

**Jaydeepsinh Pravinsinh Chavda and others v. State of Gujarat**

- ❖ **TOPIC :** Mere Harassment Not Abetment of Suicide : SC Discharges Husband in Wife's Suicide Case
- ❖ **BENCH :** Justice Vikram Nath and Justice Prasanna B Varale
- ❖ **FORUM:** Supreme Court
- ❖ **MAIN ISSUE**
  - Regarding an accused guilty of abetment of suicide under Section 306 of the Indian Penal Code
- ❖ **OBSERVATIONS**
  - Mere harassment is not sufficient to hold an accused guilty of abetment of suicide under Section 306 of the Indian Penal Code, held the Supreme Court while discharging a husband in a case related to the suicide of his wife.
  - "Mere allegations of harassment are not enough unless the accused's actions were so compelling that the victim perceived no alternative but to take their own life. Such actions must also be proximate to the time of the suicide," held a bench comprising Justice Vikram Nath and Justice Prasanna B Varale.
  - "If the accused's actions were intended only to harass or express anger, they might not meet the threshold for abetment or investigation," the Court stated.
  - "For a conviction under Section 306 of the IPC, it is a well-established legal principle that the presence of clear mens rea - the intention to abet the act—is essential.
  - Mere harassment, by itself, is not sufficient to find an accused guilty of abetting suicide," the judgment authored by Justice Nath stated.
  - The Court held that the prosecution must demonstrate an active or direct action by the accused that led the deceased to take his/her own life. The element of mens rea cannot simply be presumed or inferred; it must be evident and explicitly discernible.
  - Without this, the foundational requirement for establishing abetment under the law is not satisfied, underscoring the necessity of a deliberate and conspicuous intent to provoke or contribute to the act of suicide.
  - To bring a conviction under Section 306, IPC it is necessary to establish a clear mens rea to instigate or push the deceased to commit suicide.
  - It requires certain such act, omission, creation of circumstances, or words which would incite or provoke another person to commit suicide. Thus,

- to bring a case under this provision, it is imperative that the accused intended by their act to instigate the deceased to commit suicide. T
- The Court stated that it was necessary to determine whether the cruelty or harassment inflicted on the victim left them with no other option but to end their life.
- In cases of alleged abetment of suicide, there must be concrete proof of either direct or indirect acts of incitement that led to the suicide.
- "Mere allegations of harassment are insufficient to establish guilt. For a conviction, there must be evidence of a positive act by the accused, closely linked to the time of the incident, that compelled or drove the victim to commit suicide," the Court held.
- "It is essential to establish that the death was a result of suicide and that the accused actively abetted its commission. This can involve instigating the victim or engaging in specific actions that facilitated the act. The prosecution must prove beyond doubt that the accused played a definitive role in the abetment. Without clear evidence of an active role in provoking or assisting the suicide, a conviction under Section 306 IPC cannot be sustained," the judgment further explained.
- "The act of abetment must be explicitly demonstrated through actions or behaviors of the accused that directly contributed to the victim's decision to take their own life. Harassment, in itself, does not suffice unless it is accompanied by deliberate acts of incitement or facilitation. Furthermore, these actions must be proximate to the time of the suicide, showcasing a clear connection between the accused's behavior and the tragic outcome.
- It is only through the establishment of this direct link that a conviction under Section 306 IPC can be justified. The prosecution bears the burden of proving this active involvement to hold the accused accountable for the alleged abetment of suicide," the judgment went on to add.
- In this case, the wife killed herself after 12 years of marriage, following which her father filed a complaint under Section 498A and 306 IPC against the husband.
- It was alleged that a year before her suicide, the husband had sold off her gold ornaments, given as streedhan and that she was physically and mentally tortured when she demanded them back.
- The Court held that there was no proximate link between the alleged acts of harassment and the suicide. The alleged incident of selling of gold

**FOLLOW  
US**



**PW Mobile APP**  
<https://www.pw.live/>



[https://www.youtube.com/  
@JudiciarybyPW](https://www.youtube.com/@JudiciarybyPW)



<https://t.me/pwlawwallah>

ornaments and subsequent physical and mental harassment, as alleged, occurred almost a year ago.

- Further, selling of gold ornaments and the same was followed by discord and harassment upon their demand, even if true, do not reflect any intention to instigate, incite or provoke the deceased to commit suicide, the Court said.
- "Mere harassment and such issues between the wife and her husband along with the in-laws do not appear to create a scenario where she was left with no option other than to end her life," the Court said while discharging the accused.
- However, the Court refused to discharge the accused of the charge under Section 498A IPC.

### Gurmeet Kaur V. Devender Gupta & Another

- ❖ **TOPIC :** S.197 CrPC| Sanction For Prosecution Needed When Alleged Offence Was Connected To Discharge of Official Duties : SC
- ❖ **BENCH :** Justices BV Nagarathna and N Kotiswar Singh
- ❖ **FORUM:** Supreme Court
- ❖ **MAIN ISSUE**
  - Regarding a criminal case and summoning order
- ❖ **OBSERVATIONS**
  - The Supreme Court recently quashed a criminal case and summoning order against a District Town Planner, ruling that there was no prior sanction under Section 197 of the Cr.P.C. was obtained for prosecuting her demolition actions, which were part of her official duties carried out under senior's instructions.
  - "we observe that the first respondent herein ought to have sought sanction for prosecution under Section 197 of the CrPC in the instant case. The same, not having been done vitiated the initiation of the criminal proceeding against the appellant herein. Consequently, the summoning order and the consequent steps taken by the Trial Court pursuant to the said summoning order are liable to be quashed and are thus quashed. Insofar as the very initiation of the complaint is concerned, we observe that since there was no prior order of sanction passed under Section 197 of the CrPC, the initiation of the complaint itself, is non-est.", the court said.
  - The bench comprising Justices BV Nagarathna and N Kotiswar Singh heard the criminal appeal filed by one Gurmeet Kaur, a District Town Planner (as then she was) against the High Court's refusal to

quash the criminal case and summoning order issued against her for carrying out demolition exercise of a private college based on the instructions of the superior officials.

- The Appellant contended that the entire proceedings initiated against her were vitiated as no prior sanction under Section 197 Cr.P.C. was taken before prosecuting her. She argued that the demolition exercise carried out by her on the instructions of the senior was part of her 'official duties' requiring the prosecution to seek prior sanction before prosecuting her.
- The question that appeared for the Court's consideration was whether the demolition exercise carried out by the appellant was within its official duties qualifying the need of prior sanction under Section 197 Cr.P.C.
- Answering in affirmation, the judgment authored by Justice Nagarathna observed that the demolition exercise carried out by the Appellant had a direct and reasonable connection with her official duties. Therefore, the need for prior sanction was mandatory.
- On the aspect of how to determine whether the offending act committed by the accused-public servant falls within the official duties, the Court referred to former CJI T.S.Thakur's concurring judgment in Urmila Devi v. Yudhvir Singh (2013) where it was observed that "the test of the direct and reasonable connection between the official duty of the accused and the acts allegedly committed by them is, therefore, the true test to be applied while deciding whether the protection of Section 197 of the CrPC is available to a public servant accused of the commission of an offence."
- Various authorities were cited by the Respondent contending that the appellant's act of carrying out the demolition work was not part of her official duties and, therefore not require sanction to prosecute her, however, the Court dismissed their claim noting that the authorities cited by them have no applicability with the facts of the present case.
- "We find that this is not a case where the appellant herein carried out the demolition dehors any legal backing or basis; neither was the said act of carrying out of the demolition outside the scope of her authority as the District Town Planner in the Enforcement Division. The appellant was carrying out the orders of the superior officers. There is a correlation between the act of demolition and the discharge of official duty. The demolition was carried out during the course of performance of appellant's official duties.", the court observed.

FOLLOW  
US



**PW Mobile APP**  
<https://www.pw.live/>



[https://www.youtube.com/  
@JudiciarybyPW](https://www.youtube.com/@JudiciarybyPW)



<https://t.me/pwlawwallah>

- Noting that no previous sanction under Section 197 Cr. P.C. was taken before prosecuting the appellant, therefore, the Court allowed the appeal and quashed the criminal case and summoning order against the appellant.

### Arjun S/O Ratan Gaikwad V. The State Of Maharashtra And Ors.

- ❖ **TOPIC :** Prevention Detention a Harsh Measure, Permissible only When 'Public Order' Disturbed, SC
- ❖ **BENCH :** Justices BR Gavai and KV Viswanathan
- ❖ **FORUM:** Supreme Court
- ❖ **MAIN ISSUE**
  - Regarding preventive detention is a harsh measure
- ❖ **OBSERVATIONS**
  - While quashing a preventive detention order, the Supreme Court observed that preventive detention is a harsh measure, which cannot be invoked against every alleged breach of peace. Rather, the power can be invoked only when the act of the proposed detainee had a tendency of disturbing "public order".
  - "The distinction between public order and law and order has been succinctly discussed by Hidayatullah J (as his Lordship then was) in the case of Ram Manohar Lohia v. State of Bihar...Constitution Bench of this Court has held that every breach of peace does not lead to public disorder.
  - It has been held that when a person can be dealt with in exercise of powers to maintain law and order, unless the acts of the proposed detainee are the one which have a tendency of disturbing the public order, resort to preventive detention, which is a harsh measure, would not be permissible", said a Bench of Justices BR Gavai and KV Viswanathan.
  - Statedly, the petitioner (proposed detainee) was engaged in the production of handcrafted liquors for the last few years.
  - Due to the same, the government functionaries and people in the nearby vicinity faced some issues, to the extent that certain residents left their houses and none dared to make a complaint.
  - In this backdrop, the Court noted that 6 cases were registered against the petitioner qua illicit liquor business activities, but the excise authorities did not find it necessary to arrest him even once.
  - Further, reliance was being placed by the authorities on two witness statements (to substantiate allegations of threats by the petitioner), but the same were vague, stereotypical

and identical (in toto).

- "Statements, which are stereotyped, even if taken at face value, would show that the threat given to the said witnesses by the petitioner in the privacy of the petitioner and the said witness. The statements also do not show that the said witnesses were threatened by the petitioner in the presence of villagers, which would create a perception in the mind of the villagers that the petitioner is a threat to public order", the Court said.
- Further, it underscored the distinction between a "law and order" situation and a "public disorder" case thus:
- "The powers of maintaining law and order would depend upon the facts and circumstances of each case. For example, if somebody commits a brutal murder within the four corners of a house, it will not amount to a threat to public order. As against this, if a person in a public space wherein a number of people are present creates a ruckus by his behavior and continues with such activities, in a manner to create a terror in the minds of the public at large, would amount to a threat to public order. So, in a given case there may not even be a physical attack."
- Passing the order, the Court also referred to the judgment in Aameena Begum v. State of Telangana, where it was observed that preventive detention laws are an 'exceptional measure reserved for tackling emergent situations' and must not be used as a tool for enforcing 'law and order'.
- In this case, the Court had strongly condemned the growing trend in Telangana of passing orders of preventive detention at the 'drop of a hat' without consideration of the liberty and freedom guaranteed to people under the Constitution of India.
- Ultimately, not finding the detaining authority's subjective satisfaction (as to the petitioner's activities being prejudicial to public order) to be substantiated, the Court quashed the preventive detention order. The petitioner was directed to be released forthwith, if not required in any other case.

### Pawan Singh Rathore v. Devinder Singh Katoch

- **TOPIC :** Public Servant Exceeding Powers While Performing Official Duties Would Be Protected U/S 197 CrPC : J & K High court
- **BENCH :** Justice Sanjay Dhar
- **FORUM:** Jammu and Kashmir and Ladakh High Court

FOLLOW  
US



**PW Mobile APP**  
<https://www.pw.live/>



[https://www.youtube.com/  
@JudiciarybyPW](https://www.youtube.com/@JudiciarybyPW)



<https://t.me/pwlawwallah>



➤ **MAIN ISSUE**

- Regarding Section 197 of the Code of Criminal Procedure (CrPC)

➤ **OBSERVATIONS**

- The Jammu and Kashmir and Ladakh High Court has ruled that Section 197 of the Code of Criminal Procedure (CrPC) provides protection not only for acts performed by public servants in the discharge of their official duties but also for those done in the purported discharge of such duties.
- Justice Sanjay Dhar, while quashing an order directing the registration of an FIR against two senior government officers, emphasized, “Even if a public servant has exceeded his powers while discharging his official duties, Section 197 of CrPC would come into play.”
- Expounding on the subject by borrowing an example from the instant case Justice Dhar explained, “Thus, in a case where Deputy Superintendent of Police while escorting a prisoner to the Court, beats him up, while the prisoner tries to escape from the custody and in the process, uses excessive force, the Deputy Superintendent of Police would be entitled to the protective umbrella of Section 197 of CrPC because preventing a prisoner from escaping custody is connected with his official duties and in the process, if such a police officer has exceeded his powers, he would be acting in purported exercise of his official duty”.
- However, the court in the same breath clarified, “... if we take another instance of a police officer thrashing a passerby without any rhyme or reason, in such a case, his act would neither be in the discharge of official duties, nor in the purported discharge of official duties. Thus, the police officer would not be entitled to the protective umbrella of Section 197 of CrPC in such a case”
- The case arose from an anti-encroachment drive conducted by the Jammu Development Authority (JDA) in 2018, at Channi Rama, Jammu.
- The private respondents claimed ownership of a land parcel, alleging that the JDA officials demolished their buildings and destroyed movable property. After the SHO, Police Station Trikuta Nagar, refused to register an FIR, the respondents approached the Chief Judicial Magistrate (CJM), Jammu, under Section 156(3) CrPC. The CJM directed the SHO to register an FIR against the petitioners. However, this order was challenged and quashed by the Principal Sessions Judge,

Jammu.

- The High Court subsequently held that the CJM's order was interlocutory in nature and could not be revised. This led the petitioners to approach the High Court under Section 482 CrPC to challenge the legality of the CJM's order.
- The petitioners, senior government officials, argued that their actions were part of an anti-encroachment drive conducted in compliance with court orders issued in multiple Public Interest Litigations (PILs).
- They asserted that their actions were performed in the discharge of official duties and were therefore protected under Section 197 CrPC and Section 46 of the Jammu and Kashmir Development Act.
- The petitioners also pointed out procedural flaws in the CJM's order, particularly its failure to recognize the requirement for prior government sanction.
- Per contra, the respondents contended that the petitioners unlawfully demolished structures on private land, making their actions unauthorized and unconnected to official duties. They further argued that Section 197 CrPC applies only at the stage of cognizance, not during FIR registration.
- Providing a thorough analysis of the scope of Section 197 CrPC and addressing the rival contention the court held that the protection under Section 197 CrPC extends not only to acts performed by public servants in the discharge of their official duties but also to acts done in the purported discharge of such duties. The court emphasized that even where a public servant exceeds their powers, the protective umbrella of Section 197 CrPC applies, provided a reasonable nexus exists between the act and their official duty.
- Examining the facts, the court found that the petitioners' actions were connected to their official duties and observed that the anti-encroachment drive was carried out pursuant to court orders in PILs. Even if the petitioners exceeded their authority or demolished structures on private land, the court held that these acts were done in the purported discharge of their official duties, qualifying for protection under Section 197 CrPC.
- The court elaborated on the principle of nexus, stating that the protective umbrella of Section 197 CrPC applies when there is a reasonable connection between the public servant's duties and the alleged act. It noted that acts in the purported discharge of official duties, even if excessive, fall within the scope of the provision.

**FOLLOW  
US**



**PW Mobile APP**  
<https://www.pw.live/>



[https://www.youtube.com/  
@JudiciarybyPW](https://www.youtube.com/@JudiciarybyPW)



<https://t.me/pwlawwallah>

- The court relied on the Supreme Court's judgment in *Anil Kumar v. M.K. Aiyappa*, which held that no investigation under Section 156(3) CrPC can be ordered against a public servant without prior sanction.
- Justice Dhar noted that the judgment remains binding until overturned by a larger bench, dismissing arguments based on *Manju Surana v. Sunil Arora*.
- Ruling that the CJM's order directing registration of an FIR was legally unsustainable, as it was passed without prior sanction from the government the court stated that the CJM had acknowledged the need for sanction but proceeded to issue the direction in contravention of legal principles.
- "So, it is not a case where the learned CJM was oblivious of the fact that the petitioners are public servants who cannot be prosecuted without previous sanction of the Government, but it is a case where despite knowing this fact, the learned CJM has ignored the same and passed the impugned order. The same is, therefore, not sustainable in law", Justice Dhar remarked.
- In alignment with these observations the court quashed the CJM's order directing registration of an FIR against the petitioners. However, it allowed the respondents to seek prior sanction from the competent authority and approach the CJM thereafter.

### Rakha Waghmare v. State of Maharashtra

- ❖ **TOPIC** : Section 498A IPC : Bombay High Court
- ❖ **BENCH** : Justices Vibha Kankanwadi and Rohit Joshi
- ❖ **FORUM** : Bombay High Court
- ❖ **MAIN ISSUE**
  - Regarding the minor child away from the mother in defiance of a court order
- ❖ **OBSERVATIONS**
  - In a significant ruling, the Aurangabad bench of the Bombay High Court on Wednesday held that keeping a minor child away from the mother in defiance of a court order would amount to mental harassment and cruelty.
  - A division bench of Justices Vibha Kankanwadi and Rohit Joshi refused to quash an FIR against the in-laws of a woman, after noting that her husband, the main accused, had been absconding.
  - The bench noted that the husband had taken along with him, his four year old daughter, despite a clear order from a Family Court to hand over the child's custody to the complainant mother.

- "Keeping a young child of four years old away from her mother in defiance of Court order also amounts to mental harassment amounting to cruelty in as much as it would certainly cause grave injury to mental health of the complainant, the mother of the child.
- Such act of the in-laws amounts to cruelty within the meaning of explanation (a) to Section 498-A of IPC. We further record that the said mental harassment is continuing from day to day till date. It is a continuing wrong," the judges held.
- The bench was hearing petitions filed by the parents-in-laws and the sister-in-law of a woman, who sought to quash the FIR lodged against them on November 10, 2022.
- It was the complainant's case that her marriage took place on May 30, 2019. The couple had a daughter and at the time of filing of FIR, the child was 2 years old.
- In her complaint, the wife alleged that the husband demanded Rs 10 lakhs for purchasing a car and when the wife's family failed to fulfil the said demand, the husband ill-treated her and even assaulted her. It was the allegation of the wife that her in-laws, including her sister-in-law, too abused her for not fulfilling the demand of the husband.
- The bench noted that the petitioners failed to spell out the whereabouts of the main accused, who has absconded along with the minor daughter, defying court order to hand over her custody to her mother.
- "A judicial order passed by the Competent Court of law is also not being obeyed. Although the daughter is with husband, we have already recorded it that the applicants herein are assisting the husband in the sense that his whereabouts are not being disclosed," the judges said in the order.
- The bench even refused to accept the contention that the sister-in-law i.e. one of the accused petitioners was a specially abled person suffering from "schizophrenia."
- "Schizophrenia affects the behavior of patients intermittently for a certain duration of time. It is not a constant medical condition. We do not deem it appropriate to quash proceedings against her on the ground that she is allegedly suffering from schizophrenia," the judges said while refusing to quash the FIR.

FOLLOW  
US



**PW Mobile APP**  
<https://www.pw.live/>



[https://www.youtube.com/  
@JudiciarybyPW](https://www.youtube.com/@JudiciarybyPW)

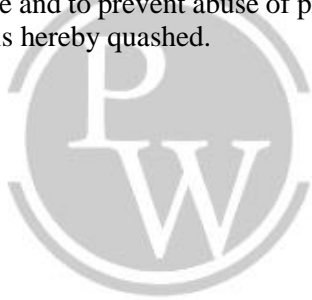


<https://t.me/pwlawwallah>

**Pabitra Adak & Ors. V. The State Of West  
Bengal & Anr**

- ❖ **TOPIC :** Calcutta High court Quashes Cruelty Case Filed By Wife Against Husband 3 Yrs After Leaving Matrimonial Home
- ❖ **BENCH :** Justice Shampa (Dutt) Paul
- ❖ **FORUM:** Calcutta High Court
- ❖ **MAIN ISSUE**
  - Regarding case initiated by a wife against her husband under Section 498A of the IPC
- ❖ **OBSERVATIONS**
  - The Calcutta High Court has quashed a case initiated by a wife against her husband under Section 498A of the IPC, accusing him of cruelty towards her, three years after leaving their matrimonial home. While the wife had left the husband's house in 2020, she filed a complaint accusing him of cruelty in 2023.
  - Justice Shampa (Dutt) Paul held: The allegations in both the cases arise out of the matrimonial dispute between the parties. It is further seen that since the year 2020, when she filed the first case, the complainant has left her matrimonial home and has now after almost three years initiated the present case on 13.04.2023. Accordingly in the interest of justice and to prevent abuse of process of law... the case is hereby quashed.

- The present revisional application sought quashing of the proceedings filed in 2023, under Sections 498A/323/307/34 of the IPC pending before the Chief Judicial Magistrate, Paschim Medinipur on the ground that this was the second FIR on the self-same allegation.
- Counsel for the petitioner submitted that the petitioner was already facing trial in a prior case on the self-same allegation filed by the private opposite party no. 2 dated 04.06.2020 under Sections 498A/323/506/34 of IPC and the trial in the said proceedings had commenced.
- In referring to the Supreme Court case of Kapil Agarwal & Ors. Vs Sanjay Sharma & Ors., the Court quoted that while different complaints on the same set of facts were permissible, in the present case, the complaints were three years apart, and three years after the wife left the matrimonial home.
- Accordingly, the case was quashed.



JUDICIARY  
—WALLAH—

**FOLLOW  
US**



**PW Mobile APP**  
<https://www.pw.live/>



[https://www.youtube.com/  
@JudiciarybyPW](https://www.youtube.com/@JudiciarybyPW)



<https://t.me/pwlawwallah>