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JUDGEMENTOPEDIA

(Learning Judgements For A Living)

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Can a woman terminate her pregnancy after 24 weeks while the marriage annulment proceedings are underway?

CONTEXT: The Petitioner had approached the Punjab High Court for seeking termination of pregnancy under the provisions of Medical Termination of Pregnancy Act, 1971. The Petitioner contended that she was a victim of dowry harassment and that she has filed a case for the annulment of the marriage. The MTP Board has not recommended the termination as the pregnancy has crossed the 24-week condition, which is the maximum permissible limit.

1 The Punjab High Court held that the change of marital status during an ongoing pregnancy is a concept which needs to be understood in true spirit. The Hon'ble Court further allowed the termination of pregnancy, taking into consideration the fact that she has been abandoned by her husband at her parental home and that she herself is dependent now on her parents.

PRECEDENTS RELIED UPON: Sarmistha Chakraborty & Another vs. Union of India Secretary & Others [(2018) 13 SCC 339]

**X VS. STATE OF
PUNJAB AND
OTHERS**
**[2024:
PHHC:104940;
CWP-18392-2024
(O&M)]**

**MEDICAL
TERMINATION OF
PREGNANCY ACT,
1971**

Non-Applicability of Interest Rate as a Defense Following Execution of a Cheque

CONTEXT: This case involves a criminal appeal regarding a cheque bounce case under Section 138 of the Negotiable Instruments Act, 1881.

1 The complainant alleged that the accused owed Rs. 21,09,000 and issued a cheque for Rs. 19,00,000 which was returned with the endorsement “Account Closed.”

2 The Trial Court convicted the accused, but the appellate court allowed additional evidence from the accused under Section 391 of Cr.P.C. and subsequently acquitted him.

3 The appellate court found discrepancies in the complainant's calculations of interest rate and account statements, which did not support the amount claimed.

4 The High Court dismissed the criminal appeal under Section 378(4) of Cr.P.C., finding no reason to interfere with the acquittal order passed by the Sessions Court.

SRI SUJIES BENEFIT
FUNDS LIMITED VS
M.JAGANATHUAN
[CRL.A.NO.582 OF
2012]

NEGOTIABLE
INSTRUMENTS ACT,
1881

Whether lending institutions providing loan to homebuyers can be considered as financial creditors under IBC?

CONTEXT: There were two flat buyers who availed loan from IIFL Home Finance Ltd.(Appellant) for buying flats in Noida, developed by Saha Infratech Pvt Ltd(Corporate Debtor). The CD was admitted into CIRP and Mr. Shiv Nandan Sharma was appointed as Resolution Professional. The Appellant filed a claim of Rs.2.31 crores, which was not admitted. The Appellant filed an interlocutory application with the NCLT seeking a directive for the RP to admit their claim, but it was dismissed.

1 The Appellate Tribunal relied on the Supreme Court's decision in Pioneer Urban Land & Infrastructure Ltd. & Anr. vs. Union of India & Ors, AIR 2019 SC 4055., observing that homebuyers should be considered 'Financial Creditors' of the Corporate Debtor, regardless of whether they self-financed their flat or took a loan.

2 The Court mentioned that “Presence of a mere tripartite Agreement does not change the character of the amount borrowed by the Home Buyer vis-a-vis the Bank and vis-a-vis the ' Corporate Debtor'. The Appellant cannot be included as a ‘Secured Financial Creditor’ in this case.”

IIFL HOME FINANCE

LTD. VS. SHIV

NANDAN SHARMA

RESOLUTION

PROFESSIONAL

SAHA INFRATECH

PVT. LTD.

[COMP. APP. (AT)

(INS) NO. 856 OF

2024 & I.A. NO.

2958, 3089 OF

2024]

INSOLVENCY AND

BANKRUPTCY

CODE, 2016 (IBC)

POCSO Act Is Being Misused In Cases Of Consensual Romantic Relationships Between Teenagers

CONTEXT: The Allahabad High Court recently highlighted that while the primary aim of the Protection of Children from Sexual Offences (POCSO) Act is to safeguard minors under 18 from sexual exploitation, concerns have arisen over its misuse in cases involving consensual romantic relationships between teenagers.

“When addressing these cases, it is crucial to:

Assess the Context: Each case should be evaluated on its individual facts and circumstances.

1 The nature of the relationship and the intentions of both parties should be carefully examined.

Consider Victim’s Statement: The statement of the alleged victim should be given due consideration. If the relationship is consensual and based on mutual affection, this should be factored into decisions regarding bail and prosecution.

Avoid Perversity of Justice: Ignoring the consensual nature of a relationship can lead to unjust outcomes, such as wrongful imprisonment. The judicial system should aim to balance the protection of minors with the recognition of their autonomy in certain contexts. Here age comes out to be an important factor.

Judicial Discretion: Courts should use their discretion wisely, ensuring that the application of POCSO does not inadvertently harm the very individuals it is meant to protect.”

SATISH ALIAS
CHAND V. STATE OF
UP & ORS.
[2024 SCC ONLINE
ALL 3357]

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

Deceased not earning at the time of death – Can heirs claim future prospect/future rise in income?

CONTEXT: In a motor vehicle accident case, the deceased, a 21-year-old engineering student, was not earning at the time of his death. The key issue was whether his legal heirs were entitled to compensation that included future prospects.

1 The Supreme Court held that future prospects should be considered even for an unemployed deceased, as it is unrealistic to assume that their income would remain stagnant.

2 The Court emphasized that considering the deceased's educational background and potential, future prospects must be factored in to provide just compensation.

3 The total compensation was enhanced to ₹15,82,000 with 7% interest per annum.

A MEENA PAWAIA
V. ASHRAF ALI
[2021 SCC ONLINE
SC 1083]

MOTOR VEHICLES
ACT, 1988