

Laxmi Das v State of West Bengal and ors

- **TOPIC :** Asking Son's Lover To End Life If She Can't Live Without Him Not Abetment Of Suicide : Supreme Court Quashes Case Against Mother
- ❖ **BENCH:** Justice BV Nagarathna and Justice SC Sharma
- ❖ **FORUM:** Supreme Court
- ❖ **MAIN ISSUE**
 - Whether a criminal case can be quashed or not for the offence of abetment to suicide against a woman for asking her son's lover to end her life if she could not live without him.
- ❖ **FACTS**
 - The case arising out of the Calcutta High Court's decision refusing to quash the FIR under Sections 306 r/w 107 of the Indian Penal Code, 1860 against the Appellant.
- ❖ **OBSERVATION**
 - The Supreme Court quashed a criminal case for the offence of abetment to suicide against a woman for asking her son's lover to end her life if she could not live without him.
 - Setting aside the High Court's decision to the extent that the charges against the Appellant herein were upheld by the High Court, the Court observed that the acts of the Appellant refusing his son's marriage with the deceased, and thereupon asking to end her life if she was not able to live without him are too remote and indirect to constitute the offence under Section 306 IPC.
 - The Court explained that when Section 306 IPC is read with Section 107 IPC, it is clear that there must be (i) direct or indirect instigation; (ii) in close proximity to the commission of suicide; along with (iii) clear mens rea to abet the commission of suicide.
- ❖ **IMPORTANT PROVISION DISCUSSED**
 - Section 306 IPC (Abetment to Suicide)

Dalip Kumar @ Dalli v. State of Uttarakhand

- ❖ **TOPIC :** NDPS Act | Accused Not Present At Crime Scene Should Be Held Equally Accountable Without Leniency: Punjab & Haryana High Court
- ❖ **BENCH:** Justices Hrishikesh Roy and S.V.N. Bhatti
- ❖ **FORUM:** Supreme Court
- ❖ **MAIN ISSUE**
 - Regarding accused persons who are not present at the crime scene.
- ❖ **FACTS**
 - The regular bail plea of an accused booked in a drugs case under Sections 15(c)(Punishment for contravention in relation to poppy straw), 29(Punishment for abetment and criminal conspiracy) of NDPS Act.
 - petitioner argued that he has been nominated as an accused in the present case on the basis of disclosure statement suffered by his co-accused namely Sandhura Singh, who has disclosed that out of the total contraband 100 kg of Poppy Husk was to be supplied to the present petitioner and apart from that there is no other incriminating material against the petitioner to connect him in the commissioning of offence.
- ❖ **OBSERVATION**
 - The Punjab & Haryana High Court has said that accused persons who are not present at the crime scene should be held equally accountable and should not be afforded any leniency under Narcotic Drugs and Psychotropic Substances Act (NDPS Act).
 - The Court highlighted that there is a frequent practise to implicate individuals who are not present at the crime scene and this defence of "false implication" is often misused by the masterminds of drug trafficking.
 - Justice Sandeep Moudgil said, "an additional aspect that must be considered by this court is the frequent practice where individuals implicated under Section 29 of the NDPS Act assert that they were neither present at the scene nor had any contraband in their conscious possession."
 - The Court further said that taking advantage of this defence, many such accused persons

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are granted bail.

- These observations were made while hearing the regular bail plea of an accused booked in a drugs case under Sections 15(c)(Punishment for contravention in relation to poppy straw), 29(Punishment for abetment and criminal conspiracy) of NDPS Act.
- After examining the submissions the Court noted under Section 29 of the NDPS Act, individuals can be prosecuted if they are found to be buyers of contraband, especially in the context of conspiracy or abetment related to drug offenses.
- In the present case, the Court noted that the evidence presented in relevant documents and the First Information Report indicates that the petitioner was involved as a buyer in a conspiracy, which could invoke the provisions of Section 29 of the NDPS Act.
- It also took note of the petitioner's criminal history, marked by involvement in one another similar case, and opined that it "raises serious concerns about the likelihood of reoffending."
- Stating that whether trafficking in small or intermediate quantities, must be met with unwavering resolve and stringent action and the intent of the legislature and the sanctity of the rule of law must be upheld at all costs, and cannot be allowed to be undermined, regardless of the quantity involved, the Court dismissed the plea.

❖ **IMPORTANT PROVISION DISCUSSED**

- Section 29 (NDPS Act) Punishment for abetment and criminal conspiracy

M/s. Unique Builders Vs The Union of India

- ❖ **TOPIC :** Award Passed After Inordinate And Unexplained Delay Can Be Set Aside U/S 34 Of Arbitration Act: Madras High Court
- ❖ **BENCH:** Justice P.B. Balaji
- ❖ **FORUM:** Madras High Court
- ❖ **MAIN ISSUE**
 - Whether inordinate and unexplained delay in passing the arbitral award can be a ground or not to set it aside under section 34 of the Arbitration Act.
- ❖ **FACTS**
 - The present petition has been filed under section 34 of the Arbitration Act against an

award passed by the Arbitrator on September 30, 2019.

- The petitioner submitted that delay in passing the arbitral award can be a ground to set it aside even without going into the merits of the case.
- It was further contended that the award had not been passed even after a lapse of significant time from the date of the conclusion of arguments.
- The award was passed in haste when an application under sections 14 and 15 of the Arbitration Act was moved seeking termination of the mandate of the tribunal and while passing the award no reasons were provided.
- It was further argued that the Arbitrator had duly considered the evidence and reached logical conclusions which cannot be interfered with under section 34 of the Arbitration Act unless grounds under this section are established.

❖ **OBSERVATION**

- The Madras High Court bench of Justice P.B. Balaji has held that inordinate and unexplained delay in passing the arbitral award can be a ground to set it aside under section 34 of the Arbitration Act.
- While applying the above law to the facts of the present case, the court noted that the Arbitrator failed to publish the award for over a year from the date on which arguments were concluded.
- This Original Petition is allowed
- Furthermore, the arbitrator is mandated to send signed copies of the award to each party to an arbitration agreement under section 31(5) of the Arbitration Act but in this case, the copy was served on the counsel of the petitioner and the petitioner got his copy only after 10 days from the date of passing the award. This indicates a serious irregularity being committed by the Arbitrator.
- The court concluded that "I am constrained to set aside the award on the only ground that there has been an inordinate and unexplained delay in passing the award. This Original Petition is allowed."
- ❖ **IMPORTANT PROVISIONS DISCUSSED**
 - Section 34 Arbitration Act (Application for setting aside arbitral awards)

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**Anup Ghosh @ Anup Kumar Ghose & Ors. v.
State of Orissa**

- ❖ **TOPIC :** S. 205 CrPC | No Strict Bar For Dispensation Of Personal Attendance Of Accused In Cases Under SC/ST Act: Orissa High Court
- ❖ **BENCH:** Justice Aditya Kumar Mohapatra
- ❖ **FORUM:** Orissa High Court
- ❖ **MAIN ISSUE**
 - Regarding dispensation of personal attendance of accused under Section 205 of the CrPC in cases involving offences under the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act.
- ❖ **FACTS**
 - The appellants, working as the employees of TP Northern Odisha Distribution Ltd. (TPNODL), were accused of committing offences under the SC & ST (PoA) Act.
 - They had filed an application under Section 205, CrPC seeking dispensation of personal attendance in Court as they being public servants of an electricity distribution company, their presence in workplace was necessary in public interest.
 - However, the Special Judge (SC & ST), Balasore did not find merit in such application for which she rejected the prayer. Being aggrieved, they brought the matter to the High Court in appeal under Section 14-A of the SC & ST (PoA) Act.
- ❖ **OBSERVATION**
 - The Orissa High Court has recently clarified that there is no strict statutory embargo barring dispensation of personal attendance of accused under Section 205 of the CrPC in cases involving offences under the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act.

- While setting aside a trial Court order disallowing application of the appellants seeking dispensation of personal appearance.
- Accordingly, the impugned order was held to be unsustainable in the eyes of law.
- After perusing the impugned order, the Court prima facie held it to be too harsh and not in conformity with law.
- It further held that the power conferred under Section 205 Cr.P.C. is a discretionary power whereunder the trial Court can exempt the personal appearance of the accused persons in appropriate cases.
- Further, it observed that the appellants being employees of a public utility company involved in the distribution of electricity to the public, their repeated appearance in Court would cause wastage of time, which is likely to affect the electricity distribution work thereby causing inconvenience to the public living in the locality.
- ❖ **IMPORTANT PROVISIONS DISCUSSED**
 - Section 205 Crpc (Magistrate may dispense with personal attendance of accused)

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