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JUDGEMENTOPEDIA

(Learning Judgements For A Living)

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- 5 Skechers South Asia Pvt. Ltd. & Ors. v. Wardrode & Ors.



Dying declarations given to multiple parties cannot be denied as evidence merely due to minor inconsistencies

CONTEXT: One Ms. Sunita, daughter of Dhani Ram was married to Ram Chandra on 1.5.1987. Dhani Ram gave dowry beyond his capacity but the in-laws were not satisfied and harassed her regularly. At the height of rage, her brother-in-law, Santosh Kumar, poured kerosene oil on Sunita and burned her while harassing her for dowry. Sunita gave dying declarations to her father, investigating officer and the Tahsildar which had minor inconsistencies based on which the trial court convicted the accused. However, on appeal to the High Court, it dismissed the order of the trial court. Hence, this appeal to the Supreme Court.

The Hon'ble Supreme Court held that "if on material particulars, statements of prosecution witnesses are consistent, then ¹ they cannot be discarded only because of minor inconsistencies." They further stated that "it is the duty of the court to ensure that truth prevails."

PRECEDENTS:

SHANTI VS. STATE OF HARYANA (1991) 1 SCC 371

**STATE OF UTTAR
PRADESH VS.
SANTOSH KUMAR
AND OTHERS**
[(2009) 9 SCC 626]

**SECTION 3 AND 4
OF DOWRY
PROHIBITION ACT,
1961**

**SECTION 498-A
AND SECTION 304 B
OF IPC, 1860**

Does the PoSH Act allow sexual harassment complaints against the same gender?

CONTEXT: An employee of an educational institution complained to the Internal Committee (IC) of sexual harassment against another employee of the same gender. After conducting the investigation, the IC found the responder guilty and suggested taking action against them. In the Delhi High Court, the respondent contested the Internal Committee's decision. She argued that when the complainant and respondent are of the same gender, the IC lacks the authority to investigate sexual harassment complaints. According to her, an employer can only take action against a man who engages in sexual harassment.

“Although there is substance in the submission of the petitioner that the said expression has to be read in conjunction with the rest of the statute as a whole, there is nothing in Section 9 of the 2013 Act [which has been referred to in Section 2(m)] to preclude a same-gender complaint under the Act.

① Although it might seem a bit odd at the first blush that people of the same gender complain of sexual harassment against each other, it is not improbable, particularly in the context of the dynamic mode which the Indian society is adopting currently, even debating the issue as to whether same gender marriages may be legalized.”

DR. MALABIKA
BHATTACHARJEE

V. INTERNAL
COMPLAINTS
COMMITTEE,
VIVEKANANDA
COLLEGE AND ORS.
[2021(1) SCT 431
(CALCUTTA)]

**THE PREVENTION
OF SEXUAL
HARASSMENT
(POSH) AT
WORKPLACE ACT,
2013**

Whether religious beliefs and practices be imposed on others

CONTEXT: The petitioner, Abdul Noushad, sought to quash criminal proceedings initiated after he publicly criticized and defamed a Muslim law student for shaking hands with former Finance Minister T.M. Thomas Isaac at a public event. The petitioner claimed that the handshake violated Sharia law and publicly accused the student of adultery through social media posts. This led the student to file a complaint, resulting in charges against the petitioner.

1 The Kerala High Court, led by Justice P.V. Kunhikrishnan, dismissed the petition to quash the criminal proceedings.

2 The Court held that while religious beliefs are constitutionally protected, they cannot be imposed on others.

3 The Court emphasized that one cannot impose their religious practices on another, affirming it as a personal choice for every citizen. The court noted that if the prosecution's case is substantiated by credible evidence, it could significantly infringe upon the personal liberty of the accused.

4 The Court directed the trial court to expedite the proceedings, upholding the charges against the petitioner.

ABDUL NOUSHAD @
NOUSHAD AHSANI
V. STATE OF
KERALA
[CRL.MC NO. 2575
OF 2018 (KERALA
HIGH COURT)]

**ARTICLE 25 & 26 OF
THE CONSTITUTION
OF INDIA**

**SECTION 153 OF THE
IPC, 1860 (NOW
REPLACED BY
SECTION 192 OF BNS,
2023)**

**SEC 119(a) OF THE
KERALA POLICE ACT,
2011**

Does shouting amount to assault?

CONTEXT: The incident occurred when the petitioner was inspecting documents at the CAT office. During this time, he reportedly caused a disturbance, which led to allegations of shouting and threatening staff members. The High Court did not quash the proceedings, hence an appeal was filed in the Supreme Court.

1 The Court discussed the definition of assault as per Section 353 of IPC and mentioned that “we find that none of the ingredients, as mentioned in Section 353 IPC, is reflected in the complaint letter. In other words, no offence under Section 353 IPC is made out in this case.”

2 Thus, the appeal was allowed, and the proceedings against the petitioner were quashed.

K.DHANANJAY VS.
CABINET SECRETARY

AND ORS.

[CRIMINAL APPEAL

NO. OF 2024(@

SPECIAL LEAVE

PETITION (CRL.) NO.

5905/2022)]

**SECTION 353 OF THE
INDIAN PENAL CODE
(IPC),1860**

Bombay High Court grants Skechers interim relief in Trademark infringement case

CONTEXT: Skechers South Asia Pvt. Ltd. filed a case against parties selling counterfeit products bearing Skechers trademarks in Nashik and Indore. An investigation showed that these inferior-quality imitations closely resembled genuine Skechers merchandise, which Skechers claimed could harm its brand reputation. The defendants were found to be using Skechers trademarks and designs dishonestly, without legitimate trademark registrations.

Justice R.I. Chagla of the Bombay High Court granted ex-parte ad interim relief to Skechers, acknowledging a strong prima facie case for trademark infringement and copyright violation.

The Court issued an injunction, restraining the infringers from using Skechers trademarks or similar marks.

Additionally, court receivers were appointed to conduct search and seizure operations across multiple locations, supported by local police, to confiscate counterfeit products.

This operation, conducted on October 26, spanned over 15 locations in Nashik, Indore, and Delhi, resulting in the seizure of approximately 2,500 counterfeit products.

The Court emphasized that failure to act swiftly could result in irreparable harm to Skechers. Similar orders were secured from the Delhi High Court.

SKECHERS SOUTH
ASIA PVT. LTD. &
ORS. V WARDRODE &
ORS.
[COMMERCIAL IPR
SUIT (L) NO. 32860
OF 2024]

THE TRADE MARKS
ACT, 1999