Anjum Kadari and another v. Union of India and others

- **TOPIC :** Supreme court Upholds Validity of UP Madarsa Education Act Except Its Provisions Regulating Higher Education Degrees
- **BENCH:** Chief Justice of India DY Chandrachud, Justice JB Pardiwala and Manoj Misra

- **FORUM** Supreme Court
- **MAIN ISSUE**
  - Regarding the constitutional validity of the 'Uttar Pradesh Board of Madarsa Education Act 2004'.
- **OBSERVATION**
  - The Supreme Court upheld the constitutional validity of the 'Uttar Pradesh Board of Madarsa Education Act 2004' and set aside the Allahabad High Court's judgment which had struck it down earlier.
  - The High Court erred in striking down the Act on the ground that it violated the basic structure principle of secularism, the Supreme Court held.
  - A statute can be struck down only if it violates fundamental rights under Part III of the Constitution or violates provisions regarding legislative competence.
  - "The Constitutional validity of a statute cannot be challenged for violation of the basic structure of the Constitution. In a challenge to the statute for the violation of the principles of secularism, it must be shown that the statute violates provisions of the Constitution pertaining to secularism. The High Court erred in holding that the statute is bound to be struck down if it is violative of the basic structure," the Supreme Court held.
  - However, the Court held that the Madarsa Act, to the extent it regulates higher education in relation to 'fazil' and 'kamil' degrees, is in conflict with the UGC Act and to that extent it was unconstitutional.
  - A bench comprising Chief Justice of India DY Chandrachud, Justice JB Pardiwala and Manoj Misra heard the challenge to Allahabad High Court's March 22 judgment striking down the 'Uttar Pradesh Board of Madarsa Education Act 2004' as unconstitutional.
  - Conclusions from the judgment are as follows :
  - a. The Madarsa Act regulates the standards of education in Madarsas recognised by the Board.
  - b. The Madarsa Act is consistent with the positive obligation of the State to ensure that the students studying in the recognized Madarsas attain a level of competency which will allow them to actively participate in society and earn a living.
  - c. Article 21A and the Right to Education Act have to be read consistently with the right of religious and linguistic minorities to establish and administer educational institutions of their choice. The Board with the approval of the State Government can enact regulations to ensure that religious minority educations impart secular education of requisite standards without destroying their minority character.
  - d. The Madarsa Act is within the legislative competence of the State Legislature and traceable to Entry 25 of List 3. However, the provisions of the Madarsa Act which seek to regulate higher education degrees such as 'fazil' and 'kamil' are unconstitutional as they are in conflict with the UGC Act which has been enacted under Entry 66 of List 1.
  - The Court held that the provisions of the Madarsa Act are reasonable as they subserve the object of regulation by improving the academic excellence of students and making them capable of sitting for examinations.
  - The Act also secures the interests of the minority community in Uttar Pradesh because (1) it regulates the standard of education in Madarsas and (2) it conducts examinations and confers certificates allowing students to pursue higher education.
  - The High Court erred in holding that the education provided under the Madarsa Act violated Article 21A because -
  - (1) The Right to Education Act does not apply to minority educational institutions,
  - (2) The right of a religious minority to establish and administer Madarsas to impart religious and secular education is protected by Article 30 and
  - (3) The Board and State Government have sufficient regulatory powers to prescribe standards for the Madarsas.
  - While the Madarsas do impart religious instructions, their primary aim is education. So the Court traced the legislative competence of the Act

to Entry 25 of List III (Concurrent List) which deals with education.

- The mere fact that the education sought to be regulated includes some religious teachings or instructions does not automatically push the legislation out of the legislative competence of the State.
- The Court held that the corollary to Article 28(3) is that religious instruction may be imparted in an educational institution which is recognized by the State or which receives State aid but no student can be compelled to participate in religious instruction in such an institution.
- During the two-day long hearing, the petitioners had mainly contended that the High Court had wrongly understood the UP Madarsa Act to be having the purpose of imparting religious instructions rather than seeing the actual purpose- which is providing a scheme of regulations for the education of the Muslim children.
- Whereas the intervenors opposing the Act as well as the National Commission for Protection of Children's Rights (NCPCR) stressed that Madarsa education negated the promise of quality education guaranteed under Article 21A of the Constitution.
- While one has the freedom to take religious instruction, it cannot be accepted as a substitute for mainstream education.
- In April, the Supreme Court had stayed the High Court's judgment, prima facie observing that the High Court misconstrued the Act.
- While declaring the law as Ultra Vires, the Division Bench comprising Justice Vivek Chaudhary and Justice Subhash Vidyarthi also directed the Uttar Pradesh Government to frame a scheme so that the students presently studying in Madrasas can be accommodated in the formal education system.
- The High Court's rulings have come in a writ petition filed by one Anshuman Singh Rathore challenging the vires of the UP Madarsa Board as well as objecting to the management of Madarsa by the Minority Welfare Department, both by Union of India and State Government and other connected issues.

Property Owners Association v. State of Maharashtra

- **TOPIC :** Not All Private Property is 'Material Resource of Community' which state Must Equally Distribute As Per Article 39(b) : Supreme court
- **BENCH:** Chief Justice of India DY Chandrachud, Justices Hrishikesh Roy, B.V. Nagarathna, Sudhanshu Dhulia, J.B. Pardiwala, Manoj Misra, Rajesh Bindal, Satish Chandra Sharma and Augustine George Masih.

- **FORUM:** Supreme Court
- **MAIN ISSUE**
  - Whether all private properties can form part of the 'material resources of the community' or not.
- **OBSERVATIONS**
  - The Supreme Court today held by a majority of 7:2 that all private properties cannot form part of the 'material resources of the community' which the State is obliged to equitably redistribute as per the Directive Principles of State Policy under Article 39(b) of the Constitution. The Court held some private properties may come under Article 39(b) provided they meet the qualifiers of being a 'material resource' and 'of the community'.
  - The 9-judge bench comprised Chief Justice of India DY Chandrachud, Justices Hrishikesh Roy, B.V. Nagarathna, Sudhanshu Dhulia, J.B. Pardiwala, Manoj Misra, Rajesh Bindal, Satish Chandra Sharma and Augustine George Masih.
  - The majority opinion was authored by the CJI, while Justice BV Nagarathna partially concurred and Justice Dhulia dissented.
  - The batch of petitions initially arose in 1992 and was subsequently referred to a nine-judge bench in 2002. After more than two decades of being in limbo, it was taken for a hearing in 2024.
  - The main question to be decided is whether material resources of the community under Article 39(b) (one of the Directive Principles of the State Policy), which states that the government should

create policies to share community resources fairly for the common good, includes privately owned resources.

- Article 39(b) reads as follows:
- "The State shall, in particular, direct its policy towards securing-
- (b) that the ownership and control of the material resources of the community are so distributed as best to subserve the common good;''
- The main contention raised by the appellants and other intervenors was that the term 'Material Resource' under Article 39(b) is to be interpreted as any resource which is capable of generating wealth - through goods or services for the larger good of the community.
- If the intention of the law was to include private resources within the meaning of 'Material resources', the drafter would have done so in order to avoid any possible future misinterpretations.
- The Union highlighted that the interpretation of Article 39(b) should be from the standpoint of the ever-expanding constitutional principles and not any ideology.
- In terms of understanding a resource, the Union urged that it is a community's dynamic interactions that mold the meaning of 'Material Resources'. In a community, different individuals have different interactions and business transactions.
- This makes the sum total of a community's wealth, to which each individual through its economic interactions contributes. Thus 'resource' under Article 39b means a common economic base.
- The seven-judge bench in the present matter stated that this interpretation of Article 39(b) required to be reconsidered by a Bench of nine learned Judges.

It held –

- "We have some difficulty in sharing the broad view that material resources of the community under Article 39(b) covers what is privately owned."
- Accordingly, the matter was referred to a nine-judge bench in 2002.
- Majority View
- Material resources can in the first instance be divided into two basic categories, namely, (i) State owned resources which belong to the State which are essentially material resources of the community, held in public trust by the State; and (ii) privately owned resources.
- However, the expression ‘‘material resources'' does not include ‘‘personal effects'' or ‘‘personal belonging'' of individuals, such as, clothing or apparel, household articles, personal jewellery and other articles of daily use belonging to the individuals of a household and which are intimate and personal in nature and use. Excluding ‘‘personal effects'', all other privately owned resources can be construed as ‘‘material resources''.
- Thus, all resources whether they are public resources or privately owned resources which come within the scope and ambit of the expression ‘‘material resources'' as stated above are included within that expression.
- Private resources can be turned into material resources of the community by means such as (1) Nationalization; (2) Acquisition; (3) Operation of law ; (4) By purchase by state; (5) Owner's donation.
- The ‘‘material resources of the community'' have to be ‘‘distributed as best to subserve the common good''. Distribution could be in two ways:
- Firstly, by the State itself retaining the material resource for a public purpose and/or for public use; and
- Secondly, privately owned material resources when converted as ‘‘material resources of the community'' can be distributed to eligible and deserving persons either by way of auction, grant, assignment, allocation, lease, sale or any other mode of transfer known to law either temporarily or permanently depending upon the mode adopted and unconditionally or with conditions.
- On merits it cannot be held that Sanjeev Coke violated judicial discipline. One cannot lose sight of the fact that in Sanjeev Coke this Court did not decide the case only on the basis of the opinion of Krishna Iyer, J. in Ranganatha Reddy but on the merits of the validity of the Nationalization Act. Therefore, Sanjeev Coke is good law insofar as on the merits of the matter is concerned.
- Privately owned resources except ‘‘personal effects'' as explained above can come within the scope and ambit of the phrase ‘‘material resources of the community'' provided such resources get transformed as ‘‘resources of the community'' as discussed by me above. To reiterate, it would not include personal effects.

X v. Y.

- **TOPIC :** Wife Insulting Husband's Religion & Gods Amounts To Mental Cruelty : Chhattisgarh High Court
- **BENCH:** Justice Rajani Dubey and Justice Sanjay Kumar Jaiswal
- **FORUM:** Chhattisgarh High Court
- **MAIN ISSUE**
  - Whether the wife's insulting husband 's religion amounts to mental cruelty or not.

- **BACKGROUND**
  - The appellant wife and the respondent husband entered into marriage on 07.02.2016 in accordance with Hindu rites and rituals, as both of them belonged to Hindu religion. After a few years, the husband filed an application under Sections 13(1-A) & 13(1-B) of the Hindu Marriage Act seeking divorce.
  - The husband alleged that the wife, though originally belonged to Hindu religion, subsequently abandoned the same and adopted Christianity. It was also averred that the wife did not follow Hindu rituals and threatened the husband to implicate him in a false case.
  - The Family Court, after appreciating the oral and documentary evidence, granted the decree of divorce in favour of the husband on the ground that the wife converted herself from Hindu religion to Christian religion. Being aggrieved by such decree, the wife filed this appeal before the High Court.
- **OBSERVATIONS**
  - The Chhattisgarh High Court has held that the conduct of a wife in insulting the religion of her husband, his religious beliefs and his Gods amounts to mental cruelty.
  - The Division Bench of Justice Rajani Dubey and Justice Sanjay Kumar Jaiswal referred to Hindu epics like Ramayana, Mahabharata and Manusmriti and held –
  - ''In Hinduism, the wife is regarded as the "Sahadharmini" (Equal Partner in Dharma), meaning she shares in the spiritual duties and righteousness (dharma) alongside her husband. This concept underscores the wife's essential role in fulfilling religious obligations, particularly in the performance of rituals, where her presence is indispensable.''
  - The Court observed that from the statement of the husband it is clear that he is an ardent follower of Hinduism and all Hindu rituals are performed in his house. However, his wife does not accompany him in any worship or religious programme, despite being 'Sahadharmini'. The husband also alleged that his wife called Hindu religion a hypocrisy and mocked it.
  - From the evidence of the wife, it was borne out that she was attending prayer meetings at the Church for the last ten years and she also admitted to have not done any Hindu puja for the last one decade. The brother of the wife also admitted that he along with his sister (the appellant-wife) used to visit Church and they have faith in Christian prayers.
  - ''Close scrutiny of oral and documentary evidence and admission of appellant/wife in her statement makes it clear that she regularly visited the Church and since 10 years, she has not followed the Hindu religion and also did not take part in Hindu Puja,'' it held.
  - The Court underscored that in Hinduism, a wife is deemed as equal partner in Dharma, which implies that she shares spiritual duties with her husband and any religious rites performed by the husband without wife is considered to be incomplete.
  - ''This principle is deeply rooted not only in texts like the Mahabharata and Ramayana but also in the Manu Smriti, which explicitly states that a man cannot perform a yajna (यज्ञ) without his wife, as the yajna (यज्ञ) remains incomplete without her,'' it added.
  - The Court noted that the wife not only refused to perform puja with the husband but also disrespected and defiled Hindu rituals, Gods and sacred prasad.
  - ''The Respondent, being a devout Hindu and the elder son of his family, is obligated to perform several important rituals for himself and the members of his family. The Appellant/wife, by her own admission, has not engaged in any form of puja for the past 10 years and instead attends

church for her prayers,'' the Court observed.

- In the present case, it was held, the wife demeaned the husband's religious beliefs and insulted his Gods. This conduct was considered to be a mental cruelty towards a devout Hindu spouse.
- Accordingly, the Court found no fault with the order of the Family Court and upheld the decree of divorce in favour of the husband on the ground that the wife adapted to Christian religious rituals and beliefs.
- However, the Bench did not deem it fit to dissolve the marriage on the ground of mental cruelty as the husband did not challenge the trial Court's order regarding cruelty.

Ramamurty Gamango v. State of Odisha

❖ **TOPIC :** Unlike That women would harm Her unborn Baby by committing Suicide : Orissa HC Upholds Conviction of Ex – MLA for Pregnant Wife's Murder

❖ **BENCH:** Justice Sangam Kumar Sahoo and Justice Chittaranjan Dash

❖ **FORUM:** Orissa High Court

❖ **MAIN ISSUE**

- Whether the conviction and life-term of former Member of Legislative Assembly (MLA) Ramamurty Gamango for murder of his pregnant wife in the year 1995 at his official residence is correct or not.

❖ **BACKGROUND**

- The appellant used to reside with his second wife ('the deceased') and son in his official residence at MLA colony in the capital city of Bhubaneswar during the year 1995. On 29.08.1995, at about 9 AM, the appellant allegedly heard the scream of the deceased for which he rushed towards the bathroom and found the same to be locked from inside and smoke was coming out.
- After a while, the bathroom door was said to be broken open and the deceased was found to have been set ablaze. The deceased died instantaneously and the police reported about the matter for which an unnatural death (UD) case was registered.
- Upon completion of investigation, the appellant was found guilty for committing the murder of the deceased and was accordingly charge-sheeted under Sections 302 and 201 of the IPC. The trial Court found the appellant guilty under the aforementioned charges and was sentenced to undergo imprisonment for life for commission of murder.
- Being aggrieved by the order of the trial Court, the appellant impugned the same before the High Court.

❖ **OBSERVATIONS**

- The Orissa High Court has upheld the conviction and life-term of former Member of Legislative Assembly (MLA) Ramamurty Gamango for murder of his pregnant wife in the year 1995 at his official residence.
- While confirming the 2023's trial Court order, the Division Bench of Justice Sangam Kumar Sahoo and Justice Chittaranjan Dash observed:
- ''The conclusive nature of the evidence, including ante-mortem injuries on the deceased, the Appellant's minor injuries inconsistent with his rescue claim, and the Appellant's immediate call to the police instead of seeking medical help, collectively negates any hypothesis of innocence. Therefore, in all likelihood and based on the well-founded evidence, the prosecution has decisively proved the Appellant's guilt.''
- The Court underlined the evidence rendered by the sole defence witness who claimed to have seen smoke and then heard the deceased scream ''marigali, marigali'' [means 'I am dying'].
- ''This cry of desperation holds significant weight in evaluating the circumstances surrounding her death. If the deceased had truly intended to commit suicide, as claimed by the defence, it is unlikely that she would have screamed for help while the fire consumed her. The cry ''marigali, marigali'' indicates a clear effort, either consciously or unconsciously, to alert others to her plight and to escape the pain of burning.''
- The Bench was of the view that had the deceased intended to commit suicide by burning, her screams would have been cries of pain rather than cries for help.

- ‘‘The fact that her words indicate an appeal for assistance suggests that she was not entirely resigned to death but instead was seeking to escape the situation.
- This distinction between a cry of pain and a cry for help is crucial. A person committed to the act of suicide would not typically call out for rescue in such a manner. Instead, the scream ‘‘marigali, marigali’’ reveals that the deceased was in distress and wanted to be saved, casting doubt on the theory of a deliberate, premeditated self-immolation.’’

B. Aboobacker and Another v. State of Kerala

- **TOPIC :** Police officer’s Testimony Not Infirm Merely Because He Belongs to the Force, Can Be Basis of Conviction If Evidence is Reliable : Kerala HC
- **BENCH:** Justice M. B. Snehalatha

- **FORUM:** Kerala High Court
- **MAIN ISSUE**
  - Regarding Police Officer's Testimony
- **BACKGROUND**
  - The order was passed in a plea moved by two men who were convicted for offence under IPC Section 489C (Possessing forged or counterfeit currency notes or bank-notes) by the trial court and the conviction was upheld by the Sessions Court.
  - As per the prosecution, a police party led by the detecting officer found 256 fake notes of Rs. 1000 denomination after conducting the body search of the 2 men who were at the time staying in a lodge room. The petitioners had challenged the conviction before the High Court.
  - They argued that the prosecution had failed to prove the seizure of the fake currency. It was also argued that the case was initially investigated by a police officer who had no jurisdiction to investigate the case. They further argued that the seized notes were not sealed at the place of incident and so tampering cannot be ruled out.
  - Meanwhile the detective had given a narration of seizure of the notes, which was corroborated by the testimonies of other witnesses, the court noted.
  - Taking note of the detective's testimony the high court said that the same need not be discarded just because he is a police officer. An attendant of the lodge who was witness to the seizure has corroborated on the seizure of counterfeit notes from the room.
  - He however could not identify the accused. The Court said that inability to identify the accused is not fatal to the prosecution taking note of the fact that the examination was held 8 years after the incident.
  - Another attendant of the lodge had testified that he had let out the room to the petitioners and the next day he came to know from the other attendant that the persons who stayed at the room were arrested by the police for possessing fake currency.
- **OBSERVATIONS**
  - While deciding a challenge to a conviction for possessing counterfeit currency, the Kerala High Court observed that the testimony of a Police Official does not suffer from any infirmity merely because he belongs to the police force.
  - In doing so, the high court underscored that if a court is convinced that there is truth in a witness's testimony then conviction can be based on such evidence.
  - A single judge bench of Justice M. B. Snehalatha further held that the presumption that every person acts honestly applies to a police officer also. The Court however added that such evidence might require more careful scrutiny.
  - The High Court further said that the petitioners-accused have no case that the detection officer was "nurturing any grudge or vendetta against them so as to implicate them falsely in a crime of this nature". It further went on to observe that counterfeit currency notes seized from the petitioners were sent to Bank Note Press, through court. The report received, the court noted, "specifically opined" that the 256 notes sent for expert opinion "were counterfeit currency notes" of Rs. 1000 denomination.
  - The initial investigation was conducted by the Circle Inspector and the alleged incident occurred beyond his territorial jurisdiction. He testified before the Court that he conducted the investigation on the orders of his superior officer.
  - The investigation was subsequently handed over to the Crime Branch. The Court held that the fact that

part of the investigation was done by the Circle Inspector does not affect the credibility of the prosecution case.

- The Court further held that the testimony of the witness would show that the counterfeit notes were seized from the accused. The Court noted that in the search list, the detecting officer had written down the serial number of the seized notes. It also held that therefore, non-sealing of the seized notes has caused no prejudice to the petitioners.
- The Court observed that the accused has not come up with any explanation as to how they came into possession of the large quantity of currency notes. Noting that there was adequate corroboration of the evidence of material witnesses, the high court found no reason to interfere with the decision of the trial Court and Sessions Court.
- Before parting the high court said, "Large quantity of counterfeit currency notes were seized from the accused. It is a well settled principle that punishment should be commensurate with the gravity of the offence committed.
- The counterfeiting of currency notes is a grave offence which destabilizes and undermines the economy and it poses threat to the security of the nation. Considering the gravity of the offence, the sentence awarded is not harsh or excessive". It thus dismissed the plea.

Ashunath Bhattacharjee Vs State Of West Bengal

- **TOPIC :** Married Police Personnel Cohabiting with Another Person Is Unbecoming of His Status : Calcutta High court
- **BENCH:** Justices Joymalya Bagchi and Gaurang Kanth

- **FORUM:** Calcutta High Court

- **MAIN ISSUE**
  - Regarding Police officials cohabiting with another person.
- **OBSERVATIONS**
  - The Calcutta High Court has observed that a police official cohabiting with another person during the presence of their spouse is "unbecoming of their status."
  - The court was dealing with a prayer for anticipatory bail in a case under Sections 307, 498A, 406 IPC against a police officer who was allegedly in a relationship with a practicing advocate. Both parties were allegedly married to separate spouses and had children from their respective marriages. It was argued by the petitioner that since their relationship soured, he was falsely accused by the complainant.
  - It was claimed by the de facto complainant, that the petitioner had married her in Kalighat temple, and that he had assaulted her after the marriage. It was alleged that he had tried to kill her by driving his car in a reckless manner to inflict injuries on her while she was sitting inside. It was stated that due to this accident, she had suffered a miscarriage.
  - The complainant alleged that the petitioner had also demanded money from her in a drunken state, an allegation which was refuted by the petitioner who stated that the allegations were false as he was on duty at the time the offence was alleged to be committed.
  - Counsel for the complainant claimed that the complainant had been divorced in the year 2020, and the petitioner suppressed his matrimonial status and married her in 2021, cohabiting together over three years.
  - "Suspend him for his behaviour. This is unbecoming of a police officer, to cohabit while he has a spouse living. If you choose to condone his conduct as an employer like she (complainant) has done...in a limited scope for anticipatory bail we are not going to cleanse your police department. We will protect this lady," a division bench of Justices Joymalya Bagchi and Gaurang Kanth stated.
  - Upon hearing the parties, the court observed that it was unbecoming of a police officer to be cohabiting with another woman while being married to his spouse.
  - It was observed that the victim's statement revealed that during their cohabitation the victim came to know that the petitioner was married, and chose to continue their relationship and became pregnant.
  - On the question of causing miscarriage, the court noted that the accident was due to the fact that their

car was hit by a truck, due to which the miscarriage was caused.

- "Though we are of the view that the conduct of married police personnel cohabiting with another person is unbecoming of his status, within the limited scope of the application seeking protection from arrest, the said issue may not be germane. The department has already initiated proceedings against him," it was held.
- Accordingly, the court granted anticipatory bail and prohibited the petitioner from contacting the victim.