

**Mr. Dhiraj Guin v. Mrs. Tanusree Majumder**

- ❖ **TOPIC :** Wife Imposing Her Friends & Family At Husband's Residence Against His Will Amount To Cruelty : Calcutta High court
- ❖ **BENCH :** Justices Sabyasachi Bhattacharya and Uday Kumar
- ❖ **FORUM:** Calcutta High Court
- ❖ **MAIN ISSUE**
  - Whether a wife imposing her friends and family on her husband by having them put up at his residence without his willingness will amount to cruelty or not.
- ❖ **OBSERVATIONS**
  - The Calcutta High Court has held that a wife imposing her friends and family on her husband by having them put up at his residence without his willingness would amount to cruelty.
  - A division bench of Justices Sabyasachi Bhattacharya and Uday Kumar held:
  - The mother of the respondent (wife) would not have lived at the Kolaghat residence of the appellant (husband) if he extorted her pension or the respondent's earned money. In any event, the continued presence of Mousumi Paul (friend) and others of her family at the residence of the husband despite his objection and discomfort on such count is borne out by the records.
  - The appellant-husband preferred the present appeal against a judgment and decree dismissing his suit for divorce, which was instituted on the ground of cruelty.
  - The parties married under the Special Marriage Act in 2005 at Nabadwip in their matrimonial home and thereafter shifted to Kolaghat at Mecheda, where the husband has quarters by dint of his service.
  - In 2008, the appellant-husband instituted the divorce suit and later the wife sent a complaint against the husband and his family by registered post to the Nabadwip Police Station.
  - A criminal proceeding was accordingly initiated under Section 498A of the Indian Penal Code.
  - Counsel for the appellant-husband submits that throughout the period of the parties' stay together, one Mousumi Paul, a friend of the wife, was imposed on him and used to reside for a substantial period with the husband and wife. The mother of the respondent-wife also used to stay with the spouses.

- It is contended that the wife, instead of spending time with the husband, used to devote most of her family time to Mousumi Paul, which itself constitutes an act of cruelty.
- Counsel for the appellant further contends that during the period of living together, the respondent-wife did not lodge any complaint before any forum but only after receiving the summons of the suit, lodged a false complaint against the appellant and his family, thereby harassing and maligning them without any basis.
- It was stated that the wife was not interested in a conjugal relationship and/or in having a child of the marriage.
- All of these, according to the husband, cumulatively consist of cruelty, furnishing sufficient ground for divorce. The desertion of the husband by the wife without reasonable excuse and her refusal to return and resume conjugal life also constitutes cruelty, it is contended.
- Counsel for the respondent argued that there is no pleading in the plaint by the appellant-husband about any cruelty caused by false complaint lodged by the wife.
- All of these, according to the husband, cumulatively consist of cruelty, furnishing sufficient ground for divorce. The desertion of the husband by the wife without reasonable excuse and her refusal to return and resume conjugal life also constitutes cruelty, it is contended.
- Counsel for the respondent argued that there is no pleading in the plaint by the appellant-husband about any cruelty caused by false complaint lodged by the wife.
- Thus, the evidence on such scores cannot be looked into. As an immediate prelude to the lodging of the complaint on October 27, 2008, the wife faced atrocities from her matrimonial family when she went to Nabadwip to take back her goods and stay there.
- It is submitted that the appellant-husband never made any endeavour to come and live with the wife at her official residence in Narkeldanga.
- It is contended that the wife had to travel daily from far-off Kolaghat to her workplace in Sealdah before she got her official quarters at Narkeldanga. It was far more convenient for the wife to travel between Narkeldanga and Sealdah than from Kolaghat and as such, she shifted to Narkeldanga. It is argued that the prerogative was on the husband to come and stay with the wife at Narkeldanga, which he chose not to do.

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- It is submitted that there is nothing on record to show that the husband was forcibly turned out by the wife from her Narkeldanga residence. Accordingly, it is submitted that the appellant-husband having failed to prove his case of cruelty, the divorce suit was rightly dismissed by the Trial Judge.
- Upon adjudicating the case, the bench expressed various objections on the order passed by the trial judge.
- It was seen that the trial judge had substituted his own views on marriage and morality on the case instead of considering the couple's case as a unique one.
- Such findings are not based on any material evidence and may be the Judge's own convictions, but, as discussed above, the Supreme Court has been categorically holding that ideal couples would not come to the matrimonial court; it is the situation of the particular man and woman before the court which is to be considered and not Utopian notions of a perfect matrimonial life or vague "ideals" of Society, the Court said.
- Accordingly, it allowed the appeal and granted the decree of divorce.

### Mithilesh Chauhan V. The State of Jharkhand and Sunil Chaubey v/s The State of Jharkhand

- ❖ **TOPIC :** Sole Witness's Testimony can Form Basis of Conviction And Sentence if it is Wholly Reliable : Jharkhand High court Reaffirms
- ❖ **BENCH :** Justice Ananda Sen and Justice Gautam Kumar Choudhary
- ❖ **FORUM:** Jharkhand High Court
- ❖ **MAIN ISSUE**
  - Regarding a conviction and sentence on the testimony of a solitary witness.
- ❖ **OBSERVATIONS**
  - In a recent judgement, the Jharkhand High Court has reiterated that a conviction and sentence can be based on the testimony of a solitary witness if it inspires confidence and is wholly reliable.
  - Finding weight in the argument advanced on behalf of the appellants, the division bench of Justice Ananda Sen and Justice Gautam Kumar Choudhary observed, "I find weight in the argument advanced on behalf of the appellants that this is a case where the judgment of conviction and sentence cannot be returned on the basis of uncorroborated testimony of the informant (P.W. 2).

- Law is settled that in a case where the testimony of the solitary witness inspires confidence and it is wholly reliable, it can be the basis for passing a judgment of conviction and sentence".
- The informant—daughter of the deceased—had claimed that her mother was deserted by her father and had then gone on to live with another man who kept her as his wife. To prevent conception, she underwent an operation. After the informant's father died, the man continued to support the deceased.
- One day, after having food and drinks together, the appellants, sent by Raghuvir Singh, took the victim 50 yards from the house, where they committed rape and murder.
- Subsequently, an FIR was registered under Sections 302(Punishment for murder), 376 (Punishment for Rape) 201 (Causing disappearance of evidence of offence, or giving false information to screen offender), and 34 (Acts done by several persons in furtherance of common intention)
- Indian Penal Code against the eight accused, after which the trial court convicted them. Thereafter, an appeal was filed challenging the conviction.
- It was argued by the counsel on behalf of appellants that this was a unique case where neither post-mortem examination report was brought on record to prove the homicidal death of the deceased, nor medico legal examination report was proved to prove the charge of rape.
- To cap it all, there was more than one month's delay in lodging the FIR without any explanation for it. It was further contended that the prosecution case rested on the testimony of the informant whose account was riddled with contradictions.
- The High Court, in its judgment, noted a delay of more than 30 days in lodging the FIR, which was "unexplained". "It is said that the informant had been threatened for not lodging the case, but how after one month the said threat disappeared, is not clear," the court noted.
- The court further noted several discrepancies in the daughter's fard beyan.
- Considering these conflicting and contradictory statements, the Court opined that "her solitary account cannot be relied upon without any other corroboration."
- Accordingly, the Court set aside the judgment of conviction and the order of sentence.

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### Chadalavada Pallavi v. The State of Andhra Pradesh and Ors

- ❖ **TOPIC:** “She is a major, Family can’t Restrain Her” : Andhra Pradesh HC Allows Women To Live With Same – Sex Partner
- ❖ **BENCH :** Justice R. Raghunandan Rao and Justice Maheshwara Kuncheam
- ❖ **FORUM:** Andhra Pradesh High Court
- ❖ **MAIN ISSUE**
  - Regarding a habeas corpus petition wherein a woman had claimed that her female partner had been detained by her parents.
- ❖ **OBSERVATIONS**
  - While hearing a habeas corpus petition wherein a woman had claimed that her female partner had been detained by her parents, the Andhra Pradesh High Court while upholding the right of women to cohabit together said that the detainee was major and her family cannot restrain her from taking her own life decisions.
  - The division bench of Justice R. Raghunandan Rao and Justice Maheshwara Kuncheam in its order said, “In view of the fact that the detainee is a major and is free to make her own decisions about her life, neither the parents nor the other family members can restrain her from taking a decision in regard to her life. In the circumstances, this writ petition is allowed and it would be open to the detainee to go with the petitioner or take any such decision as she wishes.”
  - The petitioner had approached the High Court contending that her partner was forcibly taken away by her family members and some other persons after the alleged detainee had filed a complaint against her parents. The petitioner claimed that her partner was not given the liberty to decide for herself as to who she wanted to stay with and that her parents were forcibly keeping her from joining the petitioner.
  - On December 9 the high court had directed the production of the detainee. When the matter was taken up December 17 the high court after interacting with the detainee in chambers in its order said, "The detainee has categorically stated that she wishes to go with the petitioner and that she has no desire to prosecute any criminal case and complaint against her parents or any member of her family.
  - She has also made it clear that she does not wish to press the complaint, which she has filed on

30.09.2024 before the Commissioner of Police, Vijayawada".

- The bench while allowing the plea directed the concerned SHO to escort the detainee "safely" to the petitioner's house.
- "Needless to say no criminal action shall be taken against the parents of the detainee or the family members of the detainee in relation to any action that is alleged against them in relation to this case, till today," the court added.

### JASDEEP SINGH & ANR v. STATE & ANR

- ❖ **TOPIC :** Whether A word or sentence would outrage women’s Modesty would Depend on Her
- ❖ **BENCH :** Justice Subramonium Prasad
- ❖ **FORUM:** Delhi High Court
- ❖ **MAIN ISSUE**
  - Regarding a word or sentence outrages a woman's modesty
- ❖ **OBSERVATIONS**
  - The Delhi High Court has recently ruled that whether a word or sentence outrages a woman's modesty would depend on the background from which she has and the circumstances surrounding her.
  - “Modesty is an attribute associated with female human beings as a class and whether a particular sentence or word would outrage the modesty of the woman would depend upon the background from which the Complainant hails, And the circumstances surrounding the Complainant,” Justice Subramonium Prasad said.
  - The Court observed that whether the particular word or gesture would or would not outrage the modesty of a lady will depend upon trial.
  - Justice Prasad made the observations while refusing to quash an FIR registered by a woman judge against two individuals alleging that they abused and threatened her, thus outraging her modesty.
  - The FIR was registered on the basis of a complaint made by a judicial officer working in Uttar Pradesh. She alleged that the accused came out of their car and started abusing her after she honked the horn of her car as she was unable to take a U turn.
  - She alleged that the accused hurled abuses at her, threatened her and indicated that she would slap her. It was also alleged that the second person who

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came out of the car threatened her that he would slap her had it not been a public place.

- The FIR also alleged that the second person started abusing her in the Punjabi language, which was also sufficient to outrage her modesty.
- Although the accused persons tendered their unconditional apology, the judge appeared before the court through video-conferencing and refused to accept the same. She said that the accused must face trial for their conduct.
- “Since Respondent No.2 has refused to accept the unconditional apology given by the Petitioners, this Court has no other option but to proceed ahead to consider as to whether the FIR can be quashed at this juncture or not and whether the words uttered by the Petitioners or alleged to have been uttered by the Petitioners have the capability of outraging the modesty of the Complainant would be a matter of trial,” the Court said.
- It added that it cannot be said that the words uttered by the accused persons cannot, at any circumstance, affect the modesty of the complainant judge.
- “The ingredients of Section 509 and 506 IPC is therefore made out in the present case and in view of the fact that Respondent No.2 has refused to accept the unconditional apology, this Court has no other option but to dismiss the present petition under Section 482 CrPC for quashing the FIR,” the Court said.

### Shivansh Singh v. Union Of India And 3 Others

- ❖ **TOPIC:** Medical Examination in Recruitment Process By Medical Board Not To Be Normally Interfered with : Allahabad High Court
- ❖ **BENCH :** Justice Vivek Kumar Birla and Dr. Justice Yogendra Kumar Srivastava
- ❖ **FORUM:** Allahabad High Court
- ❖ **MAIN ISSUE**
  - Regarding medical evaluation carried out by experts
- ❖ **OBSERVATIONS**
  - Recently, the Allahabad High Court, relying on its earlier decisions, has held that medical evaluation carried out by experts should not be interfered with in writ jurisdiction solely on the basis of the subsequent reports brought forth by the parties.
  - The bench Justice Vivek Kumar Birla and Dr. Justice Yogendra Kumar Srivastava held that

“where recruitment process has been carried out as per the prescribed procedure whereunder the medical fitness of candidates has been tested by a duly constituted Medical Board, the report of the Medical Board is not to be normally interfered with, and that too, solely on the basis of a claim sought to be set up by the appellant- petitioner on the basis of some subsequent report procured by him from another medical practitioner.”

- Petitioner-appellant applied for the post of Agni Veer (General Duty) in the Indian Army. After the written and physical examination, petitioner was declared unfit in the medical examination on grounds that he is suffering from the disability of Onychomycosis Specified right index finger.
- Military Hospital, Prayagraj also declared him unfit. Subsequently, Head of Department and Assistant Professor, PG Department of Dermatology, Venereology & Laprosy, Moti Lal Nehru Medical College, Prayagraj issued a certificate to the petitioner stating that his disease is non-communicable and curable.
- Based on the report of the Head of Department, MLNMC, the petitioner approached the High Court seeking constitution of a medical board.
- In the affidavit filed by the Respondents and the instructions of the State, it was stated that after being examined by the disability specialist at the Military Hospital, petitioner was declared unfit. Based on this, the Single Judge held that no interference was required with the expert opinion.
- Appellant-petitioner challenged this order of the Single Judge in intra-court appeal.
- The division bench headed by Justice Birla relied on Md. Arshad Khan General (Male) Category, (Roll No.00186474), Registration No.10209488956 vs. State of UP and others where the Allahabad High Court had held that exercise of powers under Article 226 of the Constitution in cases where opinion of medical experts is under question is very limited.
- “Matters relating to the medical evaluation of candidates in a recruitment process involve expert determination and the Court should exercise caution in supplanting the process adopted by the recruiting agency and substituting it by a Court mandated further medical evaluation,” held the Court in Md. Arshad Khan General.
- Further reliance was placed on Vivek Kumar S/o Mool Chandra vs. State of UP & Others where the Allahabad High Court had held that taking a different view from the procedure prescribed for

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medical evaluation in relevant recruitment rules may have the effect of “derailing the recruitment process.”

- Observing that the petitioner had not challenged the reports as being arbitrary or being against the procedure prescribed, the Court held that subsequent medical opinion sought by the petition-appellant could not override the opinion of the medical board established in accordance with recruitment rules.
- Accordingly, the special appeal was dismissed.

### Amutha v. A.R. Subramanian

- ❖ **TOPIC** : Wife’s Financial Independence No Bar To Grant Alimony If It’s Necessary To Secure Dignity & Social Standing Post – Divorce : Supreme Court
- ❖ **BENCH** : Justice Vikram Nath and Justice PB Varale
- ❖ **FORUM**: Supreme Court
- ❖ **MAIN ISSUE**
  - Regarding granting of maintenance
- ❖ **OBSERVATIONS**
  - The Supreme Court observed that maintenance can be granted despite the financial independence of a party if it is necessary to secure dignity, social standing, and financial stability post- divorce, especially in cases where the marriage has subsisted for a long period.
  - A bench comprising Justice Vikram Nath and Justice PB Varale made with observation while granting Rs 50 lakhs as permanent alimony to a wife while dismissing her appeal challenging the decree of divorce.
  - The Court noted that both parties were software engineers who were earning quite well at the time of their marriage two years ago. However, considering the dynamics of their separation and the financial burdens the appellant(wife) may have borne during the protracted litigation, the Court thought it fit to award the sum "to secure her financial independence and ensure that she can lead her life with dignity."

- "The financial independence of a party does not preclude the High Court from granting maintenance if it is necessary to secure dignity, social standing, and financial stability post-divorce, especially in cases where the marriage has subsisted for a long period."
- Reference was made to the recent judgment in Kiran Jyot Maini vs Anish Pramod Patel which held that "the concept of maintenance and alimony encompasses a right to sustenance that allows the spouse to live in a manner suited to her status and standard of living, and the aim is not to penalise the husband."
- The Court also reiterated that the factors to be considered while awarding maintenance or alimony include the duration of the marriage, The earning capacities of the parties, their age and health, their standard of living, and their financial and non-financial contributions to the marriage(referred Rajnesh v. Neha). In this case, the Court noted that the wife has spent substantial time during the pendency of the litigation without the emotional or financial support of the respondent. Moreover, granting a lump sum as permanent alimony ensures finality and reduces the scope for future litigation between the parties.
- "While the appellant is presumably capable of earning, she has undoubtedly faced financial and emotional setbacks due to the prolonged litigation and separation," the Court said. It also took into account the welfare of their daughter as well.

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