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JUDGEMENTOPEDIA

(Learning Judgements For A Living)

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Whether FIR filed on the grounds of rape and criminal intimidation can be quashed if the relationship is found to be consensual

PRASHANT VERSUS
STATE OF NCT OF
DELHI
[2024 INSC 8791]

CONTEXT: This is an appeal against an order passed by the High Court of Delhi that refused to quash the FIR filed against the appellant. The appellant was alleged to have been in a relationship with the complainant since 2017, and that he forced her into having a sexual relationship with him in January 2019 and threatened her into further sexual activity. The appellant argued that their relationship was consensual and that the allegations were inconsistent.

1 The Supreme Court of India allowed the appeal and set aside the High Court's order.

2 The Court found that the relationship between the appellant and the complainant was consensual and that the allegations did not establish the offence of rape or criminal intimidation.

**SECTIONS 376(2)(n),
375, 503 & 506 OF
THE INDIAN PENAL
CODE, 1860**

**SECTION 482 OF
THE CODE OF
CRIMINAL
PROCEDURE, 1973**

Can a woman file a Domestic Violence case against any relative, including other women?

CONTEXT: This appeal challenges a Bombay High Court judgment that attempted to read down Section 2(q) of the Protection of Women from Domestic Violence Act, 2005 (“the 2005 Act”). The High Court's interpretation expanded the definition of "Respondent" to include female relatives of an adult male person in cases where the aggrieved person is a wife or a woman in a relationship akin to marriage. The key issue at hand is whether restricting the definition of "Respondent" solely to adult male persons is constitutionally valid, particularly in light of Article 14, which guarantees equality before the law.

1 The Supreme Court of India set aside the Bombay High Court judgment and declared that the words “adult male” in Section 2(q) of the 2005 Act are unconstitutional and will be deleted.

2 This decision was based on the finding that limiting the definition of "Respondent" to adult males violates Article 14 of the Constitution of India, as it creates an arbitrary classification that is not reasonably related to the Act's objective of protecting women from domestic violence.

3 As a consequence, the proviso to Section 2(q) was also deleted, as it became redundant without the qualifying words "adult male".

HIRAL P. HARSORA
AND ORS. VS.
KUSUM
NAROTTAMDAS
HARSORA AND ORS.
[MANU/SC/1269/20
16]

**SECTION 2(Q) OF
THE PROTECTION OF
WOMEN FROM
DOMESTIC
VIOLENCE ACT,
2005**

**ARTICLE 14 OF THE
CONSTITUTION OF
INDIA**

Can real-estate agents withhold deposit without providing physical possession of the property?

CONTEXT: The complainants booked a residential unit and paid a sum of Rs. 58,79,841/- to the real estate developers. Despite repeated inquiries, the developers failed to provide an allotment letter, execute a builder buyer agreement, and deliver physical possession of the unit. The complainants sought cancellation of the booking and a refund of the paid amount with interest.

The National Consumer Disputes Redressal Commission partly allowed the complaint, ordering the real estate developers to refund the deposited amount of Rs. 58,79,841/- with 9% per annum interest from the date of deposit until realisation.

This decision was based on the developers' failure to fulfil their contractual obligations, which constitutes a deficiency in service.

If the developers fail to make the refund within eight weeks, the interest rate will be enhanced to 12% per annum.

Additionally, the developers have to pay Rs. 50,000/- as litigation costs.

**VIVEK GULATI &
ANR. VS. REALTECH
DEVELOPMENTS AND
INFRASTRUCTURE
(INDIA) PVT. LTD. &
ANR.
[CONSUMER CASE
NO. 1434 OF 2018]**

**SECTION 21(a)(i) OF
THE CONSUMER
PROTECTION ACT,
1986**

Can a family member who is not directly involved in alleged dowry harassment be implicated in a criminal complaint without specific evidence of their participation?

DIPAK RANJAN
MUKHERJEE VERSUS
CPIO
[CIC/MOCMI/A/2023/
633735]

CONTEXT: A complainant filed an FIR alleging dowry demands and deception against his daughter's husband, his family, and the brother-in-law (husband's cousin). The brother-in-law, living separately from the husband's family, appealed to the High Court under Section 482 Cr.P.C. to quash the FIR. The High Court quashed the proceedings against him but not his wife. The complainant appealed to the Supreme Court to reinstate charges against the brother-in-law.

1 The Supreme Court upheld the High Court's decision, finding the allegations against the brother-in-law vague and unsupported by evidence.

2 The Court concluded that his inclusion in the FIR was an "over implication" aimed at pressuring the husband's family into complying with the wife's demands.

**SECTION 482 OF THE
CODE OF CRIMINAL
PROCEDURE, 1973**

**Section 498A OF THE
INDIAN PENAL CODE,
1860**

The "NO TURN" Trademark dispute between Peps & Kurlon

CONTEXT: The plaintiff, Peps Industries Private Limited, sought permanent injunction against the defendant, Kurlon Limited, for the latter's use of the mark "NO TURN" in association with mattresses. The plaintiff, claimed that they have registered the trademark "NO TURN" and using it since 15th January 2008, alleged infringement, passing off, dilution and tarnishment of its trademark. The defendant, while acknowledging the plaintiff's registration, asserted prior use of the mark since 2007, predating the plaintiff's registration and use. The defendant further argued that "NO TURN" was merely descriptive of a characteristic of its mattresses (not requiring turning) rather than functioning as a distinct trademark.

1 The Court ruled against granting the injunction sought by the plaintiff.

2 It acknowledged the defendant's prior use of "NO TURN," which, though not qualifying as a defence under Section 34 of the Trade Marks Act, 1999, did negate the plaintiff's claim of passing off or damage to its goodwill.

3 Crucially, the Court found that "NO TURN" functioned as a descriptive term for a quality of the mattresses rather than a distinct trademark, thereby precluding the plaintiff from claiming exclusive rights to the mark.

PEPS INDUSTRIES
PRIVATE LIMITED V.
KURLON LIMITED
CS(COMM) 174/2019

SECTIONS 28,
27(2),30(2)(a) OF
THE TRADEMARKS
ACT, 1999