

CRIMINAL COURT CASES

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2021(1) Criminal Court Cases IMPORTANT DECISIONS

Abetment - Word uttered in a fit of anger or motion without intending consequences to actually follow cannot be said to be instigation. (2021(1) Criminal Court Cases 303 (P&H))

Abetment of suicide - Cruelty - Isolated single act of slapping - Neither fall within purview of definition of cruelty u/s 498-A IPC nor meets essential ingredients of committing offence of abetment u/s 306 IPC. (2021(1) Criminal Court Cases 318 (Tripura))

Abetment of suicide - Quarrel - Accused told deceased to go and die - Suicide on third day - It cannot be held that suicide was direct result of quarrel. (2021(1) Criminal Court Cases 303 (P&H))

SC Amicable settlement - Non compoundable offences - Amicable settlement is a relevant factor for the purpose of reduction in the quantum of sentence. (2021(1) Criminal Court Cases 544 (S.C.))

Anticipatory bail - Contraband found in opium plants fall in intermediate quantity - Rigors of S.37 of NDPS Act not applicable - Custody of petitioner is not at all required by police - Anticipatory bail granted. (2021(1) Criminal Court Cases 392 (H.P.))

Anticipatory bail - Condition to co-operate with investigation of case - Not necessary to mention in order - There is an implied condition imposed on such person that he shall cooperate with investigation of case. (2021(1) Criminal Court Cases 582 (Kerala)

Anticipatory bail - Contraband - Commercial quantity - Application for anticipatory bail is not barred - However, restrictions u/s 37(1)(b) of NDPS Act apply to an application for granting anticipatory bail also. (2021(1) Criminal Court Cases 311 (Kerala)

SC Anticipatory bail - Granted subject to deposit of Rs.41 lakhs in Court - Dispute pertains to agreement to sell and amount of Rs.41 lakhs is alleged to be paid to accused - Direction is in the nature of recovery in a civil suit - Condition to deposit Rs.41 lakhs deleted. (2021(1) Criminal Court Cases 697 (S.C.)

Anticipatory bail - Non-production of an article by accused pursuant to notice issued to him by I.O. - Does not amount to not co-operating with investigation of case. (2021(1) Criminal Court Cases 582 (Kerala)

Anticipatory bail - Offence under SC/ST Act - No specific abuse was made taking caste name - There was loan transaction between parties - Anticipatory bail granted. (2021(1) Criminal Court Cases 809 (Karnataka)

Anticipatory bail - There is no restriction as to proclaimed offender seeking anticipatory bail. (2021(1) Criminal Court Cases 255 (H.P.)

SC Appeal against conviction - Absence of counsel for the appellant - Court to appoint Amicus Curiae to assist the Court - Cause in any case ought not to be allowed to go unrepresented. (2021(1) Criminal Court Cases 536 (S.C.)

Bail - Cash deposit in lieu of sureties - Accused a foreigner - Permitted to deposit cash amount. (2021(1) Criminal Court Cases 563 (Uttarakhand)

SC Bail - Conditions imposed by Court must bear a proportional relationship to the purpose of imposing the conditions. (2021(1) Criminal Court Cases 001 (S.C.)

Bail - Contraband - When quantity is less than commercial, rigors of S.37 of NDPS Act will not attract and factors become similar to bail petitioners under regular statutes. (2021(1) Criminal Court Cases 522 (H.P.)

Bail - Notice and hearing of de facto complainant - (i) Court need not to issue notice to de facto complainant suo motu or (ii) direct accused to implead a de facto complainant; (iii) except in cases in which Cr.P.C. and others Acts insist so; (iv) or bail Court feel that de factor complainant is also to be heard; (v) there is no prohibition in issuing notice to de facto complainant; (vi) Court can allow impleadment and hearing of a de facto complainant/victim if he files an application for impleadment in the bail application. (2021(1) Criminal Court Cases 458 (Kerala)

SC CCTV Cameras - Installation in Police Stations - No part of police station be left uncovered and be installed at every entry and exit points, main gate, all lock-ups, all corridors, lobby/reception area, all verandas/outhouses, Inspector's room, Sub-Inspector's room, areas outside the lock up room, station hall, in front of the police station compound, outside (not inside) washrooms/toilets, Duty Officer's room, back part of the police station etc. - System be equipped with night vision - Footage be stored for a period of 18 months and in any case not below one year - Duty and responsibility of working condition is that of SHO - Large posters be pasted in English, Hindi and vernacular language about installation of CCTV cameras and mentioning therein that a person has right to complain about human rights violations to National/State Human Rights Commission, Human Rights Courts or

S.P. or any other authority - Human Rights Courts be set up in each District - Affidavits be filed by authorities mentioned giving Supreme Court a firm action plan with exact timelines for compliance of order, within a period of six weeks from the date of issuing these directions. (2021(1) Criminal Court Cases 648 (S.C.)

Cheating - Compromise in civil Court - After availing benefit of said compromise, complainant cannot go back and re-agitate the matter before another forum. (2021(1) Criminal Court Cases 103 (Madras)

Cheating - From a bare perusal of FIR, it appears that it is a civil dispute relating to agreement to sell, which is given colour of criminal litigation - FIR quashed. (2021(1) Criminal Court Cases 386 (P&H)

SC **Civil dispute** should not be given colour of a criminal offence - However mere pendency of civil proceeding is not a good ground and justification not to register and investigate an FIR if a criminal offence is committed. (2021(1) Criminal Court Cases 226 (S.C.)

Contraband - Summoning of call details of seizure officer and other police officials alleging that these officials were not present at the place of seizure on the date and time alleged - Application allowed. (2021(1) Criminal Court Cases 543 (Rajasthan)

Contraband - Bail - Representative samples not drawn from all the 19 packets - Bail allowed with conditions. (2021(1) Criminal Court Cases 453 (Allahabad)

SC **Contraband** - Recovery from house of accused - Ownership and possession of house - Accused held guilty as his name was recorded as owner of house in voters list of 2008 - Voters list of 2008 being prior to sale is of no consequence - Conviction set aside. (2021(1) Criminal Court Cases 196 (S.C.)

Criminal breach of trust - A civil wrong - However, breach of trust with mens rea gives rise to a criminal prosecution as well - Dishonest intention is an essential element to constitute an offence of criminal breach of trust. (2021(1) Criminal Court Cases 512 (Kerala)

SC **Criminal trial** - Informant himself the investigator - Merely for this reason investigation is not vitiated on the ground of bias or the like factor - 2018(3) Apex Court Judgments 297 (S.C.) : 2018(4) Criminal Court Cases 001 (S.C.) : 2018(17) SCC 627, not a good law and same specifically overruled. (2021(1) Criminal Court Cases 152 (S.C.)

Criminal trial - It is incorrect to decide a criminal case based on judgment of civil court alone. (2021(1) Criminal Court Cases 512 (Kerala)

Defamation - Advocate - Filing an application in proceedings under Insolvency and Bankruptcy Code for removal of respondent and appointment of another Resolution professional - Said application was allowed - Allegations made in application are not defamatory in nature and moreover respondent was removed and same was also challenged upto National Company Appellate Tribunal and confirmed - Complaint is clear abuse of process of Court - Complaint quashed. (2021(1) Criminal Court Cases 199 (Madras)

Defamation - Death of complainant - Complaint does not survive. (2021(1) Criminal Court Cases 235 (P&H)

SC **Default bail** - Granted by holding that accused can be re-arrested after charge sheet is filed - Filing of charge sheet by itself not a ground for cancellation of bail - Direction set aside. (2021(1) Criminal Court Cases 452 (S.C.)

SC **Default bail** - Where accused has already applied for default bail, prosecutor cannot defeat enforcement of his indefeasible right by subsequently filing a final report, additional complaint or report seeking extension of time. (2021(1) Criminal Court Cases 728 (S.C.))

Defence evidence - Accused permitted to examine a private hand writing expert as a witness in his defence. (2021(1) Criminal Court Cases 658 (P&H))

Direction to police for fair and proper investigation - Magistrate can issue a direction to police to do investigation properly and can monitor the same. (2021(1) Criminal Court Cases 239 (Allahabad))

SC **Dishonour of cheque** - Blank cheque and signed blank papers - Law as to : (i) Bald denial regarding genuineness of Deed of undertaking despite admitting signatures does not cast any doubt on the genuineness of said document; (ii) Once signatures are admitted then it has to be presumed that cheque was issued as consideration for a legally enforceable debt; (iii) Once signatures on cheque are established, then 'reverse onus' clause becomes operative - In such a situation, obligation shifts upon accused to discharge the presumption imposed upon him; (iv) Considering the fact that parties had business relationship, defence raised by accused that there was no legally enforceable liability on the date of issuance of cheque and that blank papers were misused by complainant, does not inspire confidence or meet the standard of 'preponderance of probability' - In the absence of any other relevant material, High Court rightly discarded defence raised by accused; (v) Trial Court fell in error when it called upon complainant to explain the circumstances under which accused were liable to pay - Such approach of trial Court was directly in the teeth of the established legal position, which amounts to patent error of law; (vi) Compensation - Object of Chapter XVII of NI Act is not only punitive but also compensatory and restitutive - Provisions of the Act envision a single window for criminal liability for dishonour of cheque as well as civil liability for realisation of the cheque amount - There needs to be a consistent approach towards awarding compensation and unless there exist special circumstances, Court should uniformly levy fine upto twice the cheque amount along with simple interest at the rate of 9% per annum; (vii) Compensation - High Court convicted accused in an appeal against acquittal - Complainant did not ask for compensation before High Court nor he challenged High Court's judgment - As complainant accepted the High Court's verdict, his claim for compensation stands impliedly overturned - Anyhow complainant is entitled to receive the cheque amount; (viii) Appeal against acquittal - Conviction by High Court - No ground to interfere with the impugned judgment as when signatures are admitted trial Court ought to have presumed that cheque was issued as consideration for a legally enforceable debt but in the instant case trial Court fell in error when it called upon complainant to explain the circumstances under which the accused were liable to pay - Order of conviction, upheld; (ix) High Court convicted accused in an appeal against acquittal - Power of Supreme Court under Article 136 of the Constitution do not encompass re-appreciation of entirety of record merely on the premise that High Court has convicted accused for the first time in exercise of its appellate jurisdiction. (2021(1) Criminal Court Cases 358 (S.C.))

Dishonour of cheque - Cheque issued in favour of complainant for the amount due to complainant and 12 others - Without power of attorney or authorization, complainant cannot accept cheque on behalf of others and prosecute a complaint. (2021(1) Criminal Court Cases 427 (Kerala))

Dishonour of cheque - Cheques drawn need not be in discharge of drawer's liability alone. (2021(1) Criminal Court Cases 427 (Kerala))

Dishonour of cheque - Company - Non-Executive Director was involved in discussion and represented company prior to issuance of cheque and resignation and before agreement was executed - It does not mean that even after his resignation he continues to be responsible for actions of Company

- Proceedings against such accused quashed. (2021(1) Criminal Court Cases 212 (Delhi)

Dishonour of cheque - Firm - Managing Partner signed cheque on behalf of firm - Managing Partner cannot escape responsibility even in absence of averment that he is in charge and responsible to the firm. (2021(1) Criminal Court Cases 626 (Kerala)

Dishonour of cheque - From reply to notice, intention of drawer is clear that he does not wish to make payment - Complainant need to wait for 15 days to file complaint. (2021(1) Criminal Court Cases 440 (Allahabad)

Dishonour of cheque - Interim compensation - Court can extend time to pay. (2021(1) Criminal Court Cases 487 (Rajasthan)

Dishonour of cheque - Loan by a practicing Advocate to his client - Practicing Advocate is barred from having any business transactions or loan transactions with his client - Complaint itself is liable to be quashed. (2021(1) Criminal Court Cases 024 (Madras)

Dishonour of cheque - No requirement to implead sole proprietary concern as an accused. (2021(1) Criminal Court Cases 299 (Allahabad)

Domestic Violence - Court is under obligation to consider report of Protection Officer, if available on record and in case no report is available on record then Magistrate is not under any obligation to call for the same before passing any orders on an application u/s 19 of the Act. (2021(1) Criminal Court Cases 395 (Allahabad)

SC **Drugs and Cosmetics** - Deterioration of an article due to delay - Same when tested found not containing requisite standard then prosecution or penalty necessarily renders any penalty based upon said analysis of sample as void. (2021(1) Criminal Court Cases 346 (S.C.)

SC **Dying declaration** - Recorded by Judicial Magistrate - IO stated that injured was not in a position to give any statement - However, Dr.D.P.Bhandari in whose presence dying declaration was recorded signed the dying declaration - It is the statement of I.O. that he took the statement of Dr.D.P.Bhandari, who told that when Judicial Magistrate was recording dying declaration of injured, he was fully conscious and was in a fit condition to give his statement - Conviction by relying dying declaration, upheld. (2021(1) Criminal Court Cases 107 (S.C.)

Dying declaration - Recorded by Magistrate - Withholding of dying declaration without any reason or cogent explanation - Can lead the Court to draw adverse inference about genuinity of prosecution case. (2021(1) Criminal Court Cases 318 (Tripura)

Examination of witness through video conferencing - FIR lodged by father alleging torture of her daughter - Daughter currently not in India as she is awaiting permanent residence status in foreign country - Witness allowed to be examined through video conferencing. (2021(1) Criminal Court Cases 791 (P&H)

SC **FIR** - Quashing - Mere delay in lodging complaint, cannot by itself be a ground to quash FIR. (2021(1) Criminal Court Cases 030 (S.C.)

SC **FIR** - Registration of FIR is mandated when information of cognizable offence is received - At the stage of investigation, it cannot be said that concerned police station does not have territorial jurisdiction to investigate the case. (2021(1) Criminal Court Cases 061 (S.C.)

SC **FIR u/s 498-A** - Limitation to file complaint is three years - Complaint filed much more than 3 years after wife started living separate - No justification for delay in filing complaint - No allegation of physical and mental harassment after wife started living separate - High Court rightly quashed the

proceedings. (2021(1) Criminal Court Cases 340 (S.C.)

Hurt - Scolding student without any slight physical hurt - None of the ingredients of S.323 or 319 IPC fulfilled - Registration of crime and continuance of impugned criminal proceedings is nothing but a grave abuse of process of Court - Proceedings quashed. (2021(1) Criminal Court Cases 645 (Kerala)

SC **Immovable property** - Cannot be seized u/s 102 Cr.P.C. (2021(1) Criminal Court Cases 516 (S.C.)

SC **Inquiry** - Conducted by police u/s 174 Cr.P.C is limited to find out apparent cause of unnatural death - Same is not an investigation of crime u/s 157 Cr.P.C. (2021(1) Criminal Court Cases 061 (S.C.)

SC **Kidnapping** - Enticement need not be direct to immediate in time and can also be through subtle actions like winning over affection of a minor girl. (2021(1) Criminal Court Cases 431 (S.C.)

Live-in-relationship - Both the petitioners are major and they have a right to live their life on their own terms - Petitioners cannot be denied enforcement of their fundamental rights for protection of life and personal liberty merely for the reason that one of the petitioners is not of marriageable age. (2021(1) Criminal Court Cases 188 (P&H)

Maintenance - When order is silent as to from which date it is payable then it has to be taken as payable from date of order. (2021(1) Criminal Court Cases 548 (Kerala)

Maintenance - Expression 'unable to maintain herself' does not mean that wife must be absolutely destitute before she can apply for maintenance. (2021(1) Criminal Court Cases 185 (Delhi)

Maintenance - Merely because wife is capable of earning is not a sufficient reason to deny her maintenance. (2021(1) Criminal Court Cases 185 (Delhi)

Marriage agreement attested by Notary and Oath Commissioner - Neither Notary is authorised to perform the marriage nor competent to execute the divorce deed. (2021(1) Criminal Court Cases 230 (M.P.)

Non cognizable offence - Investigation of non cognizable offence and charge sheet filed - Charge sheet be treated as complaint. (2021(1) Criminal Court Cases 207 (Allahabad)

Offence u/s 188 IPC - Cognizance can be taken in accordance with S.195(1)(a)(i) Cr.P.C. - Complaint has to be filed by the concerned public servant to jurisdictional Magistrate for taking cognizance of the offence u/s 188 IPC. (2021(1) Criminal Court Cases 660 (Chhattisgarh)

SC **Probation of good conduct** - Benefit of probation under the Act is not excluded by provisions of mandatory minimum sentence prescribed for an offence. (2021(1) Criminal Court Cases 811 (S.C.)

Proclaimed offender - Mandatory provisions of S.82 of the Code not complied with - Impugned order and proceedings subsequent thereto quashed. (2021(1) Criminal Court Cases 748 (P&H)

Protection to life and liberty - Married lady entering into relationship without dissolution of marriage - Threat to life and liberty - Manner and mode of alleged threat not mentioned - It is unholy alliance - Petition is based on bald assertions without any supportive material - Petition filed without valid and convincing cause of action and same dismissed with costs of Rs.25,000/-. (2021(1) Criminal Court Cases 644 (P&H)

Public servant - Want of sanction for prosecution - Application u/s 482 Cr.P.C. is maintainable to quash proceedings which are ex facie bad for want of sanction, frivolous or an abuse of process of Court. (2021(1) Criminal Court Cases 130 (S.C.)

SC **Public servant** - Sanction for prosecution whether necessary or not may have to be determined at any stage of the proceedings. (2021(1) Criminal Court Cases 130 (S.C.)

Re cross-examination of PWs - Witnesses cross examined by Legal Aid counsel - However, there is absence of any power of attorney executed by accused endorsing appointment of said counsel - Petitioner given one opportunity to re cross examine PWs. (2021(1) Criminal Court Cases 221 (P&H)

Release of recovered assets - If assets are confiscated and accused is acquitted, Court has power to release recovered assets in favour of accused. (2021(1) Criminal Court Cases 332 (Delhi)

Release of vehicle - Custody of vehicle should be given to the person who is recorded as its registered owner. (2021(1) Criminal Court Cases 079 (P&H)

Release of vehicle - Ownership rights - Cannot be determined in proceedings u/s 451 Cr.P.C. (2021(1) Criminal Court Cases 079 (P&H)

Right to marry - A major individual has right to marry the person of his/her choice - Such liberty relating to personal relationships of two individuals cannot be encroached by anybody irrespective of caste or religion. (2021(1) Criminal Court Cases 511 (Karnataka)

SCST - Prosecutrix did not give a single instance that accused had taken her away and had sex with her only for the reason that she belonged to Scheduled Caste category - Accused acquitted. (2021(1) Criminal Court Cases 224 (Chhattisgarh)

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