

Kamaruddin Dastagir Sanadi v. State Of Karnataka Through Sho Kakati Police

- ❖ **TOPIC** : Section 306 IPC, Simple Refusal To Marry Not Abetment To Suicide : Supreme court
- ❖ **BENCH** : Justice Pankaj Mithal and Justice Ujjal Bhuyan



- ❖ **FORUM**: Supreme Court
- ❖ **MAIN ISSUE**
 - Regarding the conviction of a man who was charged with the offence of abetment to suicide.
- ❖ **OBSERVATIONS**
 - The Supreme Court today set aside the conviction of a man who was charged with the offence of abetment to suicide (Section 306 IPC) because his lover committed suicide upon his refusal to marry her.
 - The bench comprising Justice Pankaj Mithal and Justice Ujjal Bhuyan observed that simple refusal to marry someone would not amount to instigation to commit suicide.
 - Instead, it must be shown that the accused had by his acts and omissions or by a continued course of conduct created such circumstances that the deceased was left with no other option except to commit suicide.
 - The Court referred to the recent case of Prabhu vs. State represented by Inspector of Police & Anr., where it was observed that broken relationships and heartbreaks are part of everyday life and that breaking-up of the relationship would not constitute any instigation or abetment of suicide since to constitute 'Instigation'.
 - "We find that the accused-appellant had simply refused to marry the deceased and thus, even assuming there was love between the parties, it is only a case of broken relationship which by itself would not amount to abetment to suicide. The accused-appellant had not provoked the deceased

in any manner to kill herself; rather the deceased herself carried poison in a bottle from her village while going to Kakati, Karnataka with a predetermined mind to positively get an affirmation from the accused-appellant to marry her, failing which she would commit suicide. Therefore, in such a situation simply because the accused-appellant refused to marry her, would not be a case of instigating, inciting or provoking the deceased to commit suicide.", the judgment authored by Justice Mithal said.

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- "Even assuming, though there is no evidence that the accused-appellant promised to marry the deceased, that there was such a promise, it is again a simple case of a broken relationship for which there is a different cause of action, but not prosecution or conviction for an offence under Section 306, specially in the facts and circumstances of the case where no guilty intention or mens rea on the part of the accused-appellant had been established.", the court held.
- Accordingly, the appeal was allowed, and the impugned judgment convicting the appellant was set aside.

Indore Vikas Praadhikaran (Ida) & Anr. v. Shri Humud Jain Samaj Trust & Anr

- ❖ **TOPIC** : Highest Bidder In Tender Process Has No Vested Right To Contract : Supreme court
- ❖ **BENCH** : Justice Bela M Trivedi and Justice Satish Chandra Sharma



- ❖ **FORUM**: Supreme Court
- ❖ **MAIN ISSUE**
 - Whether the highest bidder in the Notice Inviting Tender (NIT) can have a vested right or not to have the auction concluded in his favor.

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❖ OBSERVATIONS

- In a recent case, the Supreme Court observed that the highest bidder in the Notice Inviting Tender (NIT) cannot have a vested right to have the auction concluded in his favor. The Court added that for the contract to be executed, a letter of allotment must be issued in favor of the successful bidder.
- The bench comprising Justice Bela M Trivedi and Justice Satish Chandra Sharma heard a civil appeal filed by Indore Development Authority (“Appellant”) challenging the High Court's Division Bench order directing the Appellant to award a contract in favor of the respondent no.1 because it made the highest bid in NIT auction process.
- The appellant contended that making the highest bid does not guarantee the award of the contract in respondent no.1's favor, rather the tendering authority i.e. the appellant has the right to cancel or reject the tender process on valid grounds.
- An NIT was issued on July 17, 2020, with a reserve price of ₹21,120 per square meter. for leasing out of land. The respondent no.1 submitted the highest bid of ₹25,671.90 per square meter. However, the Tender Evaluation Committee discovered an outstanding property tax of ₹1.25 crores, not factored into the base price.
- Therefore, it cancelled the initial tender process and issued a second tendering process with a revised reserve price of Rs. 26,000/- per square meter. Instead of participating in the second tendering process, Respondent No.1 filed a Writ Petition before the High Court, where the Single Bench dismissed the same on the ground that making the highest bid in the tendering process does not guarantee the award of the contract in its favor.
- However, the Division Bench of the High Court set aside the Single Bench order and directed the Appellant to award contract to the respondent No. 1, considering that its bid was the highest. Following this, the appeal was presented before the Supreme Court by the appellant.
- Before the Supreme Court, the appellant argued that the respondent's bid was cancelled after the Tender Committee discovered an outstanding property tax of ₹1.25 crore on the land. Considering the location, tax payment to the Municipal Corporation, and potential for higher revenue from future tenders, the bid was rejected.
- Setting aside the Division Bench's order, the judgment authored by Justice Sharma held that the High Court committed an error while sitting over

an appeal and fixing the base price/modifying the offer made by respondent no.1.

- “In the considered opinion of this Court, the Division Bench should not have interfered in the matter and could not have gone to the extent of fixing the base price/modifying the offer made by respondent and, therefore, in light of the aforesaid judgment as the High Court has virtually passed an order sitting in appeal over the decision of the government in absence of any mala fide exercise of power by the IDA, the judgment passed by the Division Bench of the High Court deserves to be set aside and is, accordingly set aside.”, the court observed.
- Reference was made to the case of Haryana Urban Development Authority Vs. Orchid Infrastructure Developers Pvt. Ltd (2017), where the Court reiterated that the highest bidder has no vested right to have the auction concluded in his favor. The Government or its authority could validly retain the power to accept or reject the highest bid in the interest of public revenue.
- Further, the Court reasoned that since there was no allotment letter granted by the appellant to respondent no.1, therefore, “in the absence of allotment letter and acceptance of highest bid, no relief could have been granted in favour of respondent No.1 as there was no concluded contract in the matter and the decision taken by the Tender Evaluation Committee to generate more revenues could not have been interfered with in the manner and method as has been done by the Division Bench of the High Court of Madhya Pradesh at Indore Bench.”
- “The bidder has no right in the matter of bid except for fair treatment and cannot insist on further negotiation as has been done in the present case. The terms and conditions of NIT, particularly condition No. 6, empower the IDA to accept or reject any or all bids. In the present case, the bid was rejected for valid and cogent reasons and, therefore, the order passed by the Division Bench of the High Court of Madhya Pradesh is set aside.”, the court held.
- Accordingly, the appeal was allowed.

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Nadeem v. State of UP

- ❖ **TOPIC :** 'Classic Case of How System Operates & Delays Trial' : SC while Allowing Accused To Recall Witness After over 3 years
- ❖ **BENCH :** Justice Abhay Oka and Justice Augustine George Masih



- ❖ **FORUM:** Supreme Court
- ❖ **MAIN ISSUE**
 - Regarding a recall application to allow the accused to cross-examine the complainant.
- ❖ **OBSERVATIONS**
 - The Supreme Court on Thursday (November 28) lamented systematic delays in trial after noting that the trial court illegally recorded the complainant's evidence in a POCSO case in the absence of the accused and his advocate and then both the trial court and the High Court rejected a recall application to allow the accused to cross-examine the complainant. "This is a classic case that indicates how the system operates and trial is delayed...The trial court could not have recorded evidence of PW1 in the absence of the appellant and his advocate. After noting this illegality in the order dated 30.05.2023 the trial court rejected the application...This was a case where there was a clear prejudice to the appellant and therefore the trial court itself should have allowed the application", the Court held.
 - A bench of Justice Abhay Oka and Justice Augustine George Masih further criticised the public prosecutor and the government lawyer for opposing the recall application before the trial court and the High Court respectively.
 - "Even the public prosecutor ought to have taken a fair stand and ought not to have objected to the

- application. It is a duty of the public prosecutor to ensure that the trial is conducted in a fair manner.
- The matter did not rest here. When Section 482 petition was heard by the High Court, the High Court has noted that the government advocate vehemently opposed the application. Even the High Court has missed the very important point that the evidence of PW1 was recorded in absence of the appellant and his advocate", the Court observed.
- The trial court closed the cross-examination of PW1 on July 27, 2021. The Supreme Court noted that the appellant's application to recall PW1 was made in May 2023, and due to procedural delays, the issue was being addressed in December 2024. "The result of all this is that now in December 2024, PW1 will have to be recalled for cross examination. This order we are passing 1 year 6 months after the appellant applied for recall", the Court observed.
- The Court set aside the orders of both the trial court and the High Court and directed the trial court to issue necessary summons to PW1 for cross-examination by the appellant's advocate on a date fixed by the trial court.
- The case involves the appellant facing trial for the offences under Sections 363, 366, 368, and 376 of the IPC and Sections 3 and 4 of the POCSO Act. The chief examination of the complainant (father of the victim), listed as PW1, was done by the prosecution on February 15, 2021, during the COVID-19 pandemic.
- The examination was conducted through video conferencing, but the appellant's advocate was not present. Subsequently, the trial court closed the cross-examination of PW1 on July 27, 2021. Following this, other witnesses, PW2 and PW4, were also examined.
- On May 16, 2023, the appellant filed an application under Section 311 of the CrPC to recall the complainant for cross-examination. However, on May 30, 2023, the trial court rejected this application, with the order noting that the public prosecutor opposed it.
- The appellant then approached the High Court under Section 482 of the CrPC, seeking to quash the trial court's order.
- The High Court also rejected this application, leading the appellant to approach the Supreme Court.

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Birendra Singh Yadav v. The State Of Madhya Pradesh And Others

- ❖ **TOPIC :** Benefit Should Be Given To Candidate And Not Employer, If Advertisement Stipulates Vague Qualification criteria : Madhya Pradesh High court
- ❖ **BENCH :** Justice Sanjay Dwivedi



- ❖ **FORUM:** Madhya Pradesh High Court
- ❖ **MAIN ISSUE**
 - Regarding varying interpretations about the qualification criteria of a post.
- ❖ **OBSERVATIONS**
 - The Madhya Pradesh High Court has held that if an advertisement gives vague and ambiguous meaning with a possibility of varying interpretations about the qualification criteria of a post, the benefit should always be given to the candidate and not the employer.
 - The single-judge bench of Justice Sanjay Dwivedi observed, “Any advertisement creating ambiguity in regard to the qualification and taking shelter of the same, denial of liberty to the candidate, in my opinion does not seem to be proper. It is expected from the authority to make the clause clear and if prescribed qualification in the advertisement gives vague and ambiguous meaning emanating varying interpretations about the qualification criteria, the benefit should always be given to the candidate but not to the employer.”
 - In the present case, the petitioner had challenged the action of the respondents as they were not allowing the petitioner to participate in the interview which was scheduled pursuant an advertisement.
 - The counsel for the petitioner submitted that as per the requirement of advertisement, a retired Assistant Engineer having 15 years of experience on the post of Assistant Engineer, out of which 10 years of field experience is the necessary requirement and the petitioner fulfils the said

- criteria but was not called for interview. The petitioner contended that respondents had wrongly interpreted the clause and denied the petitioner the chance to appear for the interview.
- As per the submission made by counsel for respondents, an application was submitted by the petitioner giving details therein that he had worked as an Assistant Engineer for 11 years 9 months and 27 days which fulfils the requirement. However, as per the respondents' counsel, the said period was not the total period worked on the post of Assistant Engineer but it includes the period when the petitioner has performed the duties of Assistant Engineer not in a substantive capacity but holding the additional charge of that post.
- He further submitted that the petitioner at the time of retirement was performing the duties as Executive Engineer and therefore, as per the rider imposed in the condition, the petitioner was disqualified as not entitled to apply under the said clause because at the time of retirement, he was performing his duties as Executive Engineer.
- In order to determine whether the petitioner was wrongly denied or he was to be called for interview, the Court interpreted the said clauses of the advertisement.
- From the bare reading of Clause 1, the court found that the requirement is that the candidate should be a retired Assistant Engineer with the Civil Degree. Further, Clause 2 indicated that the 15 years' experience of working as Assistant Engineer does not mean that the candidate must have substantively held the post of Assistant Engineer.
- The court observed, “This is not disputed as the petitioner worked as an Assistant Engineer for a period of 15 years, although, in the later period of his service, he worked as an Incharge Executive Engineer but that cannot be a ground to deny the claim of the petitioner because it was a higher qualification for the petitioner to hold the post of In-charge Executive Engineer because he was substantively promoted to the post of Assistant Engineer...The basic object of the clause can be interpreted that the requirement was of experience of 15 years as an Assistant Engineer and merely because petitioner being an Assistant Engineer performed his duties for some period as In-charge Executive Engineer, it cannot be a disqualification for the petitioner.”
- The court then looked into the exclusion clause which indicates that “any candidate who has retired from the higher post than that of Assistant

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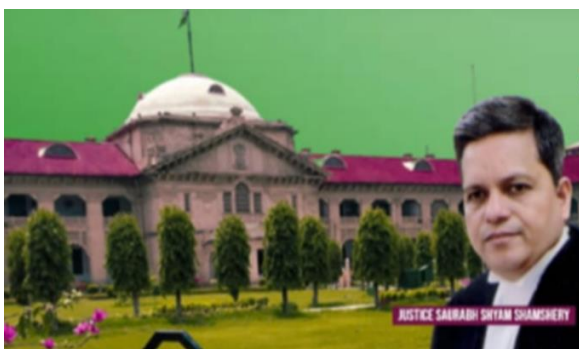
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Engineer". However, the petitioner was never promoted to the post of Executive Engineer and this exclusion clause would not be applicable to him because he retired as an Assistant Engineer although he was In-charge Executive Engineer at the time of retirement. "There is a drastic difference in the first part of the qualification and the part of the exclusion clause", the Court said.

- Thus, the court inferred that the petitioner having an experience of Assistant Engineer for more than 15 years and retired from the post of Assistant Engineer but not from the post of Executive Engineer, was wrongly declared ineligible to participate in the interview. "His qualification of working on a higher post of Executive Engineer cannot be treated to be a disqualification for him.", the Court said.
- The court further observed that the said advertisement lacked in "clarity, precision and is couched in a language which keeps the candidates guessing as to its true impact cannot be countenanced in law."
- Therefore, the court allowed the present petition directing the respondents to accept the application of the petitioner and arrange a fresh interview for him in which he may be called and thereafter final decision be taken for selecting him to the post.

Shahid Hussain v. Board of Revenue U.P. and Ors

- ❖ **TOPIC :** Adverse Possession Cannot Be claimed When Land Is Acquired Through Agreement of sale : Allahabad High court
- ❖ **BENCH :** Justice Saurabh Shyam Shamshery



- ❖ **FORUM:** Allahabad High Court

❖ **MAIN ISSUE**

- Regarding possession of land was acquired by an agreement of sale

❖ **OBSERVATIONS**

- While deciding a case under the U.P. Abolition of Zamindari and Land Reforms Act, 1950, the Allahabad High Court has held that where possession of land was acquired by an agreement of sale, adverse possession cannot not be availed to claim ownership of the property.
- Justice Saurabh Shyam Shamshery relied on the judgment of the Supreme Court in Achal Reddy v. Ramakrishna Reddiar and Ors., where it was held that "Adverse possession implies that it commenced in wrong and is maintained against right. When the commencement and continuance of possession is legal and proper, referable to a contract, it cannot be adverse."
- An agreement to sale was executed in favour of the petitioner on 12.11.1973. It was for the sale of a property in the district of Moradabad for a sum of Rs. 9000/-, out which the petitioner paid 7,000/-, and took possession of the land. The rest was to be paid at the time of execution of the sale deed.
- Several years passed and the sale deed remained unexecuted. Aggrieved, the petitioner filed a suit for specific performance in the year 2011.
- In the same year, during the pendency of the aforesaid suit, the petitioner also filed a suit under Section 229 B of the U.P. Zamindari Abolition and Land Reforms Act, 1950, in order to declare his rights over the property in question.
- However, the suit was dismissed on grounds that the agreement to sale had not been executed and that the original respondent had no power to execute such an agreement since he was only a Sirdar.
- Thereafter, the petitioner preferred appeals before the Commissioner, Moradabad and the Board of Revenue, both of which were dismissed. Hence, he filed the present Writ Petition.
- Petitioner contended that since no proceeding was taken against him under Section 209 of the Act of 1950, he would be the Bhumidar of the land in question by virtue of Section 210 of the Act.
- It was further argued that the petitioner's possession over the disputed land and the agreement to sale was never contested.
- It was argued that whether the original respondent had the power to execute the agreement was not an issue before the Revenue Courts and thus the same could not be considered at this stage.

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- The petitioner claimed adverse possession over the property in question. Per contra, the respondents contended that the petitioner did not fall within the ambit of 'persons' as mentioned in Section 209 of the Act. It was argued that since the petitioner submitted that he was given possession of the plot by consent of the vendor, he could not avail the consequences of filing a suit under Section 209 of the Act.
- They submitted that the same would only be available to him if he was in possession of the land without the consent of the Bhumidar.
- Section 209 of the U.P. Abolition of Zamindari and Land Reforms Act, 1950 contains provisions for the ejectment of persons occupying the land without a title. Section 210 of the Act talks about the consequences of failure to institute a suit before such a person prior to the expiry of the limitation period.
- The Court considered Sections 209 and 210 of the Uttar Pradesh Zamindari and Land Reforms Act, 1950, and held that a suit could not be maintained under Section 209 of Act if the possession of the land in dispute was attained by consent of the vendor.
- "A plain reading of Section 209(a) of Act, 1950 pre-supposes that possession was without consent of Bhumidhar, Sirdar or Asami or the Gram Sabha and if possession of person was a permissive one, a suit cannot be maintained under Section 209 of Act, 1950, therefore, its consequence as contemplated in Section 210 of Act, 1950 would not follow," held the Court.
- The Court held that the present case was that of an "executory contract" since the possession was given only on the basis of an agreement to sale and not the actual sale deed itself. It was held that since the possession of the land was acquired by the permission of the vendor, the petitioner could not claim adverse possession against the respondent.
- The Court relied on the decision of the Supreme Court in Achal Reddy v. Ramakrishna Reddiar and Ors. to elucidate the distinction between an 'agreement to sale' and a 'sale'.
- "In the conception of adverse possession there is an essential and basic difference between a case in which the other party is put in possession of property by an outright transfer, both parties stipulating for a total divestiture of all the rights of the transferor in the property, and in case in which, there is a mere executory agreement of transfer both parties contemplating a deed of transfer to be executed at a later point of time. In the latter case the principle of estoppel applies estopping the transferee from contending that his possession, while the contract remained executory in stage, was in his own right and adversely against the transferor," held the Apex Court.
- Finding no reason to interfere in the orders of the Revenue Courts, the writ petition was dismissed

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