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# JUDGEMENTOPEDIA

*(Learning Judgements For A Living)*



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# JUDGEMENTOPEDIA

(Learning Judgements For A Living)

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# Advocates who voluntarily suspend their practice cannot be said to be a member of the bar

**CONTEXT:** The Petitioner was a law graduate who enrolled as an advocate with the Bar Council of Kerala on 30.12.2007. She initially was practicing and later applied and got appointed as the Lower Division Typist in the Excise Department and therefore voluntarily suspended her license on 10.10.2012. She later applied for the post of Assistant Public Prosecutor Gr.II, which prescribed that the applicant must be a member of the bar with a minimum of 3 years' experience. Her application was rejected. She contended that mere voluntary suspension does not remove her from the roll of the Bar.

The Hon'ble Kerala High Court held that the Petitioner has voluntarily suspended the license to take full-time employment with the Government. It further added that "Such a person cannot be said to be a member of the Bar" as per the provisions of the Advocates Act, 1961 and BCI Rules.

**SAUMYA M.S. VS.**  
**STATE OF KERALA**  
**& OTHERS**  
**[OP(KAT) NO. 39 OF**  
**2022 AGAINST**  
**ORDER IN OA 880**  
**OF 2020 KERALA**  
**ADMINISTRATIVE**  
**TRIBUNAL,**  
**THIRUVANANTHAP**  
**URAM]**

**THE ADVOCATES**  
**ACT, 1961**

**BAR COUNCIL OF**  
**INDIA RULES**

# Supreme Court quashes FIR in alleged rape case after solemnization of marriage

**CONTEXT:** This case involves a criminal appeal regarding quashing of an FIR filed for offences under Sections 376 (rape) and 506 (criminal intimidation) of the Indian Penal Code, 1860.

1 The victim's father alleged that the accused maintained a physical relationship with his daughter by giving a false promise of marriage. The High Court declined to quash the FIR under Article 226 of the Constitution.

2 A legal notice issued on behalf of the victim described her as the wife of the accused and stated they had solemnized marriage. The accused filed a petition for restitution of conjugal rights against the victim.

3 The Supreme Court found the relationship between the accused and the victim was consensual and culminated in marriage and that no prudent person could conclude there were sufficient grounds to proceed against the accused based on the FIR allegations.

4 The Supreme Court held that any claim of deceit regarding the promise of marriage after solemnization will not be entertained and quashed the FIR against the accused.

**AJEET SINGH**  
**VERSUS STATE OF**  
**UTTAR PRADESH &**  
**ORS.**

**[CRIMINAL APPEAL**  
**NO. 32 OF 2024**  
**(ARISING OUT OF**  
**SPECIAL LEAVE**  
**PETITION (CRL.)**  
**NO.147 OF 2017)]**

**THE INDIAN PENAL**  
**CODE, 1860**

**THE CONSTITUTION**  
**OF INDIA**

**THE HINDU MARRIAGE**  
**ACT, 1955**

# Interest of victim must be kept in consideration while granting bail to accused

**CONTEXT:** The Jai Shriram Urban Credit Co-operative Society Limited, was involved in a massive financial scam involving the misappropriation of funds worth ₹79,54,26,963/. The appellants are some of the depositors who were affected by the scam. The respondent no 1, was the friend of the co-accused Meharkure, the president of the Society. The respondent no 1 was also involved in misappropriation of funds such as purchasing immovable properties worth approximately ₹10 crores in the name of the co-accused. The Bombay High Court granted bail to respondent 1 due to insufficient evidence and a appeal was filed regarding the bail.

① The appeal was allowed and the bail was cancelled.

② The Court mentioned that “The respondent no 1 already suffered incarceration for a period of about six months at the time when bail was granted, yet in view of the nature of the alleged offence, his release on bail can seriously lead to dissipation of the properties where investments have allegedly been made out of Society funds. At the end of the day, the interests of the victims of the scam have also to be factored in.”

**MANIK MADHUKAR**  
**SARVE & ORS. VS.**  
**VITTHAL DAMUJI**  
**MEHER & ORS**  
**[CRIMINAL APPEAL**  
**NO.3573 OF 2024(@**  
**SPECIAL LEAVE**  
**PETITION (CRL.)**  
**NO.3945 OF 2022)]**

**INDIAN PENAL  
CODE, 1860**

**THE  
MAHARASHTRA  
PROTECTION OF  
INTEREST OF  
DEPOSITORS (IN  
FINANCIAL  
ESTABLISHMENTS)  
ACT, 1999**

# Clarifying Legal Definitions: Rape and Aggravated Sexual Assault in the Context of POCSO

**CONTEXT:** In a criminal appeal filed against the Additional Sessions Judge's decision, in which the convict/appellant was sentenced to ten years rigorous imprisonment for offences under Section 376(2)(i) of the Penal Code, 1860 and Section 6 of the Protection of Children from Sexual Offences Act, 2012 (POCSO Act), the Single Judge Bench set aside the impugned order and found the convict guilty under Section 10 of the POCSO Act.

1 The victim's testimony shows that the appellant undressed her, forced her to lie on a stone, and sought to force her into oral and vaginal actions.

2 However, her statements do not corroborate that the appellant penetrated her vagina or any other part of her body, nor do they claim that he manipulated her body to cause such penetration.

3 Therefore, it is very difficult to hold that the 'rape' as per the definition of section 375 of the I.P.C. or penetrative sexual assault as per definition under Section 3 of the POCSO Act has been committed on the victim by the appellant.

4 Therefore, the Court determined that the convict's actions would fall under the definition of 'sexual assault' as specified in Section 7 of the POCSO Act and since the girl's age was less than twelve years, the convict committed 'aggravated sexual assault' with her.

DILU JOJO V.  
STATE OF ODISHA  
[2023(II)ILR-  
CUT798]

**PROTECTION OF  
CHILDREN FROM  
SEXUAL OFFENCES  
ACT, 2012**

# Supreme Court Against Calcutta High Court's Decision in Arbitration Matters

**CONTEXT:** The appellant challenged the Calcutta High Court's partial rejection of their claims under Section 37 of the Arbitration and Conciliation Act, 1996, stemming from delays in a road project contract. The Arbitrator awarded compensation, which was partly set aside by the High Court.

1 The Supreme Court upheld the High Court's decision to set aside the Award for claim no. 3 (idle labor, machinery, etc.) but reinstated the Award for claim no. 4 (interest on delayed payments).

2 The Court emphasized the need for a thorough examination of contract terms.

3 It also affirmed the Arbitrator's authority to grant pre-reference and pendent lite interest under Section 31(7) of the Act, unless explicitly barred by the contract.

**PAM**  
**DEVELOPMENTS**  
**PRIVATE LIMITED**  
**VERSUS STATE OF**  
**WEST BENGAL AND**  
**ANOTHER**  
**[2024 SCC ONLINE**  
**SC 2247]**

**THE ARBITRATION  
AND CONCILIATION  
ACT, 1996**