ABC v. UNION OF INDIA AND ORS

- **TOPIC :** Delhi HC Directs Medical Treatment for HIV Positive Trans Women Without Insisting on ID Proof
- **BENCH :** Justice Sanjeev Narula
- **FORUM:** Delhi High Court
- **MAIN ISSUE**
  - Regarding medical treatment for a trans woman who tested HIV positive
- **OBSERVATION**
  - The Delhi High Court has directed Lok Nayak Hospital to provide medical treatment for a trans woman who tested HIV positive, without demanding from her identification documents.
  - Justice Sanjeev Narula issued notice on the plea moved by the trans woman claiming that she tested positive for HIV after being sexually abused by various people
  - Her counsel submitted that the hospital in question suggested that the trans woman should be admitted for HIV treatment. However, due to absence of any identity documents, the required treatment was not being given to her by the hospital.
  - It was also submitted that various NGOs were contacted for providing shelter to her, but all of them have refused the same as she did not have any government identity card.
  - The Court directed the authorities to find a suitable shelter for the trans woman, taking into account her health condition as well as the weather conditions in the national capital.
  - ‘‘By way of this order a direction is issued to Respondent no. 4/ Lok Nayak Hospital, New Delhi to examine the Petitioner and in case she would need any treatment, the same be provided to her forthwith, notwithstanding the Petitioner's lack of identification documents,’’ the Court said.
  - Noting that the petitioner also sought rehabilitation, the Court directed the Central Government to state if she can be provided any skill training for her rehabilitation into the society.
  - The matter will now be heard on January 09.
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Ajay Kumar Sareen Vs U.T. of J&K and Ors. ABC v. UNION OF INDIA AND ORS

- **TOPIC** J & K HC Stays, Cancellation of EWS certificate, Questions ‘Preconceived Notions’ By Deputy Commissioner
- **BENCH** :Justice Wasim Sadiq Nargal
- **FORUM:** Jammu and Kashmir and Ladakh High Court
- **MAIN ISSUE**
  - Regarding the cancellation of an Economically Weaker Section (EWS) certificate
- **OBSERVATION**
  - The Jammu and Kashmir and Ladakh High Court on Monday stayed the cancellation of an Economically Weaker Section (EWS) certificate after observing that the Deputy Commissioner, Jammu, acted on a preconceived notion against the petitioner, rendering the entire inquiry process questionable.
  - ‘‘.. Once, the petitioner has already been held guilty of fraud, concealment of fact and misrepresentation
  - Then the entire exercise of power as revisional authority while passing the order impugned was a mere formality as the decision has already been taken by the concerned Deputy Commissioner’’, a bench of Justice Wasim Sadiq Nargal observed.
  - The case originated when the petitioner, Ajay Kumar Sareen, challenged an order dated December 16, 2024, passed by the Deputy Commissioner, Jammu, canceling his EWS certificate.
  - The cancellation was based on allegations that the petitioner concealed material facts regarding a property owned by his father, thus misleading the authorities into issuing the certificate.
  - The complaint, filed by the respondent led to an inquiry conducted by the Tehsildar Nazool, Jammu, at the behest of the Deputy Commissioner.
  - Aggrieved by the Order, the petitioner argued that the inquiry report, critical to the Deputy Commissioner's decision, was prepared without his knowledge and without granting him an opportunity to defend

himself.

- The petitioner contended that the adverse material relied upon was neither shared with the petitioner nor was he given a chance to rebut the findings. This unilateral approach, according to the petitioner, amounted to a denial of natural justice and a clear violation of procedural fairness.
- The petitioner further argued that the Deputy Commissioner acted under the misconception that the petitioner had committed fraud. This assumption, made without a thorough investigation or proper hearing, influenced the outcome of the case. Moreover, the cancellation order relied on an ex-parte inquiry report, which was not part of any formal proceedings or communicated to the petitioner.
- The petitioner also cited relevant legal provisions, including sections 17 and 18 of the J&K Reservation Act, 2004, highlighting the distinct scope of appeal and revision. He emphasized that new evidence could not be appreciated during revision proceedings, making the reliance on the inquiry report legally untenable. • Adjudicating the matter Justice noted that the Deputy Commissioner proceeded with a preconceived notion, labeling the petitioner guilty of fraud and misrepresentation even before conducting a fair inquiry
- ‘‘From a bare perusal of the order impugned, prima facie, this Court is satisfied that the Deputy Commissioner, Jammu has moved on the premise that the petitioner is guilty of fraud, misrepresentation and concealment of facts and the said finding has been recorded in the beginning of the order impugned’’, the court stated.
- Furthermore, the reliance on the ex-parte inquiry report, without granting the petitioner access to the material or an opportunity to be heard, was deemed a gross procedural lapse
- Taking note of the procedural irregularities, the High Court stayed the impugned order and directed the Deputy Commissioner's office to produce the original records. The Court issued notices to all respondents and scheduled the matter for further hearing on February 14, 2025.
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Jai Naraiyan and Another v. State of Punjab and Others

- **TOPIC:** Punjab & Haryana HC Upholds Reservation For SC/STs in Punjab Municipal Corporation Ward, Says It Ensure Representation in Local Self - Body
- **BENCH** : Justice Sureshwar Thakur and Justice Sudeepti Sharma
- **FORUM**: Punjab & Haryana High Court
- **MAIN ISSUE**
  - Regarding the reservation made in a ward in Punjab's Nagar Panchayat Khanauri
- **OBSERVATION**
  - The Punjab & Haryana High Court upheld the reservation made in a ward in Punjab's Nagar Panchayat Khanauri, Sangrur for the Punjab Municipal Corporation election, observing that the roster for reserving seats is created to ensure representation of the backward class category of candidates in local self-bodies.
  - Justice Sureshwar Thakur and Justice Sudeepti Sharma said, "Needless, to say that the said reservation roster which also covers candidates belonging to the category of BCs, is to conform, to the expostulations of law carried in verdict (supra), whereins, it becomes expostulated qua the quantitative limit of 50 % of vertical reservations to be made in favour of SCs, STs, OBCs,
  - But does not become breached, thus when a roster for reserving seats is created for therebys ensuring representations in local self bodies vis-a-vis the backward class category of candidates."
  - "In essence, therebys, the creation of a reservation roster in favour of backward class category candidates, is to be in addition to the collective quantitative limit of 50 % of vertical reservations, as created in favour of SCs, STs and OBCs," the bench added.
  - The Court was hearing a batch of pleas wherein the central dispute relates to the reservation of ward no. 8 in Nagar Panchayat Khanauri, Sangrur, for the Backward Class Category under a notification dated 23.12.2022, allegedly violating the principles laid down by the Supreme Court regarding reservation policies in local body elections.

- It was argued that the seat (Ward No. 8) which was declared reserved for backward class in the upcoming election but was also reserved for the said category in the year 1994 and in the year 2005, therebys, the principle of rotation has been violated while reserving the said seats.
- After examining the submissions, the Court noted that the dispute at hand is not in respect of the illegitimacy of reservation made, "through the reservation roster system vis-à-vis the OBCs, SC/ST categories,
- Where upon, whom the vertical reservations only to the extent of the quantitative ceiling limit of 50 % is to be bestowed nor the dispute relates to the said quantitative limit being breached."
- Referring to K. Krishna Murthy and Others Vs. Union of India and Another, reported in (2010) 7 SCC 202, the bench said that the Apex Court in the case after declaring intra vires the constitutional provision carried in Article 243-D (6) and in Article 243-T(6),
- And "there is permissibility to endow the benefit of reservations in local bodies vis-à-vis the Backward Class category of candidates, but yet when in the supra constitutional provisions, the State Legislature also become enabled to draw legislations for therebys creating a roster reservation system in favour of the backward class category candidates.
- The bench noted that the Punjab State Legislative Assembly, thus has passed the Punjab Municipality Act and also the Rules in light of Article 243-D (6) and Article 243-T(6).
- "Therefore, when in terms of the legislation, after a delimitation exercise becoming conducted, thus, the present impugned roster reservation system becomes evolved,
- where under, reservations have been created not only vis-à-vis those who are entitled to the supra vertical quantitative scale of reservation, but also when there under reservations have been created in favour of the backward class category candidates, thus in the forthcoming elections," the Court opined.
- While dismissing the plea, petitions were dismissed, and the court refrained from interfering with the election process already initiated.
- It further noted that such interference would contravene constitutional mandates and Supreme Court directives regarding timely elections to local bodies.

XXXX v. State of Punjab & Ors

- **TOPIC:** Punjab & Haryana HC Rejects Protection Plea of Live – In Couple Where One of Them was Married with Kids, Says it would ‘‘Promote Bigamy
- **BENCH :** Justice Sandeep Moudgil
- **FORUM:** Punjab & Haryana High Court
- **MAIN ISSUE**
  - Regarding protection to a live-in couple– wherein one of them was already married and had children
- **OBSERVATIONS**
  - The Punjab & Haryana High Court has refused to grant protection to a live-in couple–wherein one of them was already married and had children, observing that allowing the plea in this instance will encourage the wrong doer and promote bigamy, violating the rights of the spouse and children of one of the petitioner's.
  - Justice Sandeep Moudgil said, "Under Article 21 of the Indian Constitution each and every individual has a right to live with peace, dignity and honour,
  - Therefore, by allowing such type of petitions we are encouraging the wrongdoers and somewhere promoting the practice of bigamy which is otherwise an offence under Section 494 IPC, further violating the right of the other spouse and children under Article 21 to live with dignity."
  - The Court added that every person has a right to have his reputation preserved. It is a jus in rem, a right good against all in the world.
  - Article 21 of the Constitution of India places Fundamental Rights on a much higher pedestal.
  - "In view of the above discussions and reading of the above clearly indicates that to attach legitimate sanctity to such a relation,

certain conditions are required to be fulfilled by such partners.

- Merely because the two persons are living together for few days, their claim of live-in relationship based upon bald averment may not be enough to hold that they are truly in live-in-relationship and directing the police to grant protection to them may indirectly give our assent to such illicit relationship, and, therefore, the orders cannot be passed under Article 21 of the Constitution of India which guarantees freedom of life to all citizens, but such freedom has to be within the ambit of law," the court underscored.
- Run away Couple Bringing Bad Names, Violating Rights Of Parents To Live With Dignity
- The Court observed further that the concept of right to life and personal liberty guaranteed under Article 21 of the Constitution of India includes the right to live with dignity and the petitioners by running away from their parental home is not only bringing bad name to the family but also is violating the right of the parents to live with dignity and honour
- Moral Values, Customs Must Be Preserved For Stable Community
- The bench said that in our diverse country, marriage as social tie is one the essential of Indian society and regardless of conviction, individuals regard union as a fundamental advancement in their lives, and they agree that moral values and customs must be preserved for a stable community.
- India Adopting Western Culture
- The judge also highlighted that "marriage is a holy relationship" with legal consequences and great social esteem.
- "Our country, with its deep cultural origins, places a significant emphasis on morals and ethical reasoning. However, as time has passed, we have begun to adopt Western culture, which is vastly different from Indian culture."
- A portion of India appears to have adopted Modern lifestyle, namely, the live- in relationship, it added
- The protection plea was filed by a live couple wherein one of them was already married and had children. The couple was apprehending threat from their relatives.
- The Court referred to Allahabad High Court's decision in Smt. Aneeta and Another v State of U.P. and Others to underscore that none law abiding citizen who is already married under the Hindu Marriage Act, 1955, can seek protection of this Court for illicit relationship, which is not within the purview of social fabric.
- Consequently, the plea was dismissed

Prameya Welfare Foundation vs. State Of Maharashtra

- **TOPIC:** Take Steps To Ensure Eligible Women Receive Benefits Under Altered Ladki Bahin scheme : Bombay High Court to State
- **BENCH :** Chief Justice Devendra Kumar Upadhyay and Justice Amit Borkar
- **FORUM:** Bombay High Court
- **MAIN ISSUE**
  - Regarding the implementation 'Mukhyamantri Majhi Ladki Bahin Yojana' for all eligible women in the State
- **OBSERVATION**
  - While disposing of a Public Interest Litigation (PIL) that sought the implementation 'Mukhyamantri Majhi Ladki Bahin Yojana' for all eligible women in the State, the Bombay High Court has observed that the State must take the necessary steps to ensure that all the eligible women are entitled to the benefits of the altered scheme.
  - The Ladki Bahin scheme intends to give monthly financial assistance to women from economically weaker backgrounds in Maharashtra.
  - The petitioner's counsel contended earlier the State had earlier appointed 11 agencies to consider the applications under the scheme. It was stated that now, the State has only authorized Anganwadi centres to process the applications.
  - The petitioner's counsel also raised apprehensions about processing the applications under the altered scheme. The financial assistance under the scheme is now Rs. 2100 per month as opposed to Rs. 1500 per month before.
  - The State's counsel argued that since applications under the scheme reduced substantially, only Anganwadi centres are considering the applications.

- A division bench of Chief Justice Devendra Kumar Upadhyay and Justice Amit Borkar today took note of the State's affidavit which stated that adequate steps have been taken to facilitate the applications and to ensure that entitled women get benefits.
- The Court also noted that instead of 11 agencies, only Anganwadi centres have been authorized to file due to a reduction in applications.
- While taking note of the State's affidavit, the Court remarked that it should take steps to ensure that eligible women can exercise their rights to receive benefits under the altered scheme.
- With this, the Court disposed of the petition

B. N. JOHN v. STATE OF U.P. & ANR., SPECIAL LEAVE PETITION (CRL.) NO. 2184 OF 2024

- **TOPIC :** Complaint Within Meaning of CrPC Is One Filed Before Judicial Magistrate & Not Executive Magistrate : Supreme Court
- **BENCH :** Justices B. V. Nagarathna and Nongmeikapam Kotiswar Singh
- **FORUM:** Supreme Court
- **MAIN ISSUE**
  - Regarding the meaning and scope of the Criminal Procedure Code
- **OBSERVATION**
  - The Supreme Court stated that a complaint within the meaning and scope of the Criminal Procedure Code is a complaint filed before a Judicial Magistrate and not an Executive Magistrate.
  - The Court held that a complaint filed before an Executive Magistrate cannot be regarded as a complaint filed in terms of Section 195 of the CrPC.
  - To support this, Section 2(d), which defines complaint was referred to
  - The Court also placed its reliance on Gulam Abbas v. State of U.P., (1982) 1 SCC 71 which discussed the difference between a judicial and an executive magistrate,
  - ‘‘Thus, a complaint within the meaning and scope of the Criminal Procedure Code would mean such a complaint filed before a Judicial Magistrate and not an Executive Magistrate.,’’ the Bench of Justices B. V. Nagarathna and Nongmeikapam Kotiswar Singh stated.
  - The present case revolved around the FIR filed against the appellant under Section 186 (Obstructing public servant in discharge of public functions) and Section 353 (Assault or criminal force to deter public servant from discharge of his duty). Though the appellant had approached the High Court for the quashing, the plea was rejected on the basis of FIR as well as witnesses' statement given under Section 161 of the code. Thus, the present appeal
  - At the outset, the Court explained the different approaches of the criminal justice system in cognizable and non-cognizable cases. Given that cognizable cases are more serious in nature, the police are empowered to immediately start the investigation. However, in noncognizable cases, an entire procedure is to be followed.
  - ‘‘Thus, even if the police receives any such complaint relating to non-cognizable offence, the police cannot start investigation without there being a green signal from the Magistrate
  - Further, when such noncognizable offence(s) pertaining to officials who are obstructed from discharging their official duties, there is the additional safeguard before the Magistrate which permits the investigating authority to investigate. It must be preceded by a complaint filed by a public servant before the court/Magistrate.’’
  - Elaborating, the Court said that this safeguard is to ensure that only genuine complaints are entertained by the Magistrate.
  - ‘‘With these safeguards, the fine balance between the liberties of the citizens and the imperatives of the State endowed with coercive authority to maintain law and order is preserved.,’’ the Court said.
  - Keeping this background in place, the Court observed that in the present case no such complaint was filed by the public servant.
  - It is important to note that Section 195 of the code (Prosecution for contempt of lawful authority of public servants) mandates that cognizance for offences under Sections 188 and 353 IPC can be taken only on a complaint filed by a public servant before the Magistrate.

- ‘‘Therefore, if it is found as contended by the appellant that in respect of the offence under Section 186 of the IPC against him,
- No such complaint was filed by the concerned public servant as contemplated under Section 195 (1)(a) CrPC, the CJM could not have taken cognizance of the offence under Section 186 of the IPC.’’
- Adverting to the submissions of the State that a complaint was filed by the District Probation Officer to the City Magistrate, the Court categorically that the complaint must be addressed to the judicial magistrate
- ‘‘Further, under Section 195 (1) of the CrPC read with Section 2 (d) of the CrPC, the complaint, has to be filed before the court taking cognizance, and the complaint which is required to be filed under Section 195 (1) of the CrPC, can only be before a Judicial Magistrate and not an Executive Magistrate who does not have the power to take cognizance of an offence or try such cases.,’’ the Court stated.
- Stressing that a written complaint by the public servant before the Trial Court is a sine qua non, the Apex Court marked the cognizance taken by the Trial Court under Section 186 of IPC as ‘‘illegal’’.
- ‘‘Under such circumstances, we are satisfied that the appellant has been able to make out a case that taking cognizance of the offence under Section 186 of the IPC by the Court of CJM, Varanasi,
- Was illegal, as before taking such cognizance it was to be preceded by a complaint in writing by a public servant as required under Section 195(1) of the CrPC. A written complaint by a public servant before the court takes cognizance is sine qua non, absence of which would vitiate such cognizance being taken for any offence punishable under Section 186 of the IPC.
- In so far as Section 353 is concerned, the Court explained that for an act to fall under this Section, it must involve either assault or criminal force. However, in the present FIR there is no mention of both of the said requirements. Mere obstruction is not enough as Section 353 is of aggravated nature as compared to Section 186.
- The Bench referred to the landmark case of State of Haryana Vs. Ch. Bhajan Lal and Ors. wherein the Court had laid down several guidelines pertaining to the quashing of the cases
- One of them was that FIR can be quashed if the allegations made in FIR do not prima facie constitute any offence or make out a case against the accused.
- Based on this, the Court noted that since the ingredients of Section 353 was missing in the FIR, the cognizance taken by the Trial Court was not correct
- ‘‘Under the circumstances, we are of the opinion that taking cognizance by the CJM, Varanasi, of the offences under Section 353 of the IPC and 186 of the IPC was not done by following the due process contemplated under the provisions of law, and accordingly, the same being contrary to law, all the orders passed pursuant thereto cannot be sustained and would warrant interference from this Court.’’
- Against this backdrop, the Court quashed the criminal proceedings against the appellant.