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JUDGEMENTOPEDIA

(Learning Judgements For A Living)

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Watching child sexual exploitative and abuse content in private is punishable under the POCSO Act, 2012

CONTEXT: The mobile phone belonging to Respondent 1 had downloaded pornographic content relating to children, where two under-aged boys were depicted having sexual intercourse with an adult woman. The Respondent agrees to have viewed it privately. Chargesheet was filed under section 67 B of IT Act and section 15 (1) of the POCSO Act. The Respondent herein moved to the High Court aggrieved by an order of conviction by the Mahila Fast Track Court, Tiruvallur. The High Court quashed the proceedings in Spl.S.C No.170 of 2023 on the ground that no offence was made out. Hence this appeal to the Hon'ble Supreme Court.

1 The Hon'ble Supreme Court while setting aside the impugned order of the Madras High Court held that “the High Court committed an egregious error in passing the impugned judgement.”

2 It further put courts to notice that the term “child pornography” shall not be used in any judicial order or judgement and instead the term “child sexual exploitative and abuse material” (CSEAM) should be endorsed.

PRECEDENTS:

1) NATIONAL SPOT EXCHANGE LIMITED VS ANIL KOHLI

[(2022) 11 SCC 761]

2) STATE OF MAHARASHTRA & ANOTHER VS. MAROTI

[(2023) 4 SCC 298]

JUST RIGHTS FOR
CHILDREN
ALLIANCE AND
ANOTHER VS. S.
HARISH AND
OTHERS
[CRIMINAL APPEAL
NOS.2161-2162 OF
2024]

SECTION 15 (1) OF
THE PROTECTION
OF CHILDREN FROM
SEXUAL OFFENCES
ACT, 2012

SECTION 67 B OF
INFORMATION
TECHNOLOGY ACT,
2000

Can an imprisoned person take admission in college?

CONTEXT: This case involves a petition by Mahesh Sitaram Raut, who is currently detained in Taloja Central Prison, seeking admission to the LL.B. course at Siddharth College of Law for the academic year 2024-25 while facing charges under various sections of the Indian Penal Code, 1860 and the Unlawful Activities (Prevention) Act, 1967

1 “Imprisonment does not restrict an individual’s right to pursue further education. Denying the opportunity to take admission in the College despite a seat being allotted by following the due process as prescribed, is a violation of the fundamental right of the Petitioner. In these circumstances, we are inclined to allow the Petitioner to take admission in the LL.B. course in the Siddharth Law College for the AY 2024-25 for the batch of 2024-2027.”

2 “However, we make it clear that by this Order, we have not granted any exemption to the Petitioner from satisfying any of the requirements of the University and the Siddharth Law College as other candidates are ordinarily required so to do, as per prevailing rules and regulations. The University and the College are at liberty to refuse permission to the Petitioner from appearing in the examination for failure to satisfy the minimum attendance criteria or any other eligibility criteria. The Petitioner shall not claim any equity on basis of this Order.”

MAHESH SITARAM
RAUT V. STATE OF
MAHARASHTRA
[CRIMINAL WRIT
PETITION NO. 3999 OF
2024]

**INDIAN PENAL CODE,
1860**

**THE UNLAWFUL
ACTIVITIES
(PREVENTION) ACT,
1967**

Whether an arbitrator can be substituted without any proof for reasonable likelihood of bias?

POONAM MITTAL VS.
M/S CREAT ED PVT.
LTD.

[O.M.P.(MISC.)
(COMM.) 80/2023]

CONTEXT: The arbitration arose from a dispute related to a contractual agreement between the parties. The petition has been filed for substitution of Arbitrator on the grounds of bias. The Coordinate Bench has held that substitution of an Arbitrator under Section 29A is only to be effected when the existing Arbitrator has failed to proceed expeditiously in the matter. Hence the petition was filed in Delhi HC for the substitution.

1 The Court mentioned that “There is no pleading of bias against the learned Arbitrator, the material on record does not, even on facts, make out a case of reasonable likelihood of bias”.

2 The Court also mentioned that “This is not a case in which the Arbitrator has been merely adjourning the matter without any good reason, thereby delaying the proceedings. On the other hand, the Arbitrator has been proceeding with the matter with all due sincerity,..... no case for substitution of the learned sole Arbitrator presently in seisin of the disputes between the parties is made out. The prayer for substitution of the Arbitrator is accordingly rejected”

**SECTION 29A(4),
29A(6) AND 34 OF
THE ARBITRATION
AND CONCILIATION
ACT, 1996**

Defective airbags in Mercedes-Benz car: NCDRC upholds SCDRC decision dismissing complaint

CONTEXT: The appellant purchased a Mercedes-Benz car for Rs. 53 Lakhs in 2008. In January 2010, the vehicle was involved in an accident, during which the airbags did not deploy, resulting in injuries to the appellant. He alleged a manufacturing defect and filed a complaint seeking 30.5 Lakhs, which was subsequently revised to Rs. 25.5 Lakhs in compensation, which the SCDRC dismissed as there was lack of evidence.

1 The NCDRC upheld the SCDRC's decision & stated that there is an absence of expert opinion and evidence to substantiate the appellant's claims.

2 The respondent's evidence regarding the non-use of seat belts, which act as a primary restraint mechanism, was not contested.

3 Furthermore, the Police Report indicated rash and negligent driving as the cause of the accident. The appeal was dismissed, and the impugned order did not warrant interference.

MOHD. HYDER KHAN
V. MERCEDES-BENZ
INDIA PVT. LTD.
[FIRST APPEAL NO.
10 OF 2013]

**SECTION 13(1)(C) OF
THE CONSUMER
PROTECTION ACT,
1986**