Rinku Baheti Vs Sandesh Sharda

- **TOPIC :** Ex-Husband can't Be expected To maintain Ex – wife as per His Present status all life ; Alimony Not To Equalize wealth
- **BENCH** : Justice BV Nagarathna and Justice NK Singh
- **FORUM:** Supreme Court
- **MAIN ISSUE**
  - Regarding permanent alimony just to attain equal wealth status
- **OBSERVATION**
  - The Supreme Court has observed that a divorced wife cannot seek permanent alimony just to attain equal wealth status with the ex-husband. The Court expressed reservations with tendency in matrimonial proceedings to seek maintenance or alimony as an "equilisation of wealth with the other party."
  - While the wife is entitled to be maintained, as far as possible, to the same standards of life to which she was accustomed to in the matrimonial home
  - the husband can't be expected to maintain her as per his present status in life. Merely because the husband has moved on and attained better financial status after separation, the divorced wife cannot seek a higher alimony.
  - We wonder, would the wife be willing to seek an equalisation of wealth with the husband if due to some unfortunate events post-separation, he has been rendered a pauper?" the Court asked.
  - A bench comprising Justice BV Nagarathna and Justice NK Singh shared their concerns as follows : "We have serious reservations with the tendency of parties seeking maintenance or alimony as an equalisation of wealth wit the other party. It is often seen that parties in their application for maintenance or alimony highlight the assets, status and income of their spouse, and then ask for an amount that can equal their wealth to that of the spouse
  - However, there is an inconsistency in this practice, because the demands of equalisation are made only in cases where the spouse is a person of means or is doing well for himself. But such demands are conspicuously absent in cases where the wealth of the spouse has decreased since the time of separation. There cannot be two different approaches to seeking and granting maintenance or alimony, depending on the status and income of the spouse
  - The law of maintenance is aimed at empowering the destitute and achieving social justice and dignity of the individual. The husband is under a legal obligation to sufficiently provide for his wife. As per settled law, the wife is entitled to be maintained as far as possible in a manner that is similar to what she was accustomed to in her matrimonial home while the parties were together. But once the parties have separated, it cannot be expected of the husband to maintain her as per his present status all his life.
  - If the husband has moved ahead and is fortunately doing better in life post his separation, then to ask him to always maintain the status of the wife as per his own changing status would be putting a burden on his own personal progress." The Court was deciding the question of permanent alimony after dissolving a marriage which was found to have been irretrievably broken down.
  - The petitioner (wife) claimed that the respondent(husband) had assets worth Rs 5000 crores in the US and that he had given Rs 500 crores alimony to his first wife.
  - The Court expressed surprise that the petitioner was seeking equalisation of status not just with the respondent but with his ex-wife as well. Ultimately, the Court settled the permanent alimony at a figure of Rs.12 crores.
  - "The Court has to not just consider the income of the respondent-husband here, but also bear in mind other factors such as the income of the petitioner-wife, her reasonable needs, her residential rights, and other similar factors. Thus, her entitlement to maintenance has to be decided based on the factors applicable to her and not depend on what the respondent had paid to his ex-wife or solely on his income," the judgment stated.
  - The Court expressed in the judgment that the dispute with respect to the amount of alimony is generally the most contentious point between parties in such marital proceedings, supplemented by a plethora of accusations to remove the cover from the opposite party's income and assets. Reference was made to the principles laid down in the judgments Kiran Jyot Maini vs. Anish Pramod Patel(2024), Rajnesh vs. Neha(2020)

TIRITH KUMAR & ORS. VERSUS DADURAM & ORS

- **TOPIC :** SC upholds Tribal Women's Inheritance Rights : Urges Parliament To Extend Hindu Succession Act To Scheduled Tribes
- **BENCH** : Justice CT Ravikumar and Justice Sanjay Karol
- **FORUM:** Supreme Court
- **MAIN ISSUE**
  - Regarding the right of survivorship to female Tribals by making necessary amendments to the Hindu Succession Act, 1956 (''HSA'')
- **OBSERVATION**
  - The Supreme Court again urged the Parliament to look into pathways to secure the right of survivorship to female Tribals by making necessary amendments to the Hindu Succession Act, 1956 (''HSA'').
  - The Court referred to the Kamla Neti v. LAO (2023) judgment where it was noted that ''it is high time for the Central Government to look into the matter and if required
  - To amend the provisions of the Hindu Succession Act by which the Hindu Succession Act is not made applicable to the members of the Scheduled Tribe.''
  - A bench consisting of Justice CT Ravikumar and Justice Sanjay Karol was hearing an appeal challenging the decision of the Chhattisgarh High Court, which granted property rights to the respondents (tribal women) from the 'Sawara Tribe', a notified scheduled tribe under Article 342 of the Constitution
  - The Appellant contended that since the Respondent's father died before 1956, therefore, they had no inheritance rights
  - Rejecting the Appellant's argument, the High Court invoked the principles of justice, equity, and good conscience to extend the survivorship benefit under the Hindu Succession Act (HSA) to the Respondent despite noting that HSA does not apply to members of the Scheduled Tribe.
  - Affirming the High Court's decision, the judgment authored by Justice Karol justified the High Court's reliance on the Central Provinces Laws Act 1875, which allows principles of justice, equity, and good conscience to fill gaps in tribal succession laws.
  - The Court referred to the case of dissenting opinion of Madhu Kishwar & Ors. v. State of Bihar (1998) and other cases to highlight that courts can adopt equitable principles to promote fairness, especially for female descendants.
  - In Madhu Kishwar, Ramaswamy, J. observed: ''I would hold that the provisions of the Hindu Succession Act, 1956 and the Indian Succession Act, 1925 though in terms, would not apply to the Scheduled Tribes, the general principles contained therein being consistent with justice, equity, fairness, justness and good conscience would apply to them.
  - Accordingly I hold that the Scheduled Tribe women would succeed to the estate of their parent, brother, husband, as heirs by intestate succession and inherit the property with equal share with the male heir with absolute rights as per the general principles of the Hindu Succession Act, 1956, as amended and interpreted by this Court and equally of the Indian Succession Act to tribal Christians.
  - ''Having considered the pronouncements of this Court as aforesaid, and keeping in view the fact that Mardan passed away in the year 1951, that is, prior to the enactment of HSA, 1956, we find no error in the judgment of the High Court applying the provisions of the Central Provinces Laws Act, 1875 and more particularly Section 6 thereof which postulates the application of the principle of justice, equity and good conscience, to account for possibilities not covered by Section 5 of the Act (HSA).'', the Court said.Accordingly, the appeal was dismissed.

P. MANIKANDAN Versus CENTRAL BUREAU OF INVESTIGATION AND ORS

- **TOPIC** : While Acquitting, court Cannot Order Re – Investigation Against Acquitted Accused For Same Offence
- **BENCH :** Justices CT Ravikumar and Sanjay Karol
- **FORUM:** Supreme Court
- **MAIN ISSUE**
  - Regarding a de-novo investigation against the accused for offences
- **OBSERVATION**
  - The Supreme Court ruled that a Court, while acquitting the accused, cannot order that he must be subjected to re-investigation for the same offence.
  - The Court set aside the Madras High Court decision which directed a de-novo investigation against the accused for offences in which he was already acquitted, stating that it would amount to a violation of the double jeopardy principle under

Article 20(2) of the Constitution

- The bench comprising Justices CT Ravikumar and Sanjay Karol was hearing the criminal appeal filed against the Madras High Court decision refusing to quash the fresh case registered and re-investigation carried by the CBI upon the direction of the High Court to conduct a de novo investigation against the appellant for the offences in which he was acquitted.
- Briefly put, the appellant was convicted by the trial court for the offence of murder and kidnapping, however, the High Court overturned the conviction citing a lack of evidence and significant lapses in an investigation by the police
- However, the High Court directed a de novo investigation by the Central Bureau of Investigation (CBI) to uncover the facts and initiate proceedings if the appellant's involvement was confirmed.
- The CBI conducted a fresh investigation and filed a charge sheet before a Special Court under the POCSO Act. Assailing the proceedings initiated by the CBI, the appellant filed a quashing petition under Section 482 Cr.P.C., arguing that a re-investigation and fresh trial violated the principle of double jeopardy under Article 20(2) of the Constitution and Section 300 Cr.P.C.
- Following the dismissal of the quashing petition, the Appellant approached the Supreme Court
- Setting aside the High Court's decision, the judgment authored by Justice Karol observed that reinvestigation of the same offence or the same set of facts is impermissible.
- The Court reasoned that reinvestigation and prosecution for the same offence violated the principle of double jeopardy, which bars an individual from being prosecuted and punished for the same offence twice.
- Further, the Court disapproved of the High Court's findings that a re-investigation could be ordered if there are lapses in an initial investigation. The Court said that faulty investigation cannot be a ground to initiate a fresh investigation against the accused, and the accused is entitled to the benefit of the doubt.
- Also, the Court clarified that reinvestigation can only be ordered under exceptional circumstances and typically through constitutional remedies (Articles 226/32), not under appellate powers under Section 386 Cr.P.C. as directed in the instant case.
- Reference was drawn to the case of T.P. Gopalkrishnan v. State of Kerala (2022), where the Court culled out three principles to ascertain whether the de-novo investigation violated the double jeopardy principle
- Firstly, there must have been previous proceedings before a court of law or a judicial tribunal of competent jurisdiction in which the person must have been prosecuted. The said prosecution must be valid and not null and void or abortive.
- Secondly, the conviction or acquittal in the previous proceeding must be in force at the time of the second proceeding in relation to the same offence and same set of facts, for which he was prosecuted and punished in the first proceeding.
- Thirdly, the subsequent proceeding must be a fresh proceeding, where he is, for the second time, sought to be prosecuted and punished for the same offence and the same set of facts.
- Applying these conditions to the present case, the Court noted that the appellant had been prosecuted by a court of competent jurisdiction and acquitted of the same offenses by the High Court.
- Since the acquittal remained valid at the time of the de novo initiation of a second proceeding for the same offense, the appellant's right under Article 20(2) of the Constitution was found to have been violated, thus fulfilling all the conditions.
- "In the present facts, a previous proceeding did take place wherein the Trial Court convicted the appellant and sentenced him to death. There is no question as to the Court's competence or jurisdiction.
- The first condition is, therefore, met. The acquittal awarded by the High Court has to remain in force for the cardinal principle of criminal jurisprudence of innocent until proven guilty applies and cannot be displaced in except in circumstances otherwise provided by law. The second principle is also met. Regarding the third condition, had the order been for retrial, the court could have held that the condition remained unmet;
- However, since the direction was for reinvestigation and that too by a different investigation agency, it necessarily has to begin from zero. Hence, the second investigation, chargesheet and examination of witnesses would classify as meeting the third condition.", the court observed.
- ‘‘Vision of the High Court, in our considered view was bad in law, and is therefore quashed and set aside.
- All proceedings subsequent to such direction, necessarily have to be held as such and therefore quashed and set aside as well. The appellant stands acquitted of all charges.’’, the court held.

Accordingly, the appeal was allowed.

State of Karnataka & Kalandar Shafi & Others

- **TOPIC :** S.187 BNSS | Police Custody Must Be within First Days For Offences Punishable Upto 10 Yrs Imprisonment
- **BENCH :** Justice M Nagaprasanna
- **FORUM:**Karnataka High Court
- **MAIN ISSUE**
  - Regarding Section 187 of the Bharatiya Nagarik Suraksha Sanhita (BNSS)
- **OBSERVATION**
  - The Karnataka High Court has held that as per Section 187 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), the 15-day police custody must be sought within the first forty days in cases of offences which are punishable upto ten years of imprisonment
  - It clarified that the phraseology used in Section 187 BNSS is an offence punishable "for ten years or more", explaining that 10 years or more would mean that the threshold punishment is 10 years and not a punishment up to 10 years. The court said that if the punishment term is between 1-10 years then Section 187(3) BNSS cannot be pressed for police custody as probe for offences punishable upto 10 years must be completed in 60 days.
  - Section 187(3) states that the Magistrate may authorise the detention of the accused person, beyond 15 days, if he is satisfied that adequate grounds exist for doing so. However no Magistrate shall authorise the detention of the accused person in custody under this sub-section for a total period exceeding—(i) 90 days where the investigation relates to an offence punishable with death, imprisonment for life or imprisonment for a term of ten years or more; (ii) 60 days, where the investigation relates to any other offence.
  - On the expiry 90 days or 60 days, as the case may be, the accused person shall be released on bail if he is prepared to and does furnish bail.
  - Justice M Nagaprasanna in his December 13 order said, ‘‘Where if the offence is punishable where term can be extended up to ten years, it could vary from one to ten. The police custody in such cases would be available for 15 days within the first 40 days of investigation. The 15- days could vary from day one to day forty, but the total would be 15-days
  - If the offence is punishable with ten years or more with the minimum sentence being ten years, the police custody would range from day one to day sixty, 15-days in total.’’
  - For context, Section 187(3) of BNSS was Section 167(2) of Criminal Procedure Code. Under Section 167 (2) CrPC investigation, has its completion period of 90 days, where the investigation relates to an offence punishable with death
  - imprisonment for life or imprisonment for a period of ten years or more and for the remaining offences, it is 60 days. In BNSS, the same 90 days is permitted where imprisonment is for a term of ten years or more.
  - Juxtaposing the provisions the court then said, ‘‘ In the considered view of this Court, it is only a play of words. Section 167(2) using the words 'not less than ten years' would be, that the imposable punishment would be at ten years.
  - Section 187(3) using the words 'ten years or more', is to the same effect, it only depicts a threshold sentence of ten years .
  - ‘‘If the prosecution wants 90 days to file their final report, it will only be for an offence which has a minimum sentence of ten years. If it is one year to ten years, Section 187(3) of BNSS cannot be pressed into service for the purpose of police custody or any other reason for that matter
  - as the investigation for offences punishable up to ten years must get completed in 60 days. I hasten to add that it is only in few cases where it relates to life, death or ten years or more, the investigation can be for 90 days. In all other offences under the IPC or BNS, investigation must complete within 60 days. In the considered view of the Court, there can be no other interpretation,’’ it said.
  - Further, it clarified, ‘‘In Section 187 of BNSS the phraseology is an offence punishable for ten years or more.
  - Ten years or more would unequivocally mean that the threshold punishment is ten years, and not a punishment up to ten years".
  - It observed, ‘‘Completion of investigation in a punishment which is up to ten years is undoubtedly 60- days. Rest of the other offences, be it death, life imprisonment of ten years and more, would be 90 days
  - The bench gave the clarification while dismissing a petition filed by the state government which had challenged a December 4 order passed by the Judicial Magistrate First Class (III Court) Mangalore. In the impugned order the court had rejected the requisition of the prosecution for grant

of police custody of the accused who are charged under Section 108, 308(2), 308(5), 351(2) and 352 of BNS.The court had held that the period of investigation in the case at hand was 60 days and the police custody available in terms of Section 187 of BNSS is within 40 days. Those 40 days have lapsed, there was no warrant to grant police custody. The bench referring to the provisions said, ''The offences alleged in the case at hand, have their punishments to run up to a maximum of ten years and the phrases used ''may extend to ten years''.

- Thus it held ''In the case at hand, the offence is punishable up to ten years, Therefore, the police custody is only from day one to day forty.''
- Accordingly, it upheld the magistrate court order and dismissed the petition.

PANDIT VARUN VARUN MEHTA Vs THE STATE OF PUNJAB

- **TOPIC:**SC Denies Anticipatory Bail To Astrologer Accused of Helping Women To Poison Husband & Mother – in - Law
- **BENCH :** Justices Vikram Nath and PB Varale
- **FORUM**: Supreme Court
- **MAIN ISSUE**
  - Regarding an astrologer Pandit Varun Mehta accused of conniving with a woman, who allegedly administered poison to her husband and her mother-in-law
- **OBSERVATION**
  - The Supreme Court today (December 19) refused to grant anticipatory bail to an astrologer Pandit Varun Mehta accused of conniving with a woman, who allegedly administered poison to her husband and her mother-in-law. Reportedly, both victims were given slow poison and before death, they were given lemonade. Their health continued to deteriorate and eventually, they succumbed to death.
  - It is alleged that the astrologer gave the poisonous substance to the wife to administer it to her husband and mother-in-law.
  - While denying bail, the Court said: "Not a case for anticipatory bail."
  - The Punjab Police have arrested the accused the wife and her two brothers, who were also allegedly involved in the case
  - Reportedly, the police have charged the accused persons with Section 304 (punishment for culpable homicide not amounting to murder) of the Indian Penal Code, 1860. Subsequently, Section 302 (punishment for murder) IPC was added.
  - The counsel for Pandit Varun appeared before a bench of Justices Vikram Nath and PB Varale. He said: "The incident took place on 11th June. I was not there. The death happened on 12th July..I am only an astrologer, where she is a client."
  - Before he could proceed, Justice Nath interjected and said: "Whether you were there or not there, we don't know. Question is there are serious allegations that the wife along with her brothers and this Pandit ji, where she was learning astrology; he and his wife, connived together and administered poison to [husband and mother-in-law.
  - Justice Nath also questioned why the charges are under Section 304IPC. It should have been under Section 302 IPC.
  - To this, the Counsel was informed that murder charges were added subsequently. Eventually, the Counsel requested that he may be allowed to withdraw the SLP, which was allowed.