



Experience law effortlessly

JUDGEMENTOPEDIA

(Learning Judgements For A Living)

1

Whether Article 20, the dispute resolution clause in the Concession Agreements between the Delhi Municipal Corporations and private contractors, constituted a valid arbitration agreement under the Arbitration & Conciliation Act, 1996, or merely prescribed mediation due to ambiguity in the legal drafting?

2

What are the factors that should be considered by the court when deciding the appropriate punishment after a conviction for offences involving unlawful assembly and causing hurt?

3

Does prescribing treatment over the phone without a physical examination amount to gross negligence under Section 304A of the Indian Penal Code, 1860 based on standard medical practice?



May, 2025
Vol 47



JUDGEMENTOPEDIA

(Learning Judgements For A Living)

1

South Delhi Municipal Corporation Vs. SMS
Limited
[2025 INSC 693]

2

Karthick & Ors. Vs. The State represented by
Inspector of Police, Kancheepuram District
[Criminal Appeal No .543 Of 2020 (Arising out of
SLP (Criminal) No. 2040 of 2020)]

3

Dr. Joseph John Vs. The State of Kerala
& Anr.
[2025: KHC:33952]



Whether Article 20, the dispute resolution clause in the Concession Agreements between the Delhi Municipal Corporations and private contractors, constituted a valid arbitration agreement under the Arbitration & Conciliation Act, 1996, or merely prescribed mediation due to ambiguity in the legal drafting?

CONTEXT: The dispute arose from multiple Concession Agreements for developing parking and commercial complexes. Private contractors asserted that Article 20 mandated arbitration, while the Municipal Corporations contended it required mediation. This led to protracted litigation, with High Courts reaching conflicting conclusions on whether Article 20 qualified as an arbitration clause, prompting appeals to the Supreme Court.

① The Supreme Court held that Article 20 does not satisfy the requirements of an arbitration agreement under Section 7 of the Arbitration Act.

② It lacks clear intent to arbitrate, does not ensure a truly binding adjudicatory process akin to arbitration, and fails to comply with essential arbitral norms like party autonomy in appointing the adjudicator, an adversarial process, and neutrality, as the decision-maker is controlled by the MCD.

③ Relying on precedents like *K.K. Modi v. K.N. Modi* [(1998) 1 SCR 601 (SC)] and *South Delhi Municipal Corporation v. SMS AAMW Tollways (P) Ltd.* [(2019) 11 SCC 776], the court found Article 20 procedurally and structurally deficient to function as an arbitration clause.

④ Beyond the specific interpretation, the court also criticized the drafting of arbitration clauses in commercial agreements in India and emphasized that arbitration clauses must be 'worded with piercing precision and clarity'.

⑤ The court warned against practices causing 'criminal wastage of precious judicial time' and urged courts to reject 'shoddily drafted clauses' at the threshold, even suggesting potential personal liability and 'harshest punitive measures' for those who 'deliberately mislead and misguide'.

SOUTH DELHI MUNICIPAL CORPORATION VS. SMS LIMITED [2025 INSC 693]

SECTION 7 OF THE ARBITRATION AND CONCILIATION ACT, 1996

What are the factors that should be considered by the court when deciding the appropriate punishment after a conviction for offences involving unlawful assembly and causing hurt?

CONTEXT: This case is a Criminal Appeal (No. 543 of 2020) before the Supreme Court, arising from a High Court judgment that confirmed the conviction and sentence imposed by the Trial Court. The appellants were convicted for offences including unlawful assembly and voluntarily causing hurt. The incident occurred all of a sudden and was sparked by the act of plucking Blackberries (Jamuns). At the time of the incident, the accused were aged between 21 and 23 years. The injured party (P.W.3, Saravanan) sustained a fracture on the finger and other light injuries according to medical evidence, although the Court noted P.W.3 sustained grievous injuries. The Trial Court had sentenced the accused to a maximum of one year Simple Imprisonment (S.I.) and ordered Rs. 10,000/- compensation to P.W.3 out of a Rs. 30,000/- fine. The accused had already undergone approximately six months of sentence by the time the matter reached the Supreme Court. The Supreme Court had previously decided not to interfere with the conviction, limiting the appeal to the sentence.

① The Supreme Court allowed the appeal in part. While the conviction for the specified offences was confirmed, the sentence imposed by the trial court and High Court was modified and reduced to the period already undergone.

② The court noted the appellants had already undergone approximately six months of the sentence. The rationale for this modification included considering the age of the accused at the time of the incident (21-23 years), that the incident occurred suddenly due to the plucking of Blackberries (Jamuns), and the nature of the injuries sustained by P.W.3 (finger fracture and light injuries, despite being considered grievous).

③ To meet the ends of justice, the court also enhanced the compensation to be paid to P.W.3 (Saravanan) by an additional Rs. 25,000, which the appellants were directed to pay within six weeks. The court held that reducing the sentence coupled with enhanced compensation would suffice.

KARTHICK & ORS. VS.
THE STATE
REPRESENTED BY
INSPECTOR OF POLICE,
KANCHEEPURAM
DISTRICT
[CRIMINAL APPEAL NO
.543 OF 2020 [ARISING
OUT OF SLP
(CRIMINAL) NO. 2040
OF 2020]]

SECTIONS 147, 323,
325, 323 READ WITH
149, AND 325 READ
WITH 149 OF THE
INDIAN PENAL CODE
(IPC), 1860

Does prescribing treatment over the phone without a physical examination amount to gross negligence under Section 304A of the Indian Penal Code (IPC), 1860 based on standard medical practice?

DR. JOSEPH JOHN VS.
THE STATE OF
KERALA & ANR.
[2025: KHC:33952]

CONTEXT: A 29-year-old post-kidney transplant patient, Praveen, was treated for intestinal issues by Dr. Joseph John, a Gastroenterologist. After being advised discharge, Praveen developed sudden symptoms past midnight. At 4:30 a.m., the duty nurse called Dr. John, who prescribed medication and tests over the phone. The patient was later moved to the NICU at 8:00 a.m. and died the next day due to renal complications. Despite expert opinions finding the treatment reasonable, an apex body criticized Dr. John for not attending in person. A criminal case was filed against him under Section 304A IPC.

- 1 The Kerala High Court quashed the criminal proceedings against Dr. John, ruling that his conduct did not amount to gross negligence.
- 2 The court held that prescribing medicine and ordering tests over the phone, as confirmed by expert opinion, was within the bounds of accepted medical practice.
- 3 Citing ***Jacob Mathew v. State of Punjab [(2005) 6 SCC 1]***, the court emphasized that criminal liability under Section 304A IPC requires a high degree of negligence, which was absent in this case.
- 4 Thus, the prosecution was deemed an abuse of the court's process.

**304A OF THE INDIAN
PENAL CODE, 1860**