Rabindra Kumar Chhatoi v. State of Odisha & Anr.

- **TOPIC :** Caste – Based Insult in Backyard of Private House Not ‘‘Within Public View’’, No Offence Under S.3 SC/ST Act : SC
- **BENCH :** Justice BV Nagarathna and Justice Nongmei kapam Kotiswar Singh
- **FORUM:** Supreme Court
- **MAIN ISSUE**
  - Regarding caste-based insult or intimidation
- **OBSERVATIONS**
  - The Supreme Court recently held that alleged caste-based insult or intimidation that occurred in the backyard of a private house does not qualify as being ‘‘within public view’’ under Section 3 of the SC/ST (Prevention of Atrocities) Act, 1989.
  - A bench of Justice BV Nagarathna and Justice Nongmeikapam Kotiswar Singh discharged a man from the charges alleged against him under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 observing –
  - ‘‘ The place of occurrence of the alleged offence was at the backyard of the appellant's house. The backyard of a private house cannot be within the public view. The persons who accompanied the second respondent (complainant) were also the employees or the labour force she had engaged for the purpose of carrying out repairs to her house which is adjacent to the appellant's house. They cannot also be termed as public in general.’’
  - The Court set aside the order dated November 13, 2019, passed by the Orissa High Court upholding the rejection of the appellant's discharge application.
  - The appellant faced allegations under Sections 294 and 506 of the IPC and Section 3(1)(x) (intentional insult or intimidation with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view) of the SC/ST (Prevention of Atrocities) Act, 1989 (prior to its amendment on January 26, 2016). The second respondent-complainant, a member of a Scheduled Caste, alleged that the appellant had insulted and intimidated her with the intent to humiliate her in the backyard of the appellant's house.
  - The complainant, accompanied by her employees for repairs to her adjacent house, had entered the appellant's backyard without prior permission. The appellant objected to the entry, and spoke the allegedly insulting or intimidating words.
  - The appellant filed an application under Section 239 CrPC seeking discharge on the ground that the alleged acts did not satisfy the requirements of ‘‘public view’’ under Section 3(1)(x) of the Act.
  - The application was rejected by the Additional Sessions Judge, Bhubaneswar, prompting the appellant to move the High Court. The High Court, however, sustained the rejection, leading to the present appeal.
  - The appellant argued that the alleged incident occurred in the backyard of his private house, a location that does not qualify as ‘‘public view’’ under the SC/ST Act. The backyard was accessed by the complainant and her employees without permission to carry out plastering work on the complainant's adjacent house.
  - He cited the Supreme Court's decision in Hitesh Verma v. State of Uttarakhand and highlighted a pending civil dispute between his wife and the complainant's family, asserting that the charges against him are not made out.
  - The State contended that the trial was at an advanced stage, with three out of six witnesses already examined, and urged the court not to interfere at this stage.
  - The complainant contended that the appellant's alleged actions were motivated by caste-based discrimination and fell squarely within the ambit of Section 3(1)(x) of the SC/ST Act.
  - The Supreme Court concluded that:
  - The backyard of a private house cannot be considered a place within ‘‘public view.’’
  - The individuals present during the incident, primarily the complainant's employees, cannot be categorized as ‘‘public in general.’’
  - The Court also referred to its earlier judgment in Hitesh Verma, noting that civil disputes over property do not automatically constitute an offence under the SC/ST Act unless there is caste-based abuse or harassment. In this case, the Court determined the allegations did not establish such abuse.
  - The Supreme Court set aside both the High Court's order dated November 13, 2019, and the Additional Sessions Judge's order dated August 2, 2019. The appellant was discharged from all charges under the SC/ST Act and IPC.

MS. X v. Union Of India & Ors.

- **TOPIC :** POSH Act, Inquiry Report Copy Must Be Given To Complainant, SC Imposes Penalty On BSF
- **BENCH :** Justice Sudhanshu Dhulia and Justice Ahsanuddin Amanullah
- **FORUM:** Supreme Court
- **MAIN ISSUE**
  - Regarding the inquiry report to a complainant who initiated proceedings against an officer under the the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal Act (POSH Act), 2013.
- **OBSERVATIONS**
  - The Supreme Court recently imposed a penalty of Rs. 25,000 on the Border Security Force (BSF) for failure to provide a copy of the inquiry report to a complainant who initiated proceedings against an officer under the the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal Act (POSH Act), 2013.
  - The bench of Justice Sudhanshu Dhulia and Justice Ahsanuddin Amanullah observed that the BSF constable, who complained of sexual harassment would fall under the term 'concerned parties', under Section 13(1) of the POSH Act.
  - Section 13(1) states : "On the completion of an inquiry under this Act, the Internal Committee or the Local Committee, as the case may be, shall provide a report of its findings to the employer, or as the case may be, the District Officer within a period of ten days from the date of completion of the inquiry and such report be made available to the concerned parties.''
  - The petitioner was a constable in the Border Security Force (BSF) who complained of sexual harassment against one of the officers. As per the petitioner, since no action was taken by the BSF, a writ petition was then filed before the Supreme Court.
  - However, the BSF in its reply informed the Court that the initial departmental inquiry under the POSH Act resulted in no outcome.
  - But subsequently, a fresh inquiry was conducted by the Inspector General under the BSF Act 1968. The punishment awarded to the officer included:
  - i) 89 days of rigorous imprisonment in custody,
  - ii) forfeiture of 5 years of service for the purpose of promotion and iii) forfeiture of 5 years of past service for the purpose of pension.
  - The punishments were also carried out and the officer involved didn't appeal against the order.
  - The contention of the petitioner was however that (1) the punishment liable to be imposed was under the POSH Act; (2) the copy of the Inquiry Report was not given to the petitioner and violated Section 13(1) of the POSH Act.
  - Notably, S. 26 of the POSH Act provides for a fine on the employer when there is a contravention of S. 13 of the Act.
  - The BSF countered that the Report of the Inquiry Committee was not given to the petitioner, as she was not an accused and moreover, the Inquiry Report did not find anything material against the accused person.
  - Rejecting the above submission, the Court observed that there was a procedural violation as the petitioner came under the ambit of 'concerned parties' under Section 13(1) of the Act. Since it was an admitted fact that the report copy was not given to the petitioner, the Court directed the imposition of Rs. 25,000/- as penalty on BSF.
  - "We are of the view that the Inquiry Report ought to have been given to the victim as it is required to be given under Section 13 (1) to all the ''concerned parties''. The petitioner is definitely a concerned party."
  - "On the facts of this case where the Inquiry Report was not been given to the petitioner, there has clearly been a violation of Section 13 of the Act. We therefore impose a penalty of Rs. 25,000/– which will be given to the petitioner by the Border Security Force."
  - The Court however noted that since punishment has already been given to the concerned employee, and no further steps are needed in that regard. The writ petition was disposed of.

Pradeep Kumar v. State Of U P And Another

- **TOPIC :** After 7-Year Wait, Allahabad HC Orders Appointment Of Man As Judge Who Was Denied Job For 'Spying' For Pakistan Despite Acquittal
- **BENCH** : Justice Saumitra Dayal Singh and Justice Donadi Ramesh
- **FORUM:** Allahabad High Court
- **MAIN ISSUE**
  - Regarding the appointment of a man as a judge (HJS Cadre).

❖ OBSERVATIONS

- The Allahabad High Court recently has ordered the appointment of a man as a judge (HJS Cadre), nearly seven years after he was initially denied the position due to allegations of espionage.
- Petitioner Pradeep Kumar, who had been accused of spying for Pakistan in 2002, was acquitted in a trial in 2014 (the trial started in 2004); however, despite his final selection in the U.P. Higher Judicial Service (Direct Recruitment) Examination in 2016, he was denied the appointment letter.
- A bench of Justice Saumitra Dayal Singh and Justice Donadi Ramesh noted that no material exists with the State to conclude that the petitioner may have worked for any foreign intelligence agency and that the acquittal in the trial was honourable.
- ‘‘What survives with the respondent state authorities is a lingering belief or suspicion that the petitioner had spied for a foreign country. That lingering suspicion has not arisen or survived on any fresh or other cogent material or objective fact, not considered at the criminal trial,’’ the Court noted.
- For the state authorities, who continued to hold on to their suspicion, the court had a stark message: "Neither suspicion, nor simple belief not founded on objective material, nor whims and fancies may propel or govern that objective exercise, to be performed by the state respondents."
- The Court added that the petitioner was ‘‘honourably acquitted’’ at two criminal trials he faced, and no element of truth was found in the prosecution story in either case, and those orders have attained finality.
- The Court also pointed out that the petitioner's acquittal should have effectively erased the stigma, allowing him to move forward with his life and career, free from any unfounded suspicion.
- ‘‘ ...The respondents have wrongly continued to entertain a suspicion about the character of the petitioner. They also do not have in their possession any credible or actionable material. Only the fact that the petitioner was charged with a serious offence has prevented the State authorities from acting with objectivity. We find no reason exists with the respondents to continue to entertain a belief or suspicion that the petitioner is a person who lacks good moral character to hold judicial office. The unfortunate circumstance of the petitioner having faced two criminal trials, cannot be cited as that reason,’’ the bench observed as it directed the state government to ensure Character Verification of the petitioner within two weeks and to issue him an appointment by January 15, 2025.
- Before the Court, the Additional Chief Standing Counsel argued that the petitioner faced serious allegations of working as a spy for an enemy nation in 2002 and was apprehended in a joint operation of the Special Task Force (STF) of the State Government and Military Intelligence.
- He also contended that though the criminal trials failed, the State Government had enough material to conclude that the petitioner's character could not be certified and, thus, that he was wholly undeserving of the appointment.
- At the outset, the Court noted that the state authorities had considered only the material considered at the petitioner's trial to not certify the petitioner's character.
- Thus, the Court emphasised that mere repetition of words or reiteration of the suspicion or belief, and/or continued reliance on the self-same material that gave rise to the criminal trial, was irrelevant.
- The Court also observed that during the trial, no evidence was presented to prove that the petitioner had acted against the country's interests, been involved in any conspiracy, or committed an offence under Section 124-A of the IPC.
- Furthermore, he was honourably acquitted in the trial.
- Underscoring that the allegation that the petitioner had worked for a foreign intelligence agency was not proven (to any extent), at the criminal trial, the Court strongly remarked that it was impermissible for the State respondents to infer the petitioner's guilt or culpability.
- ‘‘ No material exists with the State respondents to reach a conclusion that the petitioner may have worked for any foreign intelligence agency. The fact that he may have been on the ‘‘radar’’ of the Indian intelligence agencies, itself means nothing.
- To be suspected of an offence is not an offence or a scar on a citizen's character. Unless objective material was shown to exist with the authorities for that suspicion to continue to exist, no adverse civil consequence may ever arise against a citizen, based on such a lingering suspicion, that too in the face of result of an order of ‘‘honourable acquittal’’ at the criminal trial,’’ the Court remarked.
- Importantly, the Court also added that unless a citizen is reasonably suspected to be involved in an

illegal or other activity that may invite adverse civil consequences, the fact that an intelligence agency or police authority may opine -purely subjectively and thus suspect that such a citizen had indulged in any illegal nature of activity or to have performed such act, without any supportive objective material, may remain a wholly inactionable belief, therefore extraneous to the issue of character certification of the concerned citizen.

- Furthermore, the Court also observed that the petitioner's unemployed status and search for employment were irrelevant to the case, as it was "absurd" to suspect a person of wrongdoing simply because of their financial status. The Court noted that many people would be unfairly targeted if such circumstances were valid grounds for suspicion.
- Additionally, the court also rejected the stance that the petitioner should be judged based on the past actions of his father, who was admittedly dismissed as a judge in 1990 on bribery allegations.
- The Court said that a person may not be penalised, and his character may not be judged for the act of another, be it his father or son. The Court also termed it as 'regrettable' that the respondent authorities had also chosen to rely on the allegations of corruption levelled against the father of the petitioner.
- ‘‘ While individuals, who may have levelled the charge against such a person, may continue to harbour a belief or suspicion (to themselves), that that person though ‘‘honourably acquitted’’, was guilty, yet even they may act on such personal belief only against risk of preventive and other action (against them), by that person.
- On the other hand, the State and its' institutions, may not continue to entertain such a suspicion or belief any further, as may deprive and deny to the innocent citizen his fundamental right to equality including his right to continuance and progression in life as a citizen, equal in all sense with any other innocent citizens, who may not have been charged with any criminal offence,’’ the Court further observed.
- With this, noting that the respondents have wrongly continued to entertain a suspicion about the character of the petitioner, the Court allowed the plea. It directed that he be issued an appointment letter by January 15th.
- The Court clarified that the petitioner may be appointed against existing vacancies, as of date, as even though he was selected against vacancy of 2017, such vacancies survive in the light of the provision of U.P. HJS Rules. Also, the petitioner has no work experience in the HJS cadre for the last seven years.

Ananda Reddy AND Radhamma & ANR

- **TOPIC** : Karnataka HC Modifies Imprisonment Sentence of Cancer Patient For Wilful Disobedience of Order, Imposes Rs. 3 Lakh Fine Instead
- **BENCH** : Justice H P Sandesh
- **FORUM:** Karnataka High Court
- **MAIN ISSUE**
  - Regarding one month's civil imprisonment term imposed on a cancer patient for the willful disobedience of the Court,
- **OBSERVATIONS**
  - The Karnataka High Court has set aside one month's civil imprisonment term imposed on a cancer patient for the willful disobedience of the Court, instead it directed him to pay Rs 3 lakh fine.
  - A single judge, Justice H P Sandesh partly allowed the appeal filed by Reddy and modified the trial court order. It said, ‘‘since the appellant is suffering from cancer and taking note of mental agony on the plaintiffs,
  - It is appropriate to award a fine of Rs.3 lakhs instead of punishment for the willful disobedience of the Court order.’’
  - Radhamma had approached the court filing a suit for partition and separate possession of property, along with an application filed under Order 39 Rules 1 and 2 of CPC praying for interim order of injunction restraining the defendants from alienating the suit schedule properties.
  - The Trial Court has by its order dated 09.01.2002 directed the defendant Nos.1 to 3 shall not alienate the suit schedule properties till their filing of objections to I.A.No.1.
  - Later, she filed an affidavit in court stating that defendant No.had executed a sale deed on 10.10.2002 in favour of one B.K.Srinath and also contended that two more sale deeds were executed on 03.06.2004.
  - And defendant No.2 has deliberately disobeyed the order dated 09.01.2002 and thus he may be ordered to be detained in civil prison. Following which the impugned order was passed.
  - The appellant contended that he was not having the knowledge or information regarding passing of orders. Moreover, imposing the punishment is very harsh and he has not disobeyed any order and there

was no willful disobedience.

- Further an affidavit was filed stating that he has sought an unconditional apology that he has not committed any willful disobedience and had contended that he is suffering from throat cancer from more than two years and underwent radiation and chemotherapy and the doctors had also suggested him to undergo surgery for third stage cancer. Under these circumstances, the Court has to pardon him on humanitarian grounds.
- The bench noted that the Trial Court had passed an order on 09.01.2002 restraining defendant Nos.1 to 3 from alienating the suit schedule properties till their filing of objections to I.A.No.1. The appellant filed his objections to I.A.No.1 on 02.08.2003 and before that he sold the property on 10.10.2002, in favour of one Sri B.K. Srinath.
- Then it said, ''It is very clear that the plaintiffs/respondents till date have not received the fruits of the decree of granting relief of partition and even the appellant was unsuccessful before the Trial Court as well as this Court and not yet derived the share and this appellant is coming in the way of giving the share to the respondents.'' The appellant also declined the suggestion made by the court to give the share of the respondents.
- Observing that the suit was filed in the year 2001 and for more than two decades the respondents are fighting for their share. The respondent No.1 lost her husband and is having a daughter, but the appellant has not given the share for more than two decades and there is a willful disobedience of the order of the Court.
- Noting that respondent No.1 was impersonated while getting the document of partition deed registered.
- The appellant claims partition of the year 2010, wherein the respondents/plaintiffs was impersonated and the Trial Court as well as this Court held that there was an impersonation.
- Then it held, ''Imposing the heavy fine would at least give some relief to the respondents/plaintiffs, who are facing the agony from more than two decades to get the legal share on account of death of respondent No.1's husband and she is taking care of the daughter also. Hence, I answer the point for consideration in the negative, but it requires modification only on the health grounds with a humanitarian approach.''

Aamir Karim vs State Of Bihar and another

- **TOPIC** : Triple Talaq by E – mail is Mental Torture, Husband's Unilateral Power of Inflict Instant Divorce is Unacceptable : Patna High Court
- **BENCH :** Justice Shailendra Singh
- **FORUM:** Patna High Court
- **MAIN ISSUE**
  - Regarding a Muslim husband divorce
- **OBSERVATIONS**
  - The Patna High Court has recently observed that the view that a Muslim husband enjoys an arbitrary and unilateral power of inflicting instant divorce is not acceptable and that giving divorce to a Muslim wife by simply sending an e-mail to her amounts to a form of mental torture.
  - Rejecting a plea to quash dowry and mental torture charges against a husband, a bench of Justice Shailendra Singh also observed that the operation of the Supreme Court's 2017 decision on triple talaq would apply retrospectively and hence, it would equally apply to the triple talaq pronounced before passing of the said judgement.
  - The Court was essentially dealing with the husband's plea (Aamir Karim) to quash the charges against him under Section 498A of the Indian Penal Code and Section 3/4 of the Dowry Prohibition Act.
  - He argued that he had divorced his wife (opposite party no. 2) on February 26, 2014, by sending her an email and an SMS, both containing the three talaq pronouncements. He further claimed that his wife had accepted the divorce, and therefore, her complaint filed afterwards was made with mala fide intentions.
  - On the other hand, it was the case of the wife (opposite party no. 2) that at the time of marriage ten lakh rupees in cash, ornaments and clothes were given to the petitioner, but after the marriage, the conduct of the petitioner and his family members suddenly changed and her mother-in-law kept her ornaments and cash amount.
  - Further, when she enquired from her about the employment of her husband then, the petitioner and his mother threatened to kill her and also became enraged. in November 2013, she was left at her maternal home, and after that, on February 26, 2014, the petitioner-husband sent her an e-mail giving her triple talaq.
  - At the outset, the Court noted that while the complainant had acknowledged receiving the email (containing triple talaq communication), this

alone did not absolve the petitioner from charges of cruelty and dowry harassment and the allegations of mental torture, including dowry demands and ill-treatment, was to be considered separately.

- The Court further noted that even though the Supreme Court's ruling, declaring triple talaq void, came in 2017, the verdict would apply retrospectively, meaning it also invalidates talaq pronouncements made before the judgment, as is the case with the instant matter.
- The Court also factored in that after the marriage, this petitioner and his family members mentally tortured the complainant, and she was also neglected, and all these things happened within six months of the marriage.
- The Court considered that she was given triple talaq by simply sending an e-mail and this also amounts to a form of mental torture.
- " ...As the correct law of talak is that the talak must be for reasonable cause and the same must be preceded by attempts for conciliation between the husband and the wife by two arbitrators, one from the wife's family and other from the husband and if such attempts fail then talak may be affected but the view that a Muslim husband enjoys an arbitrary and unilateral power of inflicting instant divorce is not acceptable," the Court further remarked as it dismissed husband's plea.

XXX vs YYY

- **TOPIC:** Long Separation, Absence of Cohabitation, Complete Breakdown of Bonds Between Spouses Is Cruelty U/S 13(1)(ia)HMA : MP High court
- **BENCH :** Justice Anand Pathak and Justice Hirdesh
- **FORUM**: Madhya Pradesh High Court
- **MAIN ISSUE**
  - Regarding long separation, absence of cohabitation, the complete breakdown of all meaningful bonds and the existing bitterness between the spouses must be read as 'cruelty'
- **OBSERVATIONS**
  - The Madhya Pradesh High Court has observed that long separation, absence of cohabitation, the complete breakdown of all meaningful bonds and the existing bitterness between the spouses must be read as 'cruelty' under Section 13(1)(a) of the 1955 Act.
  - " Where the marital relationship has broken down irretrievably, where there is a long separation and absence of cohabitation (as in the present case for the last 12 years), then continuation of such marriage would only mean giving sanction to cruelty with each is inflicting on the other", a bench of Justice Anand Pathak and Justice Hirdesh remarked while granting divorce to a husband.
  - With this, the Court allowed an appeal filed by the Husband challenging a family court order whereby his application filed under Section 13 of the Hindu Marriage Act seeking a decree of divorce on the ground of "cruelty suppressing fact of unsound mind of respondent and desertion" had been rejected.
  - The appellant-husband sought a divorce from the respondent-wife, claiming that their marriage, solemnised in February 2008, was troubled by the wife's mental health issues.
  - It was claimed that his wife used to exhibit irrational behaviours, such as hearing voices, seeing hallucinations, and losing her ability to reason.
  - It was his case that despite attempts to manage her condition, including seeking help from her parents, there was no improvement, and after having two children, the wife was taken back to her parents' home in June 2012, and her condition did not improve over the next five years.
  - Thus, the appellant moved an application seeking divorce on the grounds of cruelty and desertion before the Family court, claiming that he suffered humiliation and mental agony due to her condition.
  - The Family Court proceeded ex parte against the respondent after she failed to appear in court. However, it dismissed the appellant's divorce petition in January 2018.
  - Hearing his appeal, the division bench noted that the respondent has been living separately from the appellant since 2012, and the respondent had not rebutted this evidence of the appellant regarding her abnormal behaviour. Therefore, there was no reason to disbelieve the evidence of the appellant-husband.
  - The Court specifically noted that as per the appellant's evidence, the wife-respondent used to say that someone was following her, spying on her, she heard screams, someone was calling her, and she saw a woman's body, while in reality, nothing happened with her.
  - As per the appellant, due to his strange and crazy behaviour, he could not sleep at night, kept roaming around, and kept talking.
  - Sometimes, she became unaware of her clothes and used to pick up and throw away things. She also lost her ability to think, recollect, and reason things

out.

- The Court further stated that in the present case, the parties have been living separately since 2012, and their matrimonial bond is completely broken and beyond repair. So, the Court added, it has no doubt that this relationship must end as its continuation is causing cruelty on both sides.
- '' The long separation, absence of cohabitation, the complete breakdown of all meaningful bonds and the existing bitterness between the two, has to be read as cruelty under Section 13(1)(ia) of the 1955 Act,'' the Court observed.
- Under these circumstances, the Court found that the Family Court committed an error in rejecting the divorce petition filed by the appellant overlooking unrebutted evidence.So, setting aside the impugned judgment and decree passed by the Family Court, Gwalior.
- Accordingly, this appeal was allowed, the petition of divorce filed by the appellant was allowed, and the marriage of the appellant and respondent was dissolved.
- However, considering the fact that the appellant is a labour and economic condition of both the parties, the Court deemed it fit and proper to direct the husband to give Rs two Lacs to the respondent-wife as permanent alimony.