

LAWBY WRITES

THE LEGAL RECOURSE



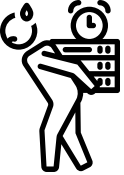
Why is the churn so severe at law offices these days? Legal Gig workers to the rescue?

POCSO's reporting mandate: Above public servant immunity

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Breaking the myth: Do you really face Police cases for helping accident victims?



EDITORIAL



P Arun Sugavaneshvar
Founder

Why is the churn so severe at law offices these days? Legal Gig workers to the rescue?

“Train people well enough so they can leave. Treat them well enough so they don’t want to”- Richard Branson, Founder, Virgin Group.

Employee churn is becoming a serious issue at law firms across the world. The unique feature of the legal profession is the ability to work independently without being associated with any law firm or office. The attrition rates are usually high in the legal industry. At the early stage of a lawyer’s life, there is a severe competition to get into reputed law offices and Chambers of distinguished lawyers to learn and add grandeur to one’s resume. However, things seem to be changing. **The Great Resignation, a phenomenon that came upon after the COVID pandemic that saw employees quitting en masse for various reasons, including inadequate compensation and the mere calling to take up more meaningful work profiles, seems to have taken a new form.**

Organizations that support a ‘choose-your-own-work-style’ culture will boost employee retention rates by more than 10%, says Gartner law firm. I am of the opinion that remote work may become the default standard operating mode in law in the coming years, save for a few exceptions. **Mr. Narayana Murthy, the founder of tech giant Infosys recently got severely trolled for his comment that employees must work at least 70 hours a week. The incongruence of financial gratification between a Founder/CEO and an employee has sparked debates on whether such hard work is truly for the benefit of the employee.** Work-life balance seems to be the most uttered word that dominates the work culture in various workspaces at the moment though no one knows what is the right alchemy to bring about that.

The young legal talent is averse to unpredictable work schedules, limited flexibility for personal commitments and a high-stress environment leading to burnout. There is also the question as to the mobility of the best legal talent a law firm can hire? **“The reality is that many companies have their headquarters in locations that are not near where the best legal talent lives. If a legal department’s leadership close their minds to remote work, they may need to ‘settle’ for someone who happens to live within a 20-mile radius, but may not be the ideal fit,”** says Trucle Nguyen, Vice President of client success at Axiom. When legal departments insist on an in-office, on-premises working arrangement, they inherently limit their potential talent pool, he further stated.

The gig economy in India is at a critical juncture with laws being framed to protect the welfare and provide social security to gig workers. It might be time for platforms which host lawyers and provide Direct to Client services to take the lead, given the large volume of churn. **The freelancing economy of lawyers might just be taking off.**



LEGAL CRISPS

POCSO's reporting mandate: Above public servant immunity

-Nithyaparvathy R G

The High Court of Kerala, in the case of ***George PO v. State of Kerala & Anr (2024:KER:96686)***, gave a detailed explanation of the legal obligations associated with reporting child sexual abuse under the POCSO Act, 2012. The case resolved whether George P.O., a former head of the Child Welfare Committee (CWC), failed to report a case of child sexual abuse in 2014 and whether he could be punished without prior sanction. The court evaluated the intersection between Section 19 of the POCSO Act, which requires reporting, and Section 197 of the Code of Criminal Procedure, 1973 (Cr.P.C.), which protects public officials from prosecution without prior government approval.

The court ruled that **Section 19 of the POCSO Act imposes a mandatory duty on anybody to report an offence**, overriding contradictory provisions in the Cr.P.C. While Cr.P.C. also addresses reporting, the POCSO Act's mandate is broader, applying to all offences under the Act and without exceptions for reasonable excuses. **The court clarified that Section 19 of the POCSO Act overrides Section 39 of the Cr.P.C. in this regard.** However, this does not mean that the POCSO Act overrides all of the Cr.P.C.

Regarding Section 197 of the Cr.P.C., the court ruled that it does not apply in this case because the **duty to report under Section 19 of the POCSO Act is a personal obligation** and is not an act done in the course of official duty. The court underlined that an act is only protected by Section 197 of the Cr.P.C. if it directly relates to the public servant's official duties. Ultimately, the court declared that George P.O. had complied with his reporting requirements and dismissed the charges against him.

Additionally, the court emphasised the **crucial importance of preserving the identity of child victims**. The police violated the POCSO Act by disclosing the victim's identity in their report. The court also pointed out that Section 19(5) of the POCSO Act has a flaw. It only protects the victim, not the child who reports the crime. The court clarified that any child who reports a crime should also be protected.





Fraudulent use of IRCTC and interpretation of statutes

-Sri Sai Kamalini M S

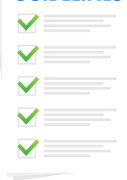
The Supreme Court of India's judgment in ***Inspector, Railway Protection Force, Kottayam v. Mathew K. Cherian & Anr, (2025 INSC 51)*** is centred on Section 143 of the Railways Act, 1989, which prohibits the unauthorized carrying on of the business of procuring and supplying railway tickets. The question before the Court was whether this provision, enacted before the advent of the internet and e-tickets, could be applied to selling e-tickets through fake user IDs.

The Court, relying on the principles of statutory interpretation, held that Section 143 was broad enough to encompass the sale of e-tickets. The Court emphasized that the provision makes no distinction between physical and online ticket sales. The mischief the provision aims to prevent is unauthorized ticket procurement and sale, regardless of the method employed. The Court referenced several precedents to support its interpretation. In ***Senior Electric Inspector v. Laxminarayan Chopra (AIR 1962 SC 159)***, the Court held that when new situations arise after a law's enactment, the statutory provisions can be applied to them if the words used are broad enough. This principle was reiterated in ***Dharani Sugars and Chemicals Ltd. v. Union of India ((2019) 5 SCC 480)***, where the Court noted that changing social conditions doesn't preclude a statute's application if its language is sufficiently wide.

The Court also emphasized the rule of literal interpretation. Citing ***Jugalkishore Saraf v. Raw Cotton Co. Ltd. (AIR 1955 SC 376)***, the Court stated that statutes should be read literally, giving words their ordinary meaning. Departure from the literal rule is permissible only if it leads to absurdity and an alternative construction is possible.

Applying these principles to Section 143, the Court concluded that the provision's plain language prohibits any unauthorized person from engaging in the business of procuring and supplying railway tickets, regardless of the mode of operation. The creation of fake user IDs to circumvent the authorized ticketing system falls within the ambit of this prohibition. This interpretation ensures that the provision remains relevant in the face of technological changes, safeguarding the integrity of the railway ticketing system. The Court's decision highlights the judiciary's role in adapting legislation to contemporary challenges while adhering to established principles of statutory interpretation.





CASE CHRONICLE

Guidelines for medical treatment of victims of sexual assault

-Seethala B

CASE TITLE:S.V. v. State

CITATION:2024 SCC OnLine Del 9081

In a criminal appeal under Section 415 read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ('BNSS'), the Delhi High Court, presided by Pratibha M. Singh and Amit Sharma, JJ., addressed **the lack of compliance with free medical treatment provisions for a survivor of penetrative sexual assault** by her father. Despite prior Court orders, the survivor faced challenges in accessing treatment without repeated intervention from the Delhi State Legal Services Authority (DSLISA). The Court issued the below directives:

- **Free Medical Treatment:** All victims/survivors must receive free medical care, including first aid, diagnostic tests, surgeries, and other necessary interventions, at any public or private medical facility.
- **Treatment for STDs:** Immediate examination and treatment for sexually transmitted diseases (e.g., HIV) should be provided.
- **Counselling:** Both physical and mental counselling must be made available to victims/survivors.
- **Pregnancy Check and Contraception:** Victims/survivors must be checked for pregnancy and provided contraception if necessary.
- **Additional Tests and Gynaecological Advice:** Ultrasounds and other required tests must be conducted, with proper counselling provided to the victim/survivor and their family.
- **No ID Requirement for Emergency Treatment:** Medical establishments must admit and treat victims and survivors without insisting on identification documents.
- **In-Patient Treatment without Payment:** Victims/survivors requiring in-patient care must be admitted and treated free of charge.
- **Awareness Boards:** Medical facilities must display boards in English and vernacular languages stating free treatment is available for victims/survivors of sexual assault, rape, acid attacks, etc.
- **Staff Sensitization:** All medical staff must be sensitized about relevant laws (e.g., Section 357C of CrPC, Section 166B of IPC, Rule 6(4) of POCSO Rules, 2020). Non-compliance is a criminal offence.
- **Hassle-Free Transfers:** Smooth transitions, including ambulance provision, must be ensured for victims/survivors moving between medical facilities.
- **Police Complaints for Non-Compliance:** Police must register complaints against medical establishments refusing treatment under Section 166B of IPC.
- **Police Escort:** Police must accompany victims/survivors to the nearest hospital for immediate treatment.
- **Referral to Legal Services:** Police must refer victims or survivors to DSLISA or DLSA for legal assistance, including appointing a lawyer.
- **Delhi Victims Compensation Scheme (DVCS):** DSLISA/DLSA must forward cases to the Government for free treatment. Private hospitals may also be referred.
- **Statutory Right:** Free medical treatment is a legal right under Section 357C of CrPC and other relevant laws, irrespective of DSLISA/DLSA referrals.
- **DSLISA Follow-Up:** DSLISA must monitor FIR registrations, ensure victims/survivors receive medical aid, and process cases through its "Sampark" email system.





BEYOND THE OBVIOUS

Breaking the Myth: Do you really face Police cases for helping accident victims?

-Saraswathy Thogainathan

In India, people always have this fear of getting harassed or being charged with police cases for helping accident victims. However, the law explicitly protects and encourages Good Samaritans to provide help without the fear of getting into legal trouble. A Good Samaritan refers to a person who selflessly helps someone during accidents or any distress without expecting a reward in return.

Under the Good Samaritan Law, which was introduced after the Supreme Court's 2016 guidelines and later incorporated into **Section 134A of the Motor Vehicles (Amendment) Act, 2019**, any person assisting an accident victim is protected. The following rights safeguard a Good Samaritan:

1. He shall not be liable for any criminal or civil liability.
2. He has the right to leave the hospital immediately.
3. He shall not be forced to give his personal details to any authorities.
4. He shall not be compelled to pay the victim's medical expenses.
5. Police officials shall not force a Good Samaritan to become a witness in any manner. It should be done at the discretion of the bystander.
6. Even if the Good Samaritan chooses to be a witness, it should be at their convenience and must be time-bound.

Hospitals cannot refrain from providing treatment for accident victims under the Clinical Establishments Act, 2010. They are mandated to provide immediate medical care without waiting for police formalities or advance payment for the treatment to be done. Many people fear being blamed for the accident, but the Good Samaritan Law ensures no helper is accountable unless they cause the accident. Poor awareness of the Good Samaritan Law obstructs its impact, with people being 84% unaware, 59% detained by police, and 77% harassed by hospitals, which risks lives during the critical Golden Hour. In India, over 70,000 lives can be potentially saved if people come forward to help the victims.



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