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X v. State of Gujarat



Whether a real estate company purchasing a property for its director's personal use come within the definition of "consumer" under the Consumer Protection Act,2019?

CONTEXT: The Respondent in this case was a real estate development company which booked a flat for its director and his family members with the appellant on 22.09.2015 in the "Omkar 1973 Worli" project. The respondent had paid a booking amount of Rs.51,00,000 and also paid a part consideration of Rs.6,79,97,07. The appellant had also double booked the apartment and had already allotted the same to one Mr. Nakul Arya. The appellant contended that the respondent would not come under the definition of consumer as per the Consumer Protection Act, 2019

1 The Hon'ble Supreme Court dismissed the appeal and held that "dominant intention or the dominant purpose of the transaction is to be looked into to find out if it had any nexus with some kind of profit generation as a part of commercial activities" to determine whether they fall under the definition of consumer. Since the flat was being specifically purchased for the purpose of residence of one of its directors and his family, the Hon'ble Supreme Court ruled that they fall under the definition of consumer under the CPA,2019.

OMKAR REALTORS
AND DEVELOPERS
PVT. LTD VS.
KUSHALRAJ LAND
DEVELOPERS PVT.
LTD & ANOTHER
[2024 INSC 629]

**THE CONSUMER
PROTECTION ACT,
2019**

Supreme Court Reverses POCSO Conviction of Teacher

CONTEXT: The Supreme Court overturned the POCSO conviction of a teacher who allegedly coerced an eighth-grade student into accepting flowers and chocolates, highlighting significant contradictions and inconsistencies in the prosecution's case. The two teachers involved were previously sentenced to rigorous imprisonment, but the Court determined that the evidence against them was insufficient for conviction, emphasizing the importance of reliable witness testimonies in sexual offence cases.

“Conviction undoubtedly can be recorded on the sole evidence of a victim of crime; however, it must undergo a strict scrutiny through the well-settled legal principles as established by this Court in a catena of decisions. While the actions attributed to A-1, as sought to be demonstrated by the prosecution, may fall within the purview of ‘sexual harassment’ under section 11 of the POCSO Act, the evidence in this case has been marred by inadequacies from the outset, evident in contradictions within statements and testimonies. The evidence led leaves reasonable suspicion as to whether A-1 was actually involved in any criminal act.”

NIRMAL PREMKUMAR
V. STATE
[2024 SCC ONLINE SC
260]

**THE PROTECTION OF
CHILDREN AGAINST
SEXUAL OFFENCES
ACT
(POCSO), 2012**

Whether the principle of no work no pay can be applied incase of illegal orders of termination?

CONTEXT: The petitioner filed a writ petition in the High Court of Delhi, seeking to challenge several orders related to her employment status at the respondent. The specific orders in question were issued by the Delhi School Education Department, which included a denial of continuity of service and full back wages following her suspension and subsequent termination. The principle of “no work no pay”, was debated.

1 The Court held that, “A distinction has been drawn in those cases where the orders of termination have been held to be illegal and simultaneously, it has been found that the terminated employee had shown his or her willingness to continue in service but was deprived by some reason or the other by the Authority. In such of those cases the employees have been held to be entitled to back wages.”

MANISHA SHARMA
VS VIDYA BHAWAN

GIRLS SENIOR
SECONDARY
SCHOOL & ANR

[W.P.(C)
4217/2022]

THE CONSTITUTION
OF INDIA, 1950

Gujarat HC grants bail to child in conflict with law for lack of direct involvement

CONTEXT: This case involves a revision application filed before the Gujarat High Court challenging the orders of the Trial Court and the Juvenile Justice Board, which had rejected the bail application of a child in conflict with the law. The child was accused in a case involving multiple charges under the Bharatiya Nyaya Sanhita, 2023, including allegations of abetment in a suicide case where a family took their lives due to harassment over financial disputes.

The child was accused of assisting the main accused (a factory owner) by handing him a shovel, which was allegedly used to beat the deceased. Furthermore, the child had recorded the incident on video.

However, the Court found that the child did not have direct involvement in the violence and was only present at the scene.

The Court observed that detaining the child further would harm his mental and emotional well-being, leading to his release on bail with a personal bond of Rs. 10,000/-, under supervision by the Probation Officer.

X V. STATE OF
GUJARAT
[24:GUJHC:46202]

**THE JUVENILE
JUSTICE (CARE
AND PROTECTION
OF CHILDREN) ACT,
2015**

**THE BHARATIYA
NYAYA SANHITA,
2023**