State Of Madhya Pradesh v. Ramji Lal Sharma & Another

- **TOPIC :** Plea Of Juvenility Can Be Raised Even After Conviction & Sentence Attained Finality : Supreme Court
- **BENCH :** Justices BV Nagarathna and N Kostiswar Singh

- **FORUM: :** Supreme Court
- **MAIN ISSUE**
  - Whether a plea of juvenility can be filed or not even after the judgment and order of conviction and sentence granted against a person has attained finality.
- **OBSERVATIONS**
  - The Supreme Court observed that the plea of juvenility can be filed even after the judgment and order of conviction and sentence granted against a person has attained finality.
  - While holding so, the bench comprising Justices BV Nagarathna and N Kostiswar Singh acquitted the accused in a murder case who had filed a plea for juvenility after the order of conviction and sentence was passed against him.
  - ''Although the application (for juvenility) has been filed subsequent to the conviction ordered by this Court, we have regard to the judgment of this Court as noted above and in judgment dated 17.01.2004 in Criminal Appeal No.64/2012, titled as Pramila vs. State of Chhattisgarh, that an application for claiming juvenility may be made even after the judgment and order of conviction and sentence has been granted against a person which has attained finality.'', the court said.
  - It is worthwhile to mention that the accused/respondent No. 1 had preferred a miscellaneous application claiming the plea of juvenility even after the Supreme Court had upheld his conviction.
  - On the direction of the Supreme Court, a detailed examination was done by the Sessions Court under Section 94 of the Juvenile Justice (Care & Protection) Act, 2015 determining the age of the accused at the time of the commission of an offence which recorded that the accused was below 18 years of age as on the date of the incident.
  - Accepting the Sessions Court's report, the judgment authored by Justice Nagarathna accepted the claim of juvenility of the accused/applicant and therefore set aside the conviction recorded against the accused.
  - The Court accepted the accused/respondent No. 1 argument and set aside his conviction.
  - ''Bearing in mind the aforesaid judgments and the report submitted by the learned Sessions Judge, pursuant to the directions of this Court, we find that the date of birth of the applicant has been proved to be 04.10.1984. Consequently, the claim of juvenility made by the applicant, who was arrayed as accused no.3 is upheld and the conviction as recorded against him by this Court is set-aside and he stands acquitted. As he is on interim bail, his bail-bonds stand cancelled.'', the court held.

Rajesh Mitra @Rajesh Kumar Mitra & Anr. v. Karnani Properties Ltd

- **TOPIC :** New Act Will Not Take Away Rights Accrued Under Repealed Law Unless Such Intention Is Expressed In New Statute, Supreme Court
- **BENCH :** Justices Sudhanshu Dhulia and Prasanna B. Varale

- **FORUM: :** Supreme Court
- **MAIN ISSUE**
  - Whether New Act Will Take Away Rights Accrued Under Repealed Law or not.
- **OBSERVATIONS**
  - The Supreme Court observed that the rights accrued under an old Act cannot be extinguished with the enforcement of the new Act unless a retrospective effect was given to the New Act.

- The bench comprising Justices Sudhanshu Dhulia and Prasanna B. Varale said so while deciding a tenancy dispute where the rights inherited by the Appellants/tenants under the Old Tenancy Act after the death of the main tenant were extinguished by way of the New Tenancy Act i.e., the provision of the New Tenancy Act was given a retrospective effect without making a provision in the New Tenancy Act regarding its retrospective application.
- To clarify, the Old Tenancy Act i.e., the West Bengal Premises Tenancy Act, 1956 stated that in the event of the tenant's death, the tenancy devolved on the legal heirs of the tenant who ordinarily resided with him.
- Whereas, under the New Tenancy Act i.e., the West Bengal Tenancy Premises Act, 1997 the tenancy would devolve to the legal heirs of the tenant, but for a limited period of five years.
- The entire issue revolves around interpreting the phrase ''for a period not exceeding five years from the date of death of such tenant or from the date of coming into force of this Act, whichever is later'' used in Section 2(g) of the 1997 Act.
- The New Tenancy Act restricted the enjoyment of the tenancy rights inherited by the subsequent tenant upon the death of the main tenant only to a period of five years from the date of enforcement of the New Tenancy Act i.e., from 2001 to 2006. The New Tenancy Act gave a retrospective application to Section 2(g) of the Act to even limit the enjoyment of the tenancy rights to five years inherited by the tenant from its predecessors whose death occurred during the operation of the Old Tenancy Act.
- Thus, the appellants/tenant contended that since their father died in 1970 during the operation of the Old Tenancy Act therefore the tenancy rights would be governed by the Old Tenancy Act and not by a subsequent legislation i.e., the New Tenancy Act.
- However, the respondent/landlord contended that the appellants could only claim tenancy rights up to five years from the date of enforcement of the New Tenancy Act i.e., from 2001 to 2006 because of its retrospective application.
- Therefore, the landlord pleaded that since the tenancy rights expired in 2006, therefore, the tenant has no right to remain in possession of the suit premise and prayed for the eviction of the tenant.
- Accepting the Appellant's contentions, the judgment authored by Justice Sudhanshu Dhulia observed that ''the enforcement of a new statute ipso facto will not take away the rights already accrued under a repealed statute unless this intention is reflected in the new statute.''
- The court objected to the literal interpretation of the phrase ''for a period not exceeding five years from the date of death of such tenant or from the date of coming into force of this Act, whichever is later'' used in Section 2(g) of the 1997 Act. According to the court, the literal interpretation of the statute must be avoided if it leads to an absurd result.
- On the facts of the case, the court observed that the tenancy rights inherited under the Old Tenancy Act would become redundant if the New Tenancy Act was given a retrospective effect.
- ''The Single Judge in Goutam Dey v. Jyotsna Chatterjee (2012) observed that a literal reading of 'or from the date of coming into force of this Act, whichever is later' would lead to absurd results as all tenancies devolved under the 1956 Act, would end together on the same day (July 9, 2006), i.e., five years after the enforcement of the 1997 Act!
- Thus, the Single Judge held the aforesaid phrase to be redundant and a piece of loose drafting by the State Legislature.'', the court said approving the Calcutta High Court's decision of Goutam Dey.
- Disapproving the High Court's decision to give a retrospective application to the New Tenancy Act, the court noted as follows:
- ''The 1997 Act changes ''heritable rights'' retrospectively according to the Division Bench of the Calcutta High Court. Although, the actual date when eviction would happen is post the new Act but it does have a retrospective application as well in as much as it is applicable retrospectively to an earlier date (1970 in the present case) and had taken away a right of the appellants, given to them under the old statute.''
- ''Statutory laws operate from the date of their enforcement i.e., prospectively. In case the legislature intends to make a law retrospective then such an intention of the legislature must be shown clearly and unambiguously in the statute itself. The Division Bench's mere interpretation of a statutory provision will not make the law retrospective and take away the heritable rights of a tenant.'', the court added.

- ‘‘In view of the above, we hold that Smt. Usha Mitra and the appellants jointly inherited the tenancy from Sh. S.K. Mitra, in the year 1970. Thus, the impugned judgment is liable to be set aside as appellants' tenancy did not expire in the year 2006, by the introduction of 1997 Act, in the absence of a clear and unequivocal intention in the 1997 Act to have a retrospective operation.’’, the court held
- Accordingly, the appeal was allowed.

X v. Maharashtra National Law University

- **TOPIC :** Expulsion Forever Will Lead To Academic Death, Bombay High Court Grants Relief To Law Student Accused In Multiple Sexual Harassment Cases
- **BENCH** : Justices Atul Chandurkar and Rajesh Patil

- **FORUM:** Bombay High Court
- **MAIN ISSUE**
  - Regarding relief to law student in multiple sexual harassment cases.
- **OBSERVATIONS**
  - While disposing of a plea filed by a final year law student of the Maharashtra National Law University (MNLU) challenging the decision of the varsity to expel him from the institution after he was found guilty of 'repeated' sexual harassment of girls by the Internal Complaints Committee (ICC), the Bombay High Court on Thursday said that the student's expulsion for an 'unspecified' period would result in his 'academic death.'
  - A division bench of Justices Atul Chandurkar and Rajesh Patil opined that remanding the dispute back to the Vice Chancellor of the MNLU, would lead to a third round of litigation (the instant one being the second round), and thus, the petitioner student and also the complainant girl, both should not be subjected to any further distractions from their academic activities.
  - "In our view, an order of expulsion for an indefinite and unspecified period would be harsh resulting in 'academic death' of 'X' (petitioner).
  - It would result in taking away the education and training undergone since his admission to the course in 2019-20. In effect, he would never be able to complete the BA. LLB (Honours) course at the MNLU in future.
  - The consequence of such expulsion would operate perpetually having a drastic effect on a student's academic life. All this would also result in deprivation and denial of education.
  - In our view, the consequences flowing from an order of expulsion for an indefinite and unspecified period are drastic and harsh," the bench observed.
  - The bench noted that even after expelling the petitioner, the Vice-Chancellor has permitted him to appear for the ninth and tenth semester exams but has withheld his results for the outcome of the instant proceedings.
  - "In normal course, 'X' would have completed his BA.LLB (Honours) course at the end of academic session 2023-24. That has not happened as his results for the last two semesters have not been declared," the bench noted, while restricting the expulsion orders for one academic year.
  - It further imposed 'community service' penalty on the petitioner for the entire 2024 to 2025 academic year under the guidance of the VC, who upon completing of community service, has been ordered to declare the petitioner's results.
  - "This would result in 'X' suffering the punishment of expulsion for one academic year and also undertaking community services till the end of the current academic year. Loss of an academic year in these facts would, in our view, be proportionate to the misconduct of 'X'. It would put him behind his entire batch of 2019-24 by one year and during that period he would be unable to take up any other academic activity.
  - This approach may not be construed as an outcome of an exercise in equity but an exercise of applying the doctrine of proportionality considering the indefinite period of expulsion," the judges reasoned.
  - In his plea, the petitioner student contended that he has an excellent academic record.
  - He argued that the entire enquiry process (in this second 'official' sexual harassment instance) was 'flawed, biased and violated the principles of natural justice.'
  - He further contended that the alleged incident took place outside the university premises at an 'unofficial' gathering and thus the ICC or the

university had no 'jurisdiction' to deal with the complaint. It was argued that such a penalty would become a 'death penalty' for the petitioner.

- Appearing for the complainant girl, senior counsel Navroz Seervai assisted by advocate Pooja Thorat, highlighted the fact that the petitioner is a 'repeat offender' and has 'harassed multiple girls' within a span of two years.
- The senior advocate pointed out that even in 2022, the petitioner faced an enquiry by the ICC on another complaint filed by a different girl, who was also sexually harassed by the petitioner.
- The report of the first incident states that a young woman, who was harassed sexually by the petitioner, was 'so traumatized' that she herself could not gather courage to lodge an official complaint against him.
- The judges, therefore, on the principle of proportionality, upheld the expulsion for only for one academic year as against the 'indefinite' time period imposed by the varsity.
- Further, the bench ordered the MNLU to consider the recommendation made by the ICC in its May 20, 2023 report with regards to the venue of events such as in the instant proceedings, where it was noted that a moot-court competition was hosted in a private lounge-cum-bar.
- "The Vice Chancellor is requested to consider the recommendations made by the ICC in its report dated 20/05/2023 in the matter of selection of a venue for such activities of the MNLU as well as undertaking due diligence that no alcohol is served at dinners held on such occasions and take remedial steps in the larger interest of the MNLU, its staff as well as its students," the order states.

Yudhveer Singh Yadav v. Central Bureau Of Investigation Through Secretary Government Of India

- **TOPIC :** Withholding Bail When Court Deemed It Fit To Release Accused Amounts To Punishment
- **BENCH :** Justice Chandra Dhari Singh
- **FORUM:** Delhi High Court
- **MAIN ISSUE**
  - Whether Withholding Bail When Court Deemed It Fit To Release Accused Amounts To Punishment or not.
- **OBSERVATIONS**
  - The Delhi High Court has held that where a Court deems it fit to release an accused on merits, withholding bail amounts to a punishment.
  - ‘‘Therefore, if a Court on merits deems it fit to release an accused on bail, withholding the aforesaid relief will amount to be considered as a punishment,’’ Justice Chandra Dhari Singh said.

  - The Court made the observation while granting regular bail to a public servant, Yudhveer Singh Yadav, in a corruption case registered under Section 7 of the Prevention of Corruption Act, 1988.
  - Yadav was working on the post of Sub-Inspector in Delhi Police. It was alleged that he demanded and accepted a bribe of Rs. 2.5 lakh.
  - Justice Singh said that Courts ought to bear in mind that in a matter of regular bail under Section 483 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, the larger interest of the State must be taken into consideration.
  - ‘‘Further, a sensitive approach is required to be acquired by the Courts while dealing with the offences constituting bribery allegations against a public officer as the same minimizes the trust of the public in public servants who are duty bound to protect them,’’ the Court said.
  - However, it added that it is upon the judicial discretion of the Courts while granting or refusing a bail application and the said discretion shall be exercised with regard to the facts and circumstances of each case.
  - ‘‘Thus, while considering the allegations leveled against an accused, the Courts shall, at the same time, adhere to the the settle principle with regard to ‘‘bail is a rule and jail is an exception’’, which has been time and again emphasized by various Courts,’’ the Court said.
  - Justice Singh noted that the case against Yadav involved the offences wherein maximum imprisonment is upto 7 years and that the investigation qua him was complete.
  - ‘‘Undoubtedly, the allegations levelled against the petitioner are grave in nature and against public morale, however, at the same time, this Court is required to take into account and appreciate the

settled law that a bail shall not be withheld as a punishment.

- It has been enunciated time and again that deprivation of bail must be considered as a punishment and that every man is deemed to be innocent until duly tried and proven to be guilty,'' the Court said while granting bail.

Ujwal Ghai V. Delhi High Court Legal Services Committee

- **TOPIC :** Legal Internships Do Not Amount To Active Legal Practice
- **BENCH :** Justice Sanjeev Narula

- **FORUM:** Delhi High Court
- **MAIN ISSUE**
  - Whether legal internship will amount to active legal practice or not.
- **OBSERVATIONS**
  - The Delhi High Court has recently observed that legal internships undertaken as law students do not amount to ''active legal practice'' after being enrolled as an advocate.
  - ''Internships undertaken as part of legal education, though valuable in providing practical exposure, do not satisfy the professional experience requirement for practicing law,'' Justice Sanjeev Narula observed.
  - The Court made the observations while dismissing a plea by a lawyer, Ujwal Ghai, seeking inclusion of his name in the list of shortlisted candidates for an upcoming interview for empanelment of the ''Jail Visiting Panel''.
  - Ghai enrolled as an Advocate on August 13, 2021. In June, the Delhi High Court Legal Services Committee issued a notice inviting online applications for empanelment of Advocates and Mediators for different panels, and submitted an online application for empanelment in the ''Jail Visiting Panel''.
  - However, his name was not included in the shortlist of candidates published by DHCLSC on September 24.
  - Upon oral inquiries, he found that his application might have been rejected due to not meeting the minimum experience requirement of three years of legal practice as of May 31, the cut-off date.
  - Ghai submitted that he had actively interned during his law school with various lawyers over a substantial period of time and thus, his internship experience should be included for fulfillment of the eligibility criteria of 3 years which would make him eligible for participating in the interview process.
  - Justice Narula rejected Ghai's contention of equating the terms ''internship'' and ''apprenticeship'' which suggested that the internship experience gained before being formally enrolled as an Advocate should be treated as equivalent to an apprenticeship under legal terminology.
  - Observing that the interpretation overlooked a critical distinction, the Court said:
  - ''The period of ''internship'' as a student does not amount to the active legal practice contemplated under the eligibility criteria, and as such, cannot be counted towards the three-year experience required for empanelment.''
  - It noted that certain government bodies also engage services of law graduates as apprentices in their legal departments for a stipulated time, however, such opportunities are available for people who have graduated with a LLB degree.
  - ''Therefore, to equate a law student's internship with post-enrolment practice would blur the distinction between academic training and professional legal experience, thereby undermining the clear intent of the eligibility requirement. Hence, the Petitioner's practice must be calculated from the date of his enrolment with the Bar Council, not from any internship period during his legal studies,'' the Court said while dismissing the plea.

Bajaj Allianz General Insurance Co. Ltd v. Munni Kumari and Ors

- **TOPIC :** Jharkhand High Court Upholds ₹50.90 Lakh Compensation To Kin Of Deceased Lawyer
- **BENCH :** Justice Subhash Chand

- **FORUM:** Jharkhand High Court
- **MAIN ISSUE**
  - Regarding compensation to the kin of the deceased lawyer.
- **OBSERVATIONS**
  - The Jharkhand High Court recently dismissed an appeal filed by Bajaj Allianz General Insurance, challenging an award of ₹50,90,176 in compensation to the family of a deceased lawyer who was killed in a road accident, while reaffirming that non-compliance with permit regulations does not constitute a fundamental breach of an insurance policy.
  - Justice Subhash Chand presiding over the case observed, ‘‘The claim petition cannot be said to be fake reason being in this case the owner of the Tempo was also impleaded as party and the owner of the Tempo was very much aware that he had no route permit of the Tempo and the liability would ultimately be fixed upon the owner. Had there been any connivance of the owner of the driver with the claimants he would not at all have permitted the claimants to falsely implicate his Tempo in the alleged accident.’’
  - ‘‘In this case the learned Tribunal has held that the driver of the offending vehicle was also having the valid and effective driving licence and the insurance was also valid and effective on the date of accident; but the very offending Tempo was plied without permit. As such the ultimate liability would be of the owner and the Insurance Company has been directed to pay the compensation amount with the liberty to recover the same from the owner. The same can be done by the learned Tribunal because there was no fundamental breach of the terms and conditions of the insurance policy.’’
  - As per the factual matrix of the case, the deceased, a lawyer by profession, was fatally injured in an accident near the Bhowra Taxi stand when a rashly and negligently driven Tempo collided with him. He was transported to Jalan Hospital, where he succumbed to his injuries during treatment.
  - An FIR was lodged under Sections 279 and 304(A) of the IPC against the Tempo driver, citing rash and negligent driving as the cause of the accident.
  - At the time of his death, the deceased was 34 years old and left behind his wife, Munni Kumari (28 years old), two minor sons, Ankit Kumar (10 years old) and Anshu Kumar (8 years old), as well as his parents, Kapildeo Prasad and Amola Devi.
  - His income for the assessment years 2014-15, 2016-17, and 2017-18 was Rs. 1,85,050/-, Rs. 2,35,000/-, and Rs. 2,98,820/-, respectively.
  - The vehicle involved was owned by Md. Mosinuddin of Bhaga Bazar, District Dhanbad, Jharkhand, and insured with Bajaj Allianz General Insurance Co. Ltd. under policy number OG-18-2441-1803-00000935.
  - The compensation amount was to be paid accordingly.
  - The Motor Accident Claims Tribunal, after considering the submissions, awarded Rs. 50,90,176/- to the claimants and directed the insurance company to recover the amount from the vehicle's owner.
  - The insurance company, aggrieved by this award, has filed the present appeal.
  - The Court, in its Judgement, observed that prior to the 2019 Amendment, Section 158(6) and post-amendment Section 159 of the Motor Vehicles Act mandated that the investigating Police Officer must prepare an accident information report to aid the settlement of claims.
  - This report is to be completed within three months and submitted to both the Claims Tribunal and the Insurance Company.
  - The Court noted that, in the present case, there had been no compliance with Section 158(6) and Section 159 of the M.V. Act. The Court then addressed whether this noncompliance rendered the claim petition fraudulent.
  - The Court further noted that the FIR in this case was lodged 20 days after the accident, against unknown persons. During the investigation, two eyewitnesses came forward and testified, stating that the accident occurred in their presence due to

the rash and negligent driving of the offending Tempo.

- The Court stated that while the delay in lodging the FIR could raise some doubts regarding the veracity of the accident, it could not be considered fatal to the claim.
- The Court also noted that because the FIR was lodged against unknown persons, the Investigating Officer (I.O.) could not provide information to the Tribunal or the Insurance Company. However, during the investigation, the I.O. interrogated the two eyewitnesses and, based on both documentary and ocular evidence, filed a charge-sheet against the driver of the vehicle.
- This information was not communicated to the Tribunal or the Insurance Company.
- The Court observed that it is a settled principle that in motor accident claim petitions, the strict rules of the Evidence Act, CPC, or Criminal Procedure Code do not apply.
- Additionally, the standard of proving a case beyond a reasonable doubt, which is applicable in criminal cases, is not required in motor accident claim petitions, where the burden of proof is based on the preponderance of probabilities.
- The Court upheld the Tribunal's decision to direct the appellant Insurance Company to pay and recover the compensation, noting, ‘‘The learned Tribunal had directed the appellant Insurance Company to pay and recover the compensation on the ground that the said offending Tempo was driven without permit. Breach of the insurance policy which is one of the breach of condition of the policy but cannot be accepted as a fundamental breach of insurance policy. In view of the above, the direction of pay and recovery of the compensation amount is justified to meet the ends of justice by the learned Tribunal under the facts and circumstances as narrated hereinabove.’’
- Taking into account the eyewitness accounts, the FIR, charge-sheet, and postmortem report, the Court concluded that the fact of the accident was sufficiently proven. The Court dismissed the argument that the claim petition was fake, ruling in favor of the respondent.
- In dismissing the Miscellaneous Appeal, the Court concluded that the statutory amount of Rs. 25,000, if already paid, should be adjusted against the compensation to be recovered.