

29 January 2025

Ivan Rathinam v. Milan Joseph

- ❖ **TOPIC :** Presumption That Husband Is Father Of Child Born During Marriage Not Displaced Even If Wife Had Relations With Another Man : Supreme Court
- ❖ **BENCH:** Justices Surya Kant and Ujjal Bhuyan
- ❖ **FORUM:** Supreme Court
- ❖ **MAIN ISSUE**
 - Regarding a child born during a valid marriage.
- ❖ **FACTS**
 - A case where the Respondent and his mother claimed the Appellant to be his biological father, despite the Respondent being born during his mother's marriage to another person (RK).
 - The Respondent filed a civil suit seeking a paternity declaration, but it was dismissed, upholding the presumption of legitimacy under Section 112 of the Indian Evidence Act, 1872, in favor of RK.
 - Despite a concurrent finding by multiple courts upholding the presumption of legitimacy under Section 112, the family court revived the Section 125 Cr.P.C. maintenance plea filed by the Respondent against the Appellant which was halted earlier.
 - Following the High Court's approval of the revival of the Section 125 Cr.P.C. maintenance plea against him, the Appellant appealed to the Supreme Court.
- ❖ **OBSERVATIONS**
 - The Supreme Court reaffirmed that a child's legitimacy determines paternity, emphasizing that a child born during a valid marriage is presumed to be the legitimate offspring of parents who had access to each other at the time of conception.
 - The Court dismissed the argument that legitimacy and paternity are distinct concepts requiring separate determination. It held that legitimacy and paternity are inherently intertwined, as the legitimacy of a child directly establishes paternity.
 - The Court clarified that if it is proven that the married couple had access to each other at the time of the child's conception, the child is deemed legitimate, thereby establishing the paternity of the couple.
 - In our considered opinion, the challenge raised before the High Court that 'paternity' and 'legitimacy' are distinct or independent concepts is a misdirected notion and is liable to be rejected.

- The High Court's view that 'paternity' can be determined independent of the concurrent findings regarding the legitimacy of the child thus, cannot be sustained.', the Court held.
- Accordingly, the appeal was allowed.
- ❖ **IMPORTANT PROVISION DISCUSSED**
 - Section 112 of the Indian Evidence Act, 1872 establishes that a child born during a valid marriage or within 280 days after the marriage ends is the legitimate child of the husband. Section 112 protects the legitimacy of children born during a valid marriage.

Chandrabhan Sudam Sanap v. The State of Maharashtra

- ❖ **TOPIC :** 'Gaping Holes In Prosecution' : Supreme Court Acquits Man Who Was Sentenced To Death for Rape & Murder
- ❖ **BENCH:** Justices B.R. Gavai, Prashant Kumar Mishra and K.V. Viswanathan
- ❖ **FORUM:** Supreme Court
- ❖ **MAIN ISSUE**
 - Whether the judgment of the Bombay High Court which upheld the conviction and the death sentence awarded to the Appellant by the Trial Court for the rape and murder of a 23 years old woman which took place in 2014 can be set aside or not.
- ❖ **FACTS**
 - The dead body of the young woman, who was travelling to Mumbai where she was working, was found burnt and decomposed.
 - After registration of the First Information Report, the chemical analysis report stated death due to head injury with smothering associated with genital injuries as the final cause of death.
 - It was further clarified that injuries to the genitals are possible by forcible entry of some article in the vagina (since the defence had raised the issue that no semen was found).
 - By an order dated December 20, 2018, the High Court upheld the death sentence award for the offence of murder and the respective sentences awarded for various offences including kidnapping or abducting to murder.
 - The Appellant was directed to pay a compensation of Rs.50,000 to the deceased's parents.
 - The High Court also stated that the accused had consumed alcohol and was seen loitering on the railway platform and that the deceased had accompanied the accused while leaving the railway station as per the CCTV footage.

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❖ **OBSERVATIONS**

- The Supreme Court set aside the judgment of the Bombay High Court which upheld the conviction and the death sentence awarded to the Appellant by the Trial Court for the rape and murder of a 23 years old woman which took place in 2014.
- The Court acquitted the Appellant of all charges on the ground that when the prosecution is relying on circumstantial evidence to draw home the guilty, it must be proved beyond a reasonable doubt; which is a cardinal principle of criminal law as held in *Sharad Birdhichand Sarda vs State of Maharashtra* (1984). In this case, the prosecution failed to do so.
- A bench of Justices B.R. Gavai, Prashant Kumar Mishra and K.V. Viswanathan held that the facts cumulatively lead to the conclusion that there are "gaping holes" in the prosecution's story.

Thirumaran v. The Inspector of Police and Another

❖ **TOPIC :** Ventilating That A Particular Religion Is Treated In A Particular Manner Doesn't Promote Hatred Between Classes U/S 505(2) IPC: Madras HC

❖ **BENCH:** Justice Anand Venkatesh

❖ **FORUM:** Madras High Court

❖ **MAIN ISSUE**

- Whether merely ventilating about the manner in which a particular religion is treated would constitute an offence under Section 505 of the IPC or not.

❖ **FACTS**

- A petition filed by Thirumaran to quash the proceedings initiated against him based on a complaint by one V Balakrishnan.
- The case against Thirumaran was that while giving a YouTube interview, he had made scandalous and false statements against the then Tamil Nadu Finance Minister and also made provocative statements against all religions thereby attempting to create a breach of peace and communal harmony.
- Thirumaran had allegedly said that properties belonging to Hindus must only stay with Hindus and their leaders and income arising out of those properties should not be used for other purposes.
- Drawing parallels to Muslims and Christians, he allegedly stated that only in the case of properties of Hindus, did the HR & CE Department have control.
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❖ **OBSERVATIONS**

- The Madras High Court has observed that merely ventilating about the manner in which a particular religion is treated would not constitute an offence under Section 505 of the IPC.
- The high court also added that to constitute an offence under the Act, there must be incitement of feeling of one group against another.
- With respect to the first part of the speech, the court observed that the same could have provoked only the party cadres of DMK party since the imputation was on the Finance Minister and his family members.
- With respect to the second part of the speech, the court opined that the same will not promote enmity between religions as he had not made any statements affecting the beliefs and sentiments of other religions.
- The court also opined that the Magistrate Court had merely taken a rubber stamp cognisance without any application of mind which was already been censured by the Supreme Court in various instances.
- Thus, finding that there were no materials to constitute the offence, the court observed that the continuation of proceedings would only result in abuse of process of law. The court thus quashed the criminal proceedings.

❖ **IMPORTANT PROVISIONS DISCUSSED**

- Section 505 of the Indian Penal Code (IPC) of 1860 deals with statements that are likely to cause public mischief.
- Section 505(2) pertains to statements creating or promoting enmity, hatred or ill-will between classes.

Vikas C V & Others and State of Karnataka & ANR

❖ **TOPIC:** Unfortunate That Age-Old Menace Of Dowry Death Still Exists In Society: Karnataka HC Declines To Quash Case Against Husband, In-Laws

❖ **BENCH:** Justice M Nagaprasanna

❖ **FORUM:** Karnataka High Court

❖ **MAIN ISSUE**

- Whether the proceedings initiated against husband and in-laws for charges of cruelty and dowry death can be quashed or not.

❖ **FACTS**

- The couple got married on 24-10-2019. A few months after marriage, the relationship between all these accused and the daughter of the complainant (father of the deceased) is said to

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have been strained and on the strained relationship, barely after 13 months of marriage, daughter of the complainant died by committing suicide.

- Following which the complainant registered a complaint on 24-10-2020 which was investigated and the police filed a chargesheet.
- The petitioners contended that daughter of the complainant, while committing suicide has left a death note. In the death note she blames none, but herself. It is therefore, the contention that neither the offence under Section 498-A nor Section 304-B of the IPC or even the offence under the Dowry Prohibition Act is met in the case at hand.
- Further, the petitioners are very well off, there was no necessity for these petitioners to demand dowry from the hands of the family of the 2nd respondent.
- Therefore, the proceedings ought to be quashed.

❖ **OBSERVATIONS**

- The Karnataka High Court has held that merely because the deceased had described that no one is responsible in the death note, a court, while relying on the same, cannot quash the proceedings initiated against husband and in-laws for charges of cruelty and dowry death.

- Accordingly, it dismissed the petition.
- Noting that the relationship between the accused No.1 and the daughter of the complainant, after marriage, lasted only for one year the court said, “Therefore, the death happens barely after a year of marriage. The emphasis that is laid by the counsel learned for the petitioners is, that they are themselves well off and there was no necessity to demand dowry. This is a pure question of fact, which undoubtedly requires evidence.”
- The court held “The offences are the ones punishable under Sections 498A and S. 304B of the IPC. Therefore, merely based upon the death note of the victim, which at all times would require evidence of circumstances in which the suicide happens or the death note is scribed, quashment of the proceedings under Section 482 of the Cr.P.C. is not a course available to this Court.

❖ **IMPORTANT PROVISIONS DISCUSSED**

- Section 498A IPC (cruelty), Section 304B IPC (dowry death), Section 34 IPC (common intention), Sections 3 and 4 of the Dowry Prohibition Act, 1961.



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