

### PRASHANT VERSUS STATE OF NCT OF DELHI

- ❖ **TOPIC :** Mere Breakup Of Relationship Between Consenting Couple Cannot Result In Criminal Proceedings
- ❖ **BENCH :** Justice B.V. Nagarathna and Justice N. Kotiswar Singh
- ❖ **FORUM:** Supreme Court
- ❖ **MAIN ISSUE**
  - Whether mere breakup of a relationship between consenting couples cannot result in criminal proceedings.
- ❖ **OBSERVATIONS**
  - Observing that the non-materialization of a consensual relationship into marriage cannot be given a criminal color, the Supreme Court has quashed a criminal case against the man accused of repeatedly raping a woman on the false pretext of marriage.
  - "A mere breakup of a relationship between a consenting couple cannot result in initiation of criminal proceedings. What was a consensual relationship between the parties at the initial stages cannot be given a colour of criminality when the said relationship does not fructify into a marital relationship.", the bench comprising Justice B.V. Nagarathna and Justice N. Kotiswar Singh said.
  - The complainant lodged an FIR in September 2019, alleging that the appellant had sexually exploited her under the false promise of marriage, forcibly engaging in sexual relations with her. She also stated that the appellant had threatened her to keep engaging in physical relations, otherwise, he would harm her family.
  - The appellant approached the Delhi High Court seeking to quash the FIR registered for alleged offences committed under Sections 376(2)(n) (repeated rape) and 506 (criminal intimidation) of the IPC.
    - The High Court dismissed the petition, stating that there was sufficient prima facie evidence to proceed with the case.
  - The Supreme Court found the complainant's allegations to be unbelievable. It noted that she continued meeting with the appellant even after the alleged forced sexual encounters, which indicated that the relationship was consensual. Also, the parties were educated adults.
  - There was no indication that the relationship commenced with a promise of marriage.
  - "A review of the FIR and the complainant's

statement under Section 164 CrPC discloses no indication that any promise of marriage was extended at the outset of their relationship in 2017. Therefore, even if the prosecution's case is accepted at its face value, it cannot be concluded that the complainant engaged in a sexual relationship with the appellant solely on account of any assurance of marriage from the appellant. The relationship between the parties was cordial and also consensual in nature.", the court observed.

- As demonstrated in the above analysis, the facts as they stand, which are not in dispute, indicate that the ingredients of the offence under Sections 376 (2)(n) or 506 IPC are not established in the instant case.
- The High Court erred in concluding that there was no consent on the part of the complainant and therefore she was a victim of sexual assault over a period of time and therefore, proceeded to dismiss the application under Section 482 CrPC on a completely misconceived basis. The facts of the present case are appropriate for the High Court to have exercised the power available under Section 482 CrPC to prevent abuse of the court's process by continuing the prosecution.", the court held.
- Accordingly, the appeal was allowed, and the pending FIR was quashed.

### Jyoti Bansal v State of Rajasthan and Anr.

- ❖ **TOPIC:** 'Serious Allegation' Supreme Court Denies Anticipatory Bail To Doctor Accused Of Illegal Kidney Transplants
- ❖ **BENCH :** Justices CT Ravikumar and Sanjay Karol
- ❖ **FORUM:** Supreme Court
- ❖ **MAIN ISSUE**
  - Regarding anticipatory bail to a doctor of the Fortis Hospital at Jaipur, who is accused of performing illegal kidney transplants in connection with an international racket.
- ❖ **OBSERVATIONS**
  - The Supreme Court has denied anticipatory bail to a doctor of the Fortis Hospital at Jaipur, who is accused of performing illegal kidney transplants in connection with an international racket.
  - Stating that this is a serious matter which needs to be investigated in accordance with the law, a bench of Justices CT Ravikumar and Sanjay Karol dismissed the Special Leave Petition.
  - The petitioner was denied anticipatory bail by Justice Ganesh Ram Meena of the Rajasthan High Court

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(Jaipur bench) under Section 438 of the Code of Criminal Procedure on August 30.

- On May 30, the Rajasthan High Court had dismissed the petition filed by the present petitioner and another doctor seeking the quashing of the case.
- As per the complaint, the administrations and doctors at the Fortis Hospital were part of the racket. It is alleged that they were committing fraud and collusion with the kidney donors and receivers, for financial gains, without any approval of the Authorization Committees, and also preparing forged NOCs after obtaining signatures on blank papers.
- A further collusion with the brokers who arranged the donors and receivers of the kidneys was also alleged.
- The petitioners were booked for offences under Sections 420, 419, 471, 120-B of IPC and Sections 18 and 19 of the Transplantation of Human Organs and Tissues Act, 1994.
- Hence, the High Court refused to exercise its inherent jurisdiction under Section 482 CrPC to quash the FIR and dismissed the plea.

### DR. RAJIV VERGHESE VERSUS ROSE CHAKKRAMMANKKIL FRANCIS

- ❖ **TOPIC:** During Divorce Proceedings, Wife Entitled To Enjoy Same Life Amenities She Was Enjoying In Matrimonial Home : Supreme Court
- ❖ **BENCH :** Justice Vikram Nath and Justice Prasanna B. Varale
- ❖ **FORUM:** Orissa High Court
- ❖ **MAIN ISSUE**
  - Whether in Divorce Proceedings, Wife Entitled To Enjoy Same Life Amenities as She Was Enjoying In Matrimonial Home or not.
- ❖ **OBSERVATIONS**
  - While awarding Rs.1.75 Lakhs as monthly interim maintenance to a wife during the divorce proceedings, the Supreme Court observed that the wife is entitled to the same standard of living during the divorce proceedings as what she enjoyed during the marriage.
  - "The appellant (wife) was accustomed to a certain standard of living in her matrimonial home and therefore, during the pendency of the divorce petition, is also entitled to enjoy the same amenities of life as she would have been entitled to in her matrimonial home.", the Court observed.
  - The bench comprising Justice Vikram Nath and Justice Prasanna B. Varale also noted that the wife was not working as she had sacrificed her employment after marriage. It restored the Family Court's order to the Husband to grant Rs. 1,75,000/- (Rupees One Lakh Seventy Five Thousand) monthly maintenance to the

wife during the divorce proceedings.

- The appellant/wife and respondent/husband married on September 15, 2008, as per Christian customs. The husband had a son from a previous marriage, and there were no children from the current marriage.
- The husband filed for divorce in 2019, citing incompatibility and cruelty. During divorce proceedings, the appellant/wife sought interim maintenance of ₹2,50,000 per month. She claimed the husband's significant income from medical practice, property rentals, and business ventures.
- The Family Court ordered the respondent (husband) to grant Rs. 1,75,000/- maintenance to the wife during the divorce proceedings.
- The High Court, however, reduced the maintenance amount to Rs. 80,000/-.
- Setting aside the High Court's decision, the Court observed that the High Court had not fully considered evidence about the husband's income and property holdings.
- The court laid emphasis on the wife's right to maintain her matrimonial standard of living during the divorce process. In other words, the maintenance awards must reflect the dependent spouse's accustomed lifestyle and the earning spouse's financial capability.
- Consequently, we allow the appeal of the appellant wife and set aside the order of the Madras High Court dated 01.12.2022 and restore the order of the Family Court.

### Sagari Hembram v. State of West Bengal & another

- ❖ **TOPIC :** S. 498A IPC, Second Wife Not Guilty Of Cruelty Merely Because Husband Married Her During Lifetime Of First Wife Calcutta High Court
- ❖ **BENCH :** Justice Shampa (Dutt) Paul
- ❖ **FORUM:** Calcutta High Court
- ❖ **MAIN ISSUE**
  - Whether a case can be quashed against a man's second wife, under various sections of the IPC including Section 498A (cruelty), Section 494, 406 and Section 506, as well as under Sections 3/4 of the Dowry Prohibition Act by his first wife.
- ❖ **OBSERVATIONS**
  - The Calcutta High Court has quashed a case against a man's second wife, under various sections of the IPC including Section 498A (cruelty), Section 494, 406 and Section 506, as well as under Sections 3/4 of the Dowry Prohibition Act by his first wife.
  - Justice Shampa (Dutt) Paul quashed the charges and held: "Offence alleged under Section 494 of IPC is applicable to the person who has married for

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the second time, during the lifetime of his spouse in a valid marriage. none of the offences alleged in the said complaint are applicable in respect of the petitioner who admittedly is not the relative of the husband of the complainant."

- "The prima facie allegation against the petitioner is that she is the second wife of the husband of the complainant. The said conduct of second marriage is prima facie applicable in respect of the husband of the complainant and the ingredients of the offences alleged are prima facie not applicable in respect of the petitioner herein," she added.
- The present petition was filed to quash the proceedings against the petitioner who claimed that the petitioner that the opposite party No. 2 has initiated the present proceedings in a vexatious manner.
- Court noted that none of the offences alleged in the said complaint are applicable in respect of the petitioner who admittedly is not the relative of the husband of the complainant. The prima facie allegation against the petitioner is that she is the second wife of the husband of the complainant.
- It stated that Section 494 of the Indian Penal Code is applicable to the person who has married for the second time, during the lifetime of his spouse in a valid marriage, and not to the petitioner in this case.
- As such, it held that the proceedings against the present petitioner are bad in law and permitting such a proceeding to continue would be a clear abuse of the process of law. Thus it quashed the proceedings.

### X v. State of Kerala

- ❖ **TOPIC:** Religious/Customary Marriage Has 'Colour Of Legal Marriage', Woman Can Seek Protection Against Cruelty U/S 498A IPC: Kerala High Court
- ❖ **BENCH :** Justice Sophy Thomas
- ❖ **FORUM:** Kerala High Court
- ❖ **MAIN ISSUE**
  - Regarding cruelty u/s 498a of IPC
- ❖ **OBSERVATIONS**
  - The Kerala High Court has held that a woman can seek protection against matrimonial cruelty under Section 498A of the Indian Penal Code when there is either "religious or customary" marriage between the parties which has the "colour of legal marriage", even if such marriage was later found to be invalid under law.
  - In the facts of the case, the husband and in-laws, accused of committing cruelty upon a purportedly

18-year-old girl, had challenged their conviction, stating that there was no legal marriage between the parties and only a registration agreement, since the girl was allegedly a minor.

- Justice Sophy Thomas in its order observed that although there was no registration of marriage under Secular law, the Nikah of the girl who was originally Hindu was conducted with the first accused after she converted to Islam.
- The Court thus stated that marriage of minor girl on attaining puberty was considered as a valid marriage under the Muslim Personal Law and thus offence of cruelty would be attracted against her husband and in-laws.
- "Here, there is nothing to show that...was a minor at the time of 'Nikah'. If at all she was a minor, she had attained puberty, and so, that marriage was valid under Mohammedan Law. That marriage was never called in question under the Child Marriage Act or any other special enactment inviting penal provisions. There was clear admission from the accused that...was the wife of the 1st accused.
- Their 'Nikah' was conducted at the house of Mr.Pocker as deposed by PW16, and that marriage is still recognised under Muslim personal law. It was not a case of 'no marriage' and only 'live-in-relationship'," the court noted.
- The wife of first accused committed suicide by consuming poison in June 2002 at Wayanad district allegedly due to matrimonial cruelty and dowry harassment by her husband and in-laws. The prosecution said that the deceased was a Hindu girl who converted to Islam for marrying the first accused.
- Their marriage was conducted after she became pregnant and had to undergo abortion, following the intervention of religious leaders of both communities. It was alleged that after marriage, her husband and in-laws mistreated her, mentally and physically harassed her which drove her to commit suicide.
- The Trial Court sentenced and convicted the accused persons (husband, in-laws) for three years imprisonment and fine under Section 498A read with Section 34 of IPC. Aggrieved by the conviction, the accused approached the high court in appeal.
- The Counsel for the accused argued that there were no specific incidents of cruelty to attract an offence of cruelty or harassment. It was stated that there was only a marriage agreement and no legal marriage between the accused and the girl since she was a minor.

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- It was thus argued that even if Mohammedan Law permits a minor Muslim girl to marry on attaining puberty, under secular law, marriage of a minor girl was invalid as per the Prohibition of Child Marriage Act, 2006 and that no conviction can be sustained under IPC Section 498A without a valid marital relationship.
- On the other hand, the Public Prosecutor submitted statement of witnesses and evidences to prove specific allegations of wilful conduct from the part of accused which led to her suicide. The Public Prosecutor further stated that as per the Mohammedan law, a girl on attaining puberty can enter into a marriage contract.
- The Court found that the girl, who was a Hindu, underwent religious teachings and converted to Islam for her marriage to the first accused. The Court noted that Nikah was conducted and the mother of the first accused gave the girl a gold necklace as 'Mahar' (usually money given to the bride) and that she stayed with them in their house.
- The Court stated that there was no evidence proving that the girl was minor when Nikah was conducted and noted that she might have attained the age of majority by that time. Additionally, the Court stated that there was no dispute that Nikah was conducted between the first accused and the girl.
- The Court stated that woman could seek protection under Section 498A of the IPC if there was a religious or customary marriage between the parties which has the colour of legal marriage, even if it was later found to be invalid as per law.
- The Court thus concluded that even if the girl was minor, her Nikah on attaining puberty was valid marriage under the Mohammedan law. "If at all she was a minor, under Muslim Law, a minor girl can contract marriage after attaining puberty. Under Mohammedan Law, still that marriage is recognised as valid", Court said.
- It further stated offences pertaining to marriage, such as matrimonial cruelty and dowry harassment which carry penal consequences under special statutes like the Dowry Prohibition Act would take precedence even if the validity of the marriage performed under the customary or personal law was questioned.
- As such, the Court stated that the accused are liable for conviction under Section 498A read with Section 34 of the IPC.



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