

Omanakuttan. K. G v.. Whatsapp Applications Services Private Ltd And Ors.

- ❖ **TOPIC :** Supreme Court Dismisses Plea To Ban WhatsApp
- ❖ **BENCH :** Justices M.M. Sundresh and Aravind Kumar



- ❖ **FORUM:** Supreme Court
- ❖ **MAIN ISSUE**
 - Regarding ban on WhatsApp
- ❖ **OBSERVATIONS**
 - The Supreme Court dismissed a public interest litigation seeking directions to the Central Government to ban the operation of WhatsApp for alleged violation of the orders of the legal authorities in the country.
 - Today, the Counsel for the petitioner, submitted before a bench of Justices M.M. Sundresh and Aravind Kumar that the High Court's rejection of the PIL was simply based on the ground that the plea was "too premature".
 - However, without hearing anything further, the bench dismissed the petition.
 - Petitioner Omanakuttan KG, a software engineer, had first moved the Kerala High Court seeking a ban on Whatsapp alleging that it did not function in conformity with the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021.
 - The petitioner also claimed that there was a wide scope of manipulation at the user end and that it was not viable to trace the origin of a message being circulated on the application.
 - It was alleged that WhatsApp refused to comply with the IT Rules as it violated the privacy of its users before the Delhi High Court.
 - Whatsapp had challenged the "traceability" clause mentioned under Rule 4(2) of the Information Technology Rules, 2021, as violative of a person's right to privacy enshrined in the Supreme Court judgment of KS Puttuswamy v. Union of India.

- The petitioner further stated the updated Privacy Policy openly mentions that the application will store, access and use the personal data of its users, including the battery remaining on their devices, which are a grave violation of the right to privacy.
- Condemning this policy, the petitioner claimed that the app lacks security and has been exposed to several bugs and errors over time.
- The petition also alleged that WhatsApp had implemented a separate privacy policy in Europe in compliance with their laws. Yet, the app refuses to comply with the laws in India, which is a glaring incongruity.
- However, it was dismissed by the Kerala High Court on June 28, stating that the petition was premature. It was added that if there is any manipulation of the messages taking place, a proper investigation needs to be done.

Sonam Lakra v. State Of Chhattisgarh And Ors

- ❖ **TOPIC:** High – Handedness by State, Supreme Court Sets Aside Order Removing Chhattisgarh Women Sarpanch From Office
- ❖ **BENCH :** Justices Surya Kant and Ujjal Bhuyan



- ❖ **FORUM:** Supreme Court
- ❖ **MAIN ISSUE**
 - Regarding an order removing a woman Sarpanch
- ❖ **OBSERVATIONS**
 - The Supreme Court has set aside an order removing a woman Sarpanch from office in Chhattisgarh and directed enquiry into the officials who caused unwarranted harassment to her. The Court further imposed a cost of Rs.1 lakh on the state government.
 - A bench of Justices Surya Kant and Ujjal Bhuyan heard the matter, coming down heavily on the state for causing undue harassment to the elected woman Sarpanch, on the pretext of delay in construction work.

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- The order was dictated "This is a case bordering high handedness on the part of the authorities in removing an elected sarpanch, who is a young woman who thought of serving her village in a remote area of State of Chhattisgarh. Instead of admiring her commitments or cooperating with her or extending a helping hand, what the appellant intended to do for development of her village, she has been wronged for absolutely uncalled for and unjustified reasons...Construction of works involves engineers, contractors and timely supply of material besides vagaries of weather...how can a Sarpanch be responsible for the delay in construction works unless it is found that there was a delay in allocation of work or performance of a specific duty assigned to the elected body...We are satisfied that initiation of proceedings was a lame excuse and the appellant has been removed from the office of Sarpanch on one or the other false pretext. The impugned orders are accordingly quashed. The appellant shall continue to hold the office of sarpanch of Gram Panchayat [...] till the completion of her term. Since appellant has been harassed and [subjected] to avoidable litigation, we award the cost of Rs.1 lakh to her which shall be paid within 4 weeks by the State of Chhattisgarh".
- Further, the Court directed the Chief Secretary of Chhattisgarh to release the cost of Rs.1 lakh to the appellant within the stipulated period, and thereafter, hold an enquiry to find out the officers/officials responsible for her harassment. "The State shall be at liberty to recover the amount from such officers/officials in accordance with principles of natural justice", the Court added.
- Briefly put, the appellant, a 27-year old woman, contested the election of Sarpanch of Sajbahar Gram Panchayat held in 2020. She was elected with a good margin. The Gram Panchayat was allocated some development works, including 10 construction works of roads, etc. A letter, purportedly issued on 16.12.2022 by the Chief Executive Officer to complete the works within 3 months, was served on the Gram Panchayat in March, 2023.
- The appellant was accused of delay in the construction works. On 26.05.2023, she was issued a show cause notice and later tendered her explanation, denying any delay. However, she was removed from the office of Sarpanch in January, 2024. She approached the High Court for relief, but to no avail. Assailing the High Court's rejection of her prayers, she approached the Supreme Court.
- After hearing the parties, the Supreme Court today granted the appellant relief. During the hearing,

Justice Kant expressed that the CEO issued an arbitrary dictate, seemingly in absence of any technical knowledge about how much time it would have taken for completion of the construction works. The judge further called out the authorities' targeting of a woman Sarpanch who, believing in grassroots democracy, defied all odds to get elected as a Sarpanch and was working towards development of a rural area.

- After dictation of the order, the counsel for respondents urged that the appellant was supposed to go before higher authorities. However, Justice Kant remarked, "That is what you want...You want a Sarpanch to go with a begging bowl before the babu...some clerk who has been promoted as CEO...". Notably, earlier as well, the Court granted relief to a female Sarpanch of a village who was disqualified on technical grounds, raising concerns about the discriminatory attitudes which permeate through all levels of administration towards women representatives. The Court observed that a matter relating to removal of an elected representative should not be taken lightly, especially when it concerns women in rural areas.

Syama Choudhury & Anr. v. State of Odisha

- ❖ **TOPIC:** Wife not Reporting About Missing of Husband & Staying with Paramour Not Criminal Conspiracy U/S 120 – B IPC : Orissa High Court
- ❖ **BENCH :** Justice Sangam Kumar Sahoo and Justice Chittaranjan Dash



- ❖ **FORUM:** Orissa High Court
- ❖ **MAIN ISSUE**
 - Whether a wife is not reporting the police about the missing status of husband and staying with another man will be liable under the offence of criminal conspiracy or not.

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❖ OBSERVATIONS

- The Orissa High Court on Thursday held that a wife not reporting the police about the missing status of husband, not trying to trace him out and living passively with another man will not amount to criminal conspiracy.
- While acquitting the appellant-wife of the charge of criminal conspiracy, the Division Bench of Justice Sangam Kumar Sahoo and Justice Chittaranjan Dash observed – “...it is further accepted that the appellant Nibedita Panda did not try to ascertain the whereabouts of the deceased whom she had sent with the appellant Katiki on 12.12.2007 even though the deceased did not return home for more than a month and did not try to report the matter before police, but in absence of any other clinching evidence, only basing on these suspicious conducts of the appellant, it cannot be held to be sufficient to convict her for offence of criminal conspiracy.”
- On 12.12.2007, after the deceased husband left home for college, the appellant-Syama Choudhury and appellant-Surya Kanta Behera @ Katiki met the appellant-wife (of the deceased) in her house and discussed something.
- In the afternoon, the deceased came back to his house and took a nap. At this point of time, the appellant-Katiki asked the deceased to accompany him to see a girl and the appellant-wife also convinced him to proceed with appellant-Katiki.
- Accordingly, both the deceased and appellant Katiki left on a motorcycle.
- At about 10:30 PM in the night, the appellant-Katiki returned to the house and parked the motorcycle. When the minor daughter of the deceased asked the said appellant about the whereabouts of her father, he informed that he had gone to Hanuman temple and he will return soon.
- However, the deceased never returned back to the house thereafter and the appellant-Syama Choudhury started living with the appellant-wife and her three children. Whenever the children used to raise a query about the whereabouts of their father, appellant-Syama Choudhury threatened them.
- Subsequently, the police found an unknown dead body and in an effort to establish the identity thereof, they widely inquired in different areas carrying the photo of the body which ultimately led them to the house of the deceased. Upon seeing the police, the appellant-Syama Choudhury tried to flee from the house. When police showed the photos of the dead body, the children could

- recognize the same to be of the deceased.
- Upon completion of investigation, the police filed a charge-sheet against the three appellants and two other accused persons. The trial Court, after examining evidence on record, found the appellants Syama Choudhury and Katiki guilty for commission of offences under Sections 302/34 and Sections 201/511 read with Section 34 of the IPC and it also found the appellant-wife guilty under Section 120-B for hatching criminal conspiracy. However, it acquitted the other two accused persons of all charges.
- Being aggrieved by the order of conviction, the three appellants impugned the same by filing these jail criminal appeal and criminal appeal.
- The Court examined all the evidence on record and formulated certain circumstances which were palpable in this case. Considering the evidence of the testimonies of the minor children of the deceased, the Court came to the conclusion that though the deceased and his appellant-wife lived together, there was dissension between them over frequent visit of appellant-Syama Choudhury to their house.
- From the evidence of the minor children of the deceased, the Court also held that the appellant-wife had intimacy with the appellant-Syama Choudhury. Further from their evidence, it became evident that on the date of occurrence, both the appellants (Syama and Katiki) met the appellant-wife in absence of the deceased and subsequently, the appellant-wife convinced the deceased to accompany the appellant-Katiki on a motorcycle to see a girl.
- Furthermore, the Court stressed the evidence of minor children about the 'last seen' of the deceased in the company of the appellant-Katiki. It held that this circumstance holds a lot of importance as the said appellant was last seen alive with the deceased and thereafter, nobody has seen the deceased alive.
- Thus, it was of the view that if the appellant-Katiki was seen with the deceased and after a short span of time, the latter died a homicidal death, then the onus lies upon the former to explain under which circumstances the deceased died. It was further underlined that though the appellant was confronted about this circumstance while recording his statement under Section 313 of the CrPC, he failed to furnish any satisfactory explanation.
- Apart from the above, the post-mortem report revealed that the burn injuries found from the dead body are caused due to dry heat with the aid of kerosene like substance and all the internal injuries

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were found to be ante-mortem and homicidal in nature caused by the impact of hard and blunt force. The time of death opined by the doctor was also found to be around the same time when the appellant Katiki was with the deceased.

- So far as the conviction of appellant wife for hatching criminal conspiracy to cause the death of the deceased is concerned, the Court pointed out that the trial Court whimsically came to record the conviction as though charge was framed against her under Section 120-B for entering into criminal conspiracy with appellant Syama Choudhury but the latter was not charged for the same offence.
- “In the present case, the prosecution has utterly failed to conclusively prove transmission of thoughts between the appellant Nibedita Panda and other accused persons, leave alone putting forward any acceptable and rigid evidence regarding physical manifestation of agreement.”
- Hence, the Bench held that when the basic ingredient of offence under Section 120-B, i.e. agreement between at least two persons could not be proved by the prosecution to the hilt, the accusations against the appellant-wife, only basing upon her conducts in refraining from lodging complaint about his missing husband, living with another man (appellant Syama) and not trying to trace the deceased out, are not sufficient to hold her guilty under the aforesaid provision.
- So far as the culpability of the appellant Syama Choudhury is concerned, the Court held that merely because he was living with the appellant-wife and her children in her house in the absence of the deceased and he led the police team to the spot from where weapon of offence was recovered are not sufficient to uphold his conviction recorded by the trial Court.
- Accordingly, the conviction of appellant Katiki was upheld but the other two appellants were acquitted of all the charges.

Hindustan Coca Cola Beverages (P) Ltd. and Another v. The Controller of Legal Metrology and Others

- ❖ **TOPIC :** Laser Printing on Mineral Water Bottle Legible, Kerala HC Quashes Case Against Kinley booked For Illegible Packaging Details
- ❖ **BENCH :** Justice P. V. Kunhikrishnan
- ❖ **FORUM:** Kerala High Court
- ❖ **MAIN ISSUE**
 - Regarding a case against Hindustan Coca Cola Company under the Legal Metrology (Packaged

Commodities) Rules.



❖ **OBSERVATIONS**

- Quashing a case against Hindustan Coca Cola Company under the Legal Metrology (Packaged Commodities) Rules concerning alleged illegible declaration about the packaging details of mineral water sold at a movie theater, the Kerala High Court observed that it could not be said that the details in the form of laser printing were illegible or not prominent.
- After perusing through the seized product Justice P. V. Kunhikrishnan in its order said, "The counsel for the petitioner made available a bottle of 'Kinley', packaged drinking water. The Public Prosecutor also produced the bottle seized by the officer concerned. This Court pursued the same. A perusal of the same would show that there is laser printing in the bottle. It cannot be said that the same is not legible and prominent.
- The counsel for the petitioners produced a news item of the Central Minister, which was published in Times Of India dated 24.09.2024 in which it is stated that the Minister bats for laser printing in water bottles. Since the printing is legible, I am of the considered opinion that the continuation of the prosecution against the petitioners is not necessary".
- A prosecution was initiated against Hindustan Coca Cola Beverages (P) Ltd. under Rule 9(1)(a) (Every declaration on a package should be legible and prominent) of the Legal Metrology (Packaged Commodities) Rule, 2011.
- As per the prosecution case, the senior inspector of Legal Metrology Department had inspected the premises of Cinopolis in Kochi and found among other things that a bottle of Kinley packaged drinking water sold there did not contain prominent declaration regarding sale price, month and year of packaging.
- The Hindustan Coca Cola Beverages approached the Court to quash the case.
- The petitioners argued before the Court that the rule only requires that the declaration should be

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legible and prominent and it permits laser printing. The Court after examining the seized bottle observed that the printing was prominent and legible.

- On these observations, the Court allowed the petition and quashed the further proceedings against the petitioners on the files of Judicial First Class Magistrate.

Umesh Sharma v. The State Of Bihar

- ❖ **TOPIC:** [Dowry Death] When offence Committed Inside House, Initial Burden of Proof Rests on Prosecution but Degree Becomes Lighter, Patna High court
- ❖ **BENCH :** : Justice Ashutosh Kumar and Justice Jitendra Kumar



- ❖ **FORUM:** Patna High Court
- ❖ **MAIN ISSUE**
- Regarding Section 106 of the Indian Evidence Act,
- ❖ **OBSERVATIONS**
 - The Patna High Court has clarified that, under Section 106 of the Indian Evidence Act, requiring an appellant to explain the cause of a deceased's death without the prosecution first proving basic facts would amount to an improper interpretation of the law.
 - The Court stated that the prosecution must establish foundational facts showing involvement of the appellant and others in the alleged killing over dowry demands for the application of Section 106 to arise.
 - The division bench, comprising Justice Ashutosh Kumar and Justice Jitendra Kumar, “for triggering the application of Section 106 of the Evidence Act, the prosecution must establish basic facts that the appellant in association with others for non-delivery of dowry as additional dowry killed the

deceased.”

- “The evidence on the contrary is that the deceased was badly assaulted before she was killed. The post-mortem report completely belies such a statement as no external injury was found on any exposed part of the body of the deceased. Though there is no explanation about the circumstance under which the deceased died, requiring the appellant to explain the cause, especially in the absence of prosecution having proved the case, would be giving a different interpretation to Section 106 of the Evidence Act,” the division bench added.
- This ruling was issued while allowing an appeal against the appellant's conviction under Section 302 of the Indian Penal Code, as previously determined by the sessions court.
- As per the factual matrix of the case, the deceased was allegedly killed by her husband and in-laws due to additional dowry demands. The deceased's brother, Nandlal Sharma, received the initial information and testified at trial. Following an investigation, charges were filed under Sections 302 and 34 of the IPC.
- Despite examining eight prosecution witnesses, the trial court had convicted and sentenced the appellant.
- The Court noted that the only evidence presented before the Trial Court consisted of depositions from the deceased's parents and the informant, who is the deceased's brother. The Trial Court had reasoned that, because the deceased died in the appellant's home and no explanation was provided for her homicidal death, the appellant should be held liable despite the lack of proof that the appellant was present during the incident.
- The Court referred to Section 106 of the Evidence Act, explaining that when a fact is “especially” within someone's knowledge, the burden of proving it rests on that person. The Court clarified that the ordinary rule in criminal trials, which places the onus on the prosecution to prove the accused's guilt, is not altered by Section 106. In cases of murder committed within a home, the prosecution's burden remains, although the nature and amount of evidence required to establish a case may be lighter.
- The Court observed that under Section 106, a corresponding burden falls on household members to provide a clear explanation of the crime. However, the absence of the Investigating Officer's (I.O.) examination prevented a proper assessment

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of witness statements and the cause of death.

- The Court noted that key details, such as when the police arrived at the appellant's house for the inquest and based on whose information, were unclear.
- While the FIR recorded that information was received at the police station at approximately 09:45 a.m., the FIR itself was registered only at 01:30 p.m., around the same time as the inquest proceedings, the court pointed out.
- Concluding that it was not entirely safe to uphold the Trial Court's conviction and sentence, the Court granted the appellant the benefit of the doubt, overturned the conviction, and ordered the appellant's release.
- The appellant, who had already spent nine years in jail, was directed to be released immediately unless detained in connection with another case.

Radhabai Shirke v. Keshav Jadhav

- ❖ **TOPIC:** Daughter has no Inheritance Right in Father's Properties If He Died Before 1956, Leaving Behind Daughter & Her Mother. Bombay High Court
- ❖ **BENCH:** Justices Atul Chandurkar and Jitendra Jain



- ❖ **FORUM:** Bombay High Court
- ❖ **MAIN ISSUE**
 - Regarding a daughter's right in father's property.
- ❖ **OBSERVATIONS**
 - In a significant ruling, the Bombay High Court on Tuesday (November 12) held that a daughter will not have any limited or absolute right of inheritance in the properties of her father, if he has died prior to the enforcement of the Hindu Succession Act, 1956.
 - A division bench of Justices Atul Chandurkar and Jitendra Jain answered a reference - Whether a daughter could acquire any right, either limited or absolute, by inheritance prior to coming into force of the Hindu Succession Act, 1956 in the property

of her deceased father, who died prior to 1956, leaving behind him in addition to such daughter, his widow as well? - made by a single-judge, way back on February 28, 2007.

- Answering the said reference, the bench referred to the provisions of the Hindu Succession Act, 1956 and also the Hindu Women's Right to Property Act, 1937, which dealt with the issues of rights of women in the family, in the properties of their husbands or fathers.
- "Under Hindu customs, a daughter when born, on reaching marriageable age is married and sent to her in-laws house. Therefore, a daughter was never considered as a part of the family in the era when the 1937 Act was in operation. It is also important to note that the 1937 Act is a Pre-Independence enactment. During that period, a widow had to be protected on the death of her husband since she could not go back to her parents house and at the same time, her husband could not take care of her since he was no more.
- With a view to get over such a situation that limited rights were conferred on a widow by the Act of 1937. A daughter was however excluded from claiming any inheritance right prior to the enactment of the Act of 1956," the bench said in its judgment.
- The law has been progressive from 1937, whereby limited rights were given to the widow which were converted into full rights on enactment of the Act of 1956 and which further progressed and gave right as a coparcener to a daughter under the Amendment Act of 2005, the judges noted.
- "However, that would not mean that in case of a death prior to 1956, daughter would have any right when the succession opened prior to 1956," the bench made it clear.
- The bench disposed of a second appeal filed way back in 1987 involving two step-sisters, over the properties of their father.
- The appellant was the daughter of the deceased father from his first wife. The respondent was the daughter from the second wife.
- While the first wife had died prior to the death of the father, subsequently, on his death, the properties were inherited by the second wife, and later on her death, the same were bequeathed via a will (by the second wife) to her only daughter.
- According to appellant, she too had inheritance rights in the properties of her father just like the widow of her father under the Hindu Succession Act of 1956 and the Amendment to the Act of 1956 introduced in 2005.
- Referring to the prominent provisions of the Hindu

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Women's Rights To Property Act, the bench said the same expressly provides only for a “widow” to be treated as a “son” for computing her limited interest to share and to seek partition as a male owner clearly shows that at the relevant time prior to 1956, a daughter would not have any inheritance right if her father died prior to 1956.

- With these observations, the bench answered the reference.



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