in any form like aiding or instigating, the court cannot straightaway invoke Section 113B and presume that the accused abetted the commission of suicide.
- ❖ **IMPORTANT PROVISION DISCUSSED**
 - Section 113 B Indian Evidence Act (Presumption as to dowry death)
 - Section 113 A Indian Evidence Act (Presumption as to abetment of suicide by a married woman) Section 306 (Abetment of Suicide)

XXX v. Fortis Hospital Mohali and or

- ❖ **TOPIC:** Woman Living Separately Without Divorce Can Terminate Pregnancy Without Husband's Consent: Punjab & Haryana High Court
- ❖ **BENCH:** Justice Kuldeep Tiwari
- ❖ **FORUM:** Punjab and Haryana High Court
- ❖ **FACTS**
 - The plea of a woman seeking directions upon the official respondents to terminate her pregnancy, without her husband's consent.
 - It was submitted that her pregnancy is medically terminable on account of length not exceeding the period prescribed for termination in the MTP Act.
 - The Counsel for the petitioner argued that the woman was subjected to cruelty by her in-laws family on account of bringing less dowry and her husband also maltreated her and he even brought a portable camera twice in their bedroom to secretly record their personal moments.
 - On account of alleged cruelty the woman started living separately and submitted that continuation with her unwanted pregnancy would cause grave injury to her physical and mental health.

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❖ **MAIN ISSUE**

- Whether a woman living separately from her husband without obtaining divorce can terminate pregnancy or not without taking consent from the husband.

❖ **OBSERVATION**

- The Punjab & Haryana High Court held that a woman living separately from her husband without obtaining divorce can terminate pregnancy without taking consent from the husband under the Medical Termination of Pregnancy Act.
- The Court allowed the woman to terminate her pregnancy which as on January 11 was over 18 weeks and 5 days.
- After examining the submissions, the Court considered the question "whether in the given facts and circumstances, where although the petitioner has departed from the company of her husband on account of domestic violence but not legally divorced, yet she is eligible for termination of pregnancy without consent of her husband on the basis of change of marital status?"
- The Court referred to X Vs. Principal Secretary, Health and Family Welfare Department and Anr of the Supreme Court to underscore the expression "change of marital status" under Rule 3B should be given a purposive rather than a restrictive interpretation.
- The expressions "widowhood and divorce" need not be construed to be exhaustive of the category which precedes it.
- Justice Tiwari highlighted that the Supreme Court held that, the words "widowhood and divorce", which are mentioned in brackets at the tail end of Rule 3B(c) does not hinder interpretation of the rule because they are illustrative.
- "The change in material circumstances when a woman is abandoned by her family or her partner was also recognized by the Hon'ble Supreme Court," the Court added.
- In the light of the above, the Court allowed the plea and directed the petitioner "to approach the C.M.O. concerned within three days from the high court order, whereupon, the latter shall, in accordance with the requisite Act and Rules, take expeditious

measures for medically terminating the pregnancy of the petitioner."

❖ **IMPORTANT PROVISION DISCUSSED**

- Rule 3(B)(c) of the The Medical Termination of Pregnancy Rules, 2003 (a person can assist a registered medical practitioner (RMP) in performing medical terminations of pregnancy)

**Mariya P.P And Others V. Nalupurayil
Kadeeja**

- ❖ **TOPIC:** Even If Tenant Acquires Share In Leasehold Property, Co-Owners Can Maintain Eviction Proceedings As Lease Continues: Kerala HC Reaffirms

- ❖ **BENCH:** Justices A.Muhammed Mustaque and P. Krishna Kumar

- ❖ **FORUM:** Kerala High Court

❖ **FACTS**

- The petitioners were the landlords of a shop room. Pertinently, the respondent/tenant had purchased the rights of two co- owners.
- Notwithstanding, the petitioners filed an eviction petition against the respondent.
- They claimed the need for a vacant possession to start a business.
- While the Rent Control Court allowed the petition, the findings were reversed in appeal. Thus, the present revision petition.

❖ **MAIN ISSUE**

- Regarding a share of the leasehold property

❖ **OBSERVATION**

- The Kerala High Court, while deciding eviction proceedings, reiterated that even when the tenant acquires a share of the leasehold property, the other co-owners can maintain an action against him since the lease continues to exist.
- In such cases, the consent of such a tenant, having a fractional interest in the property, is immaterial.
- As a result, the impugned order was set aside while restoring the Rent Control Court order. At the same time, the Court granted three months to the respondent for vacating the premises
- The Bench of Justices A.Muhammed Mustaque and P. Krishna Kumar also highlighted that while co-owners need to be parties to such an eviction petition, their consent may be presumed in the absence of evidence to the contrary.

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- There is no dispute as to the general legal proposition that while not all coowners need to be parties to an eviction petition, their consent is required for the co-owner initiating the action and such consent may be presumed in the absence of evidence to the contrary.
- But this proposition cannot be resorted to nullify a proceeding initiated by all the co-owners against the tenant who purchased only a fractional right of the tenanted property.
- Based on the above-mentioned observations, the High Court said that the Appellate Authority “seriously erred” in holding that the tenant's consent was required for his eviction as he had become one of the co-owners.
- It drew its strength from Section 111(d) of the Transfer of Property Act. Explaining this provision, the Court noted that the lease remains intact even if the lessee holds only a fractional interest.
- Thus, even if the tenant is one of the co-owners, he can be evicted at the instance of the remaining co-owners., the Court said.
- One of the reasons cited by the Appellate Authority was the execution of Power of Attorney by one of the petitioners for the sale of his right.
- The same also contained the petitioner's objection to the eviction proceedings. However, the Court pointed out that even after such execution, the petitioner's conduct demonstrated otherwise.
- Thus, the Court found this impugned finding as “grossly incorrect”. Apart from this, the Authority also found that the petitioners had no bona fide in seeking vacant possession.
- However, the Court observed that the landlord's burden of proof is limited to the need to get a vacant possession.
- Building on this, the Court also pointed out that as per Section 11(3) of the Act, a landlord can seek eviction “if he bonafide needs the building for his own occupation or for the occupation of any member of his family dependent on him”.
- Elaborating, the Court said that the landlord only needs to explain the purpose of the requirement and not provide explicit details about the proposed business, such as the

feasibility of storing materials, etc.

- Observing thus, the Court concluded that the Appellate Authority took a “misguided approach” by focusing on irrelevant matters. As a result, the impugned order was set aside while restoring the Rent Control Court order.

❖ **IMPORTANT PROVISIONS DISCUSSED**

- Section 111(d) of the Transfer of Property Act (Determination of lease)

CITATION: 2025 (AB) 12

- ❖ **TOPIC :** Physical Relation Not Considered Against Will If Married Woman With Experience In Sex Offers No Resistance: Allahabad HC

- ❖ **BENCH:** Justice Sanjay Kumar Singh

- ❖ **FORUM:** Allahabad High Court

❖ **FACTS**

- The alleged victim, whose husband passed away 4 years ago, accused the applicant, an unmarried 20-year-old man and who is her brother-in-law, of engaging in a continuous physical relationship with her for the past two years under the pretext of marriage and a promise to take care of her children.
- It was her case that she became pregnant during this time, but the accused refused to marry her, pressured her to have an abortion, and subsequently switched off his mobile phone while also issuing threats to her life.
- Seeking bail in the case, the counsel for the accused argued that the FIR had been lodged by the victim in order to settle her personal score and that in her medical examination, the pregnancy test of the victim was found negative, and she has also refused for her internal medical examination.

❖ **MAIN ISSUE**

- Regarding bail to a man accused of committing rape against a 30-year-old widow.

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❖ **OBSERVATION**

- While granting bail to a man accused of committing rape against a 30- year-old widow having three children, the Allahabad High Court observed that if a married woman having experience in sex does not offer resistance, it cannot be said that her physical relation with a man was against her will.
- A bench of Justice Sanjay Kumar Singh observed this while granting relief to a 20-year- old accused arrested in September 2024, who is currently facing a chargesheet under Sections 376, 504, and 506 IPC
- The single judge noted that the alleged victim, mother of three children aged about 9 years, 7 years and 4 years, was capable of understanding the significance and morality associated with the act to which she was consenting.

- His counsel also contended that the victim is aged about 30 years, whereas the applicant is aged about 20 years and in fact, it was the victim who wanted to marry the applicant but on refusal from the side of the applicant, he has been falsely implicated in the present case.
- Noting that the part of the allegation with regard to her pregnancy is not supported by medical evidence, therefore, the possibility of false implication of the applicant cannot be ruled out, the Court granted him bail.

❖ **IMPORTANT PROVISIONS DISCUSSED**

- Section 375 IPC (Rape)
- Section 63 BNS



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