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# **CJA** **e-NEWSLETTER**

**OCTOBER 2019**

Monthly Newsletter of  
Chandigarh Judicial Academy of Punjab & Haryana High Court  
For circulation among the stakeholders in Judicial Education

## **FROM THE DESK OF CHIEF EDITOR**

The Constitution belongs to the people of India. The courts also belong to the people. Courts are human institutions as any other institution. The other institutions may survive by the power of purse and sword. Not the courts. Courts survive on the strength of public trust and confidence. Public trust is generated by the role that the judges play. The judicial culture is; justice must be done even if heavens may fall. Upon taking the judicial office, judges take oath. Oath to do justice. Without fear or favour. Affection or ill will.

How to be a good judge? Whether there are bad judges also ! To describe any judge, to be a bad judge, will it not amount to contempt of court ? How do we avoid this description ? My prescription is, be a good judge. Automatically, you would avoid being a bad judge. Therefore, the challenge is, how to be a good judge. Outside the Chief Justice Court (Court No. 52) of Bombay High Court, there is white marble statue of Justice M.C. Chagla. Justice Chagla was Chief Justice of Bombay High Court from 1947 to 1958. Justice Chagla knew the law. Intellectually strong. Equally strong common-sense. Yet, he was humility wrapped in humanity. In court and outside court. This is the real strength of a Judge.

It is said that the best judge is one whose name is not known to the people. Lord Atkinson (Law Lord from 1905-1928) was an extreme example. He wrote nothing outside his judicial pronouncements. He had no children. No friends. He left no information about himself. The office of Lord Chancellor found it difficult to trace his wife to pay the pension. This was the position a century back. Moreover, it was an exception. It would not be correct to say that a judge must limit himself / herself to the writing of only orders and judgements. I wish to cite two examples of Justice V.R. Krishna Iyer and Lord Denning. Both belong to the 20<sup>th</sup> century. Justice Iyer lived for almost a century. Lord Denning even a little beyond the century. Both were globally known. For their judgments. For their extra judicial writings. Both wrote books. Delivered memorial and public lectures. Both are known for rich and huge contribution to legal literature and jurisprudence. Therefore, it would be a myth to say that a judge should not be known to the public. Good judges continue to contribute throughout their life journey. This builds up public trust in the judicial institution.

Judicial independence and judicial culture are inter-woven. Whatever may be the system of Government. The Government changes. The Constitution continues to be the same. The judges are committed to the Constitution. Not to the Government of the day. Justice H.R. Khanna was the lone dissenter in the Habeas Corpus case of ADM Jabalpur (1976). Four other judges of the

Constitution Bench took the view that the petitioners had no locus to seek the writ of Habeas Corpus. Justice Khanna held that the law cannot be silenced or rendered mute. He took this view because he believed that this was the correct view. Before the pronouncement of the judgement, he shared with his sister that this judgment would cost him the chief justice-ship of India. He delivered the dissent. He did not waiver. He was bold. He was superseded. In fact, he was prepared for it. His portrait continues to adorn court no. 2 in the summit court of the country. He never moved to court no. 1. In the year 2017, nine judges bench of the Supreme Court, in the case of Justice K.S. Puttaswamy, reversed the judgement in ADM Jabalpur and upheld the dissent of Justice Khanna. Justice D.Y. Chandrachud recorded :

The view taken by Justice Khanna must be accepted and accepted in reverence for the strength of its thoughts and the courage of its conviction.

Of course, it took more than 40 years to reverse ADM Jabalpur. Still, it demonstrates that the dissent of Justice Khanna was an epitome of judicial independence. He dissented without fear or favour. This is the real strength of judicial institution. This one dissent made Justice Khanna immortal. More famous than even if he would have become the Chief Justice of India. This is the foundation of trust and confidence of the public in the judicial institution and the judges.

The first Chief Justice of India, Justice H.J. Kania died in office in November 1951. There was a proposal from the government to appoint Justice B.K. Mukherjea as the next Chief Justice of India. The two senior judges Patanjali Sastri and M.C Mahajan would have been superseded. Both the senior judges had no objection. They believed that Justice Mukherjea deserved it better. In turn, Justice Mukherjea was not agreeable. In fact, he threatened to resign, if superseded. This is Judicial Discipline. Judicial Culture at its best. What more could be there to strengthen the trust and confidence of the public.

Judicial Culture and Judicial Discipline cannot be separated. They are wedded. They are a couple. In fact, twins. Judgments are often reserved in matters heard by division benches or larger benches. There is judicial discipline. After conclusion of the hearing, it is open to the bench judges to discuss, deliberate, modify and even persuade each other to take a particular view. It is an exchange of views. Draft judgments are circulated and shared. It is healthy for the meeting of minds. It is part of judicial culture. The reference to the most recent case of Bombay High Court Division Bench is relevant (Indian Express October 24, 2019). It involved alleged fraud and mischief in the renewal and repairing works. FIR's had been filed. The police investigation was at its initial stage. The two judges heard the case. Reserved the judgment. The senior Judge pronounced the judgment before the other judge got any opportunity to agree or disagree. Therefore, this is a glaring example of lack of co-ordination, consultation, deliberation or discussion. In such a situation, motives are attributed to taking a particular view. There could be genuine difference of opinion. The matter could be referred to a third judge. This haste in pronouncing the judgment by one judge shakes the confidence of the public. Why this!

Judicial discipline must be followed, if trust is to be built in the institution of judiciary.

Balram K. Gupta

## LATEST CASES : CIVIL

“The human dignity of have-nots is based on the socio-economic rights that are read into the fundamental rights.”

L. Nageswara Rao, J. in Assn. of Medical Superspeciality Aspirants & Residents v. Union of India, (2019) 8 SCC 607

### **State of Madhya Pradesh v. Sabal Singh (D) by LRs. & Ors. : 2019 SCC Online SC 1340 :**

The question involved in the appeal is whether the land recorded in the revenue papers before the date of vesting as 'Grass' land can be treated as khudkasht land of Ex-Zamindar. The Apex Court after setting aside the findings of High Court observed that about entries in revenue record Trial Court and First Appellate Court, have recorded a concurrent finding of fact that the land was not under personal cultivation. It was not open to the High Court to interfere with the findings of fact, which was based on the proper appreciation of evidence on record. Even the plaintiff was unable to state whether there was any crop in the relevant year 2007 before Zamindari abolition. It is further observed that the tenancy can be proved by Khasras entries alone. The revenue entries carry a statutory presumption of correctness under the provisions of Section 52 and unless rebutted, the statutory presumption of correctness attached to the entries is an inevitable one. Unless such the presumption is rebutted, entries cannot be discarded. The entry produced of 2007 is not as per the rules, it contains an entry of 'Jwar' in column No.5 which is not meant for recording such cultivation and in the Khasra column 21 and 22 which originally recorded 'Bir,' i.e., Grassland. Both entries are irreconcilable with each other. The entries have been made of 'Jwar' cultivation in a column not meant for recording cultivation, the entry is ex facie spurious manipulated one, impermissible and inconceivable and is against instructions contained in Kawayadpatwariyan, as such no presumption of it being correct can be drawn under the provision of Section 52 of Madhya Bharat Land Revenue Tenancy Act. The entry which is on the face of it has been illegally made and is contradicted by the original entries in Column Nos.21 and 22 in the same Khasra. Even otherwise land is not recorded as Khudkasht land.

**Shiv Kumar & Anr. v. Union of India & Ors. : 2019 SCC Online SC 1339 –** The question

involved in the matter is whether a purchaser of the property after issuance of notification under section 4 of the Land Acquisition Act, 1894 can invoke the provisions contained in section 24 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 arose before Supreme Court. The purchase made through Agreement to Sale, Power of Attorney, or Will by one Satya Narain did not confer a title upon him to transfer it to the purchasers apart from the fact that it was void in view of purchase after Section 4. Based on purchase made from such owners whose title was not perfect, purchasers had no derivative title in the eye of law.

**R. Srinivas Kumar v. R. Shametha : 2019 SCC OnLine SC 1320 – Inherent powers under Article 142 can be invoked to dissolve marriage which has broken down irretrievably – Held –** The Supreme Court observed that it can exercise its inherent powers under Article 142 of the Constitution of India for dissolution of a marriage where it finds that the marriage is totally unworkable, emotionally dead, beyond salvage and has broken down irretrievably, even if the facts of the case do not provide a ground in law on which the divorce could be granted.

**Rajasthan State Road Transport Corporation v. Danish Khan : 2019 SCC OnLine SC 1312- Article 14 does not forbid reasonable classification for the purposes of legislation – Held –** The Supreme Court upheld a compassionate appointment regulation of Rajasthan State Road Transport Corporation which barred dependents of a deceased employee from claiming compassionate appointment in case of death of an employee while travelling in the vehicle of the Corporation. The bench observed that though Article 14 of the Constitution of India forbids class legislation, it does not forbid reasonable classification for the purposes of legislation.

**Ambalal Sarabhai Enterprises Ltd. v. K.S. Infraspace LLP : 2019 SCC OnLine SC 1311 – Disputes arising out of immovable property 'Actually Used' in trade or commerce alone**

are 'Commercial Disputes' – The Supreme Court held that, in order to fall within Section 2(1)(c)(vii) of the Commercial Courts Act, the immovable property must be "used exclusively" or "being used exclusively" in trade or commerce. The bench made it clear that the words 'used exclusively in trade or commerce' denotes "actually used" and it cannot be either "ready for use" or "likely to be used" or "to be used".

**Ravi Setia v. Madan Lal and Others: 2019 SCC OnLine SC 1309** – In a suit for specific performance the Supreme Court has held that mere extension of time for deposit of balance sale consideration will not absolve the plaintiff of obligation to prove readiness and willingness to perform his part in an agreement for sale. The grant of extension of time cannot ipso facto be construed as otherwise demonstrating readiness and willingness on part of the plaintiff. It has been further observed that according to normal human prudence, land price escalates over time. Unless it be a situation of a distress sale, no land owner will sell his land for a lesser price than what may have been recorded in an agreement for sale. The fact that the defendants nos.1 and 2 subsequently sold the land to defendants nos.4 to 7 at a lesser price, due to personal necessity, also mitigates against the plea of the plaintiff that he was ready and willing to perform his part of the obligations under the contract and plaintiff had failed to prove his readiness and willingness. However, in the peculiar facts and circumstances of the case, it was opined that the respondent is not entitled to retain the earnest money and it shall be refunded to the appellant without interest within a period of one month failing which it shall carry interest at the rate of 7 per cent.

**Pruthvirajsinh Nodhubha Jadeja (D) v. Jayesh Kumar Chhakaddas Shah: 2019 SCC OnLine SC 1308** – **Non-mentioning of correct provision not fatal to application if the power to pass order is available with court – Held** – The Supreme court observed that mere non-mentioning of an correct provision is not fatal to the application if the power to pass such an order is available with the court. In the appeal the bench observed that respondent as an assignee of the rights of the original plaintiff, had a right to be impleaded as a plaintiff in place of MMT.

**Ramesh Nivrutti Bhagwat v. Dr. Surendra Manohar Parakhe : 2019 SCC OnLine SC**

**1301 – Article 137 Limitation Act applies to proceedings for Cancellation of Probate / Letter of Administration – Held** – The Supreme Court observed that Article 137 of the Limitation Act, which provides for 3 year limitation period, applies to the proceedings under Indian Succession Act for moving an application for cancellation of probate or letters of administration.

**State of West Bengal v. Calcutta Club Ltd: 2019 SCC Online SC 1291** – **No levy of sales tax on supply of food and drinks by clubs to its members – Held** – The Supreme Court held that there is no levy of sales tax on the supply of food and beverages by members' clubs, whether incorporated and unincorporated, to its members. Answering a reference in the case, a three judges bench held that the "doctrine of mutuality" , as propounded in the case *CTO v. Young Men's Indian Assn., (1970) 1 SCC 462*, continued to operate even after the 46th amendment to the Constitution which inserted Article 366(29-A).

**Oriental Insurance Co. Ltd. v. M/s Tejparas Associates & Exports Pvt. Ltd.: 2019 SCC OnLine SC 1281** – **Arbitration – Sec. 14 Limitation Act applicable if Sec. 34 Petition filed at the first instance was within time – Held** – The Supreme Court observed that Section 14 of the Limitation Act would be applicable to the proceedings under Section 34 of the Arbitration and Conciliation Act, 1996 if the petition under Section 34 (at the first instance) was filed within time.

**Mohinder Kaur v. Sant Paul Singh: 2019 SCC OnLine SC 1276** – **Power of Attorney holder cannot depose in respect of matters which the principal alone have personal knowledge – Held** – The Supreme Court observed that a power of attorney holder cannot depose for the principal in respect of matters of which the principal alone can have personal knowledge and in respect of which the principal is entitled to be cross-examined.

**Sunil Kohli v. M/s. Purearth Infrastructure Ltd.: 2019 (4) RCR (Civil) 988** – **Purchaser of goods for commercial purpose is a consumer if he uses it himself for earning his livelihood – Held** – The Supreme Court reiterated that if the commercial use of goods is by the purchaser himself for the purpose of earning his livelihood by means of self-employment, such purchaser of goods is a "consumer".

## LATEST CASES : CRIMINAL

“What may appear to be legislative inaction to fill in the gaps in the statute could be on account of justified legislative concern and exercise of care and caution. However, when a yawning gap in the statute, in the considered view of the Court, calls for temporary patchwork of filling up to make the statute effective and workable and to subserve societal interests, a process of judicial interpretation would become inevitable.”

Ranjan Gogoi, C.J. in Ritesh Sinha v. State of U.P., (2019) 8 SCC 1

**The State of Arunachal Pradesh v. Ramchandra Rabidas @ Ratan Rabidas & Anr. : 2019 SCC OnLine SC 1317 : Road traffic offences can be prosecuted under both IPC & Motor Vehicles Act : SC sets aside Gauhati HC Directive – Held** – The Supreme Court observed that road traffic offences can be prosecuted under Motor Vehicles Act as well as Indian Penal Code. The bench observed thus while setting aside the direction issued by the Gauhati High Court to States of Assam, Nagaland, Meghalaya, Manipur, Tripura, Mizoram and Arunachal Pradesh that road traffic offences shall be dealt with only under the provisions of the Motor Vehicles Act and not under the provisions of Indian Penal Code.

**Raj Kumar v. State of UP : 2019 SCC OnLine SC 1307 : Accused charged with food adulteration cannot be acquitted merely because deficiency was marginal – Held** – The Supreme Court observed that if the standards prescribed under Prevention of Food Adulteration Act, are not complied with, the accused charged with adulteration cannot be acquitted only on the ground that the deficiency is marginal.

**Fainul Khan v. State of Jharkhand : 2019 SCC OnLine SC 1306 : Rights of victim and society at large not subservient to rights of accused – Held** – The Supreme Court, observed that the rights of the victim and the society at large cannot be made subservient to the rights of an accused. The bench was addressing the contention raised

on behalf of the accused that proper opportunity to defend was denied under Section 313 of the Code of Criminal Procedure as the incriminating questions put to them were extremely casual and perfunctory in barely two pages. It was contended that all relevant questions with regard to the accusations were not put to the accused.

**Satish Ukey v. Devendra Gangadhar Rao Fadnavis : 2019 SCC OnLine SC 1275 : Candidates must also disclose criminal cases in which cognizance has been taken by court – Held** – The Supreme Court observed that a contesting candidate must mandatorily disclose not only case(s) in which charges have been framed but also case(s) in which cognizance has been taken by the Competent Court. The bench held thus while setting aside the clean chit given to Maharashtra CM Devendra Fadnavis by the High Court in a case alleging furnishing false information in the election affidavit submitted during 2014 assembly polls.

**Guru @ Gurubaran v. State : 2019 SCC OnLine SC 1269 : [Exception 4 to Section 300 IPC] Accused party armed with weapons can't claim the benefit of sudden fight – Held** – The Supreme Court observed that when the accused party came armed at the scene of crime, it clearly indicates that the occurrence did not take place in the heat of passion, upon a sudden quarrel to claim the exception 4 to Section 300 IPC. In this appeal the contention of the accused convicted for

murder was that the offence was not of murder but may amount to culpable homicide not amounting to murder and that the case would fall within Exception 4 to Section 300 IPC.

**State of Rajasthan v. Sahi Ram:2019 SCC OnLine SC 1267: Non production of entire contraband by itself not a ground for acquittal – Held** – The Supreme Court held that non-production of contraband material, by itself, is not a ground for acquittal, if its seizure is otherwise proved. On this ground, the bench set aside the acquittal ordered by the High Court in a case under Narcotic Drugs and Psychotropic Substances Act 1985.

**Central Bureau of Investigation (CBI) v. Pramila Virendra Kumar Agarwal : 2019 SCC OnLine SC 1265 : Issue of invalidity of sanction to be raised during trial, not at stage of discharge application – Held** – The Supreme Court held that though the absence of sanction can be agitated during stage of discharge application, but the issue of invalidity of the sanction is to be raised during the trial.

**Nevada Properties Private Limited v. State of Maharashtra & Anr. : 2019 SCC OnLine SC 1247 : Police cannot attach immovable property under Sec.102 Cr.P.C during investigation, declares SC – Held** – The Supreme Court held that police does not have the power to attach immovable property during investigation under Section 102 of the Code of Criminal Procedure. However, police does have authority to freeze moveable properties of the accused, clarified the bench.

**Union of India v. State of Maharashtra & Ors. : Review Petition (Crl.) No. 228 of 2018 in Criminal Appeal No.416 of 2018 : Discrimination against SC-STs still prevalent; cannot presume they may**

**misuse provisions of law as a class – Held** – While withdrawing the conditions imposed by the March 20, 2018 judgment for arrest of a person under the SC/ST Act, the Supreme Court observed that the discrimination against the members of the Scheduled Castes and Scheduled Tribes is still prevalent in various parts of the country The bench observed that there can be no presumption that the members of the SC and ST may misuse the provisions of law as a class. It would be against the basic human dignity to treat all of them as a liar or as a crook person and cannot look at every complaint by such complainant with a doubt, the bench observed.

**Ravishankar @ Baba Vishwakarma v. State of Maharashtra: Criminal Appeal No. 1523-1524 of 2019: Applying 'Residual Doubt Theory', SC commutes death penalty awarded for rape-Murder of minor – Held** – The Supreme Court applied "residual doubt theory" to commute the death penalty awarded to a person for rape and murder of a 13 year old girl. As per this theory, a higher standard of proof than used at the conviction stage is used to assess whether the convict deserves death penalty.

**Anuj Chaturvedi v. Jyoti: Special Leave to Appeal (C) No(s).6303/2017: Child has right to the affection of both his parents – Held** – A child has a right to the affection of both his parents, the Supreme Court remarked while considering a special leave petition filed by a father. Though it refused to interfere with the family court order granting custody of the child to the mother, the bench directed the Family Court to ensure that visitation rights are fixed in such a manner that the child gets to know and love his father.

## LATEST CASES: 498-A Cr.P.C

If the Court were not to stand by the principles which we have formulated, we may witness a soulful requiem to liberty.”

**Mohammad Miyan v. State of UP : 2018 SCC OnLine SC 1976 – Prosecution not sustainable when complaint is filed long after divorce – Held** – It was held that the prosecution under Section 498A of the Indian Penal Code and Sections 3 and 4 of the Dowry Prohibition Act, 1961, is not sustainable when the complaint is filed long after the divorce. In this case, admittedly the couple had got divorced almost four years before the filing of the FIR.

**Social Action Forum For Manav Adhikar v. Union of India: 2018 SCC OnLine SC 1501 – No to family welfare committees – Held** – A three judge bench modified the directions issued in Rajesh Sharma case for preventing misuse of Section 498A of Indian Penal Code. It recalled the earlier direction issued by a two judges bench that complaints under Section 498A IPC should be scrutinized by Family Welfare Committees before further legal action by police. Other directions issued by the two judge bench were not interfered with.

**Rajesh Sharma v. State of U.P. : 2017 SCC OnLine SC 821 – Directives to prevent 498A misuse – Held** – A two Judge Bench had observed that Section 498A was inserted in the statute with the laudable object of punishing cruelty at the hands of husband or his relatives against a wife particularly when such cruelty had potential to result in suicide or murder of a woman. It also expressed its concern about large number of cases continue to be filed under Section 498A alleging harassment of married women. The bench issued the following directives read as follows:

- Complaints under Section 498A and other connected offences may be investigated only by a designated Investigating Officer of the area. Such designations may be made within one month from today. Such designated officer may be required to undergo training for such duration (not less than one week) as may be considered

Dr. D.Y. Chandrachud, J. in Romila Thapar v. Union of India, (2018) 10 SCC 753

appropriate. The training may be completed within four months from today;

- In cases where a settlement is reached, it will be open to the District and Sessions Judge or any other senior Judicial Officer nominated by him in the district to dispose of the proceedings including closing of the criminal case if dispute primarily relates to matrimonial discord;
- If a bail application is filed with at least one clear day's notice to the Public Prosecutor/complainant, the same may be decided as far as possible on the same day. Recovery of disputed dowry items may not by itself be a ground for denial of bail if maintenance or other rights of wife/minor children can otherwise be protected. Needless to say that in dealing with bail matters, individual roles, prima facie truth of the allegations, requirement of further arrest/ custody and interest of justice must be carefully weighed;
- In respect of persons ordinarily residing out of India impounding of passports or issuance of Red Corner Notice should not be a routine;
- It will be open to the District Judge or a designated senior judicial officer nominated by the District Judge to club all connected cases between the parties arising out of matrimonial disputes so that a holistic view is taken by the Court to whom all such cases are entrusted;
- Personal appearance of all family members and particularly outstation members may not be required and the trial court ought to grant exemption from personal appearance or permit appearance by video conferencing without adversely affecting progress of the trial.

- These directions will not apply to the offences involving tangible physical injuries or death.

**Rashmi Chopra v. State of U.P.: 2019 SCC OnLine SC 620 – Complaint need not be filed by the woman subjected to cruelty herself – Held** – The bench comprising Justice Ashok Bhushan and Justice KM Joseph was considering the submission that since complaint is not made by the woman, but filed by her father, it is not maintainable. Rejecting this contention, it held that the Section 498A of the Indian Penal Code does not contemplate that complaint for offence under Section 498A should be filed only by women, who is subjected to cruelty by husband or his relative. There is nothing in Section 498A, which may indicate that when a woman is subjected to cruelty, a complaint has to be filed necessarily by the women so subjected, it said.

**Jagdishraj Khatta v. State of H.P. : 2019 SCC OnLine SC 611 – Incidents which happened much before wife's death can't be treated as conduct which drove her to suicide – Held** – The Supreme court observed that Incidents which had taken place between husband and wife much before latter's death by suicide could not be treated as the conduct which drove her to commit suicide. All those incidents of alleged cruelty by the husband, in this case, had taken place much before the commission of the suicide by the deceased and, therefore, they cannot be treated as the immediate cause of provocation for the deceased to take the extreme step.

**Rupali Devi v. State of U.P.: 2019 SCC OnLine SC 493 – 498A complaints can be filed at a place where a woman driven out of matrimonial home takes shelter – Held** – In this case, three Judge bench considered the question: "Whether in a case where cruelty had been committed in a matrimonial home by the husband or the relatives of the husband and the wife leaves the matrimonial home and takes shelter in the parental home located at a different place, would the courts situated at the place of the parental home of the wife have jurisdiction to entertain the complaint under Section 498A, in a situation where no overt act of cruelty or harassment is alleged to have

been committed by the husband at the parental home where the wife had taken shelter? The bench observed that mental cruelty borne out of physical cruelty or abusive and humiliating verbal exchanges would continue in the parental home even though there may not be any overt act of physical cruelty at such place. Thus, it held that the courts at the place where the wife takes shelter after leaving or driven away from the matrimonial home on account of acts of cruelty committed by the husband or his relatives, would, dependent on the factual situation, also have jurisdiction to entertain a complaint alleging commission of offences under Section 498A of the Indian Penal Code.

**Heera Lal v. State of Rajasthan : (2018) 11 SCC 323 – Acquittal for 498A will bar prosecution to use 113a presumption to prove abetment to suicide – Held** – The Apex Court bench observed that, in a case of suicide of wife, acquittal of the relatives or husband under Section 498A IPC will bar prosecution to use presumption available under Section 113A of the Evidence Act prove abetment to suicide under Section 306 IPC. A bench held that harassment is something of a lesser degree than cruelty, and the mere fact that there is a finding of harassment would not lead to the conclusion that there is "abetment of suicide".

**K.V. Prakash Babu v. State of Karnataka: (2017) 11 SCC 176 – Mere extra-marital relationship by husband not 'Cruelty' to attract Section 498A/306 IPC – Held** – In this case, it was observed that, solely because the husband is involved in an extra-marital relationship and there is some suspicion in the mind of wife that cannot be regarded as mental cruelty which could attract Section 498A/306 IPC. The prosecution case was that the wife felt extremely hurt and, eventually being unable to withstand the conduct of the husband who was allegedly involved in an extra-marital affair, put an end to her life. The high court had upheld the trial court judgment convicting him under Section 498A and also held him guilty for driving his wife to suicide. Extra-marital affair might be an illegal or immoral act, but other ingredients are to be brought home so that it would constitute a criminal offence, the bench had said while setting aside the conviction.

## NOTIFICATION

### Central Government notifies–Foreigners (Tribunals) (2<sup>nd</sup> Amendment) Order, 2019

G.S.R. 760(E).: In exercise of the powers conferred by Section 3 of the Foreigners Act, 1946 (31 of 1946), the Central Government hereby makes the following order further to amend the Foreigners (Tribunals) Order, 1964, namely:

#### 1. Short title and commencement.-

(1) This order may be called the Foreigners (Tribunals) (Second Amendment) Order, 2019.

(2) It shall come into force on the date of its publication in the Official Gazette.

#### 2. In The Foreigners (Tribunals) Order, 1964,-

(A.) In paragraph 3A,-

(i) in sub-paragraph (1), after the words “While preferring an appeal”, the words, figures and brackets “within the period of one hundred twenty days as specified under paragraph 8 of the Schedule appended to the Citizenship (Registration of Citizens and Issue of National Identity Cards) Rules, 2003” shall be inserted;

(ii) for sub-paragraph (6) the following shall be substituted, namely:

“(6) In case no appeal is preferred under paragraph (8) of the Schedule appended to the Citizenship (Registration of Citizens and Issue of National Identity Cards) Rules, 2003, The District Magistrate may refer to the Tribunal for its opinion the question as to whether the person is a foreigner or not within the meaning of The Foreigners Act, 1946

(31 of 1946) in terms of sub-paragraph (1) of paragraph 2.”;

(iii) in sub-paragraph (9), the words, brackets and figures “and also the reference mentioned in sub-para (6)” shall be omitted.

(iv) for sub-paragraph (14), the following shall be substituted, namely:

“(14) After hearing the Appellant, the pleader appearing for the Government and the authorised representative of the District Magistrate, if any, the Tribunal shall dispose of the appeal:

Provided that the Tribunal shall also if the Appeal is rejected, give a clear finding as to whether the Appellant is a foreigner or not within the meaning of the Foreigners Act, 1946 (31 of 1946).”

(v) for sub-paragraph (15), the following sub-paragraph shall be substituted, namely:—

“(15)(a) The final order of the Tribunal shall contain its opinion on the matter whether the Appellant is eligible for inclusion in the NRC or not and it shall also contain the opinion of the Tribunal as to whether the Appellant, if his appeal is rejected, is a foreigner or not within the meaning of the Foreigners Act, 1946.

(b) The final order of the Tribunal shall be a concise statement of facts and conclusion based on which the Tribunal has arrived at its decision.”;

(B.) the paragraph 3B shall be omitted.<sup>1</sup>

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<sup>1</sup><http://egazette.nic.in/WriteReadData/2019/211944.pdf>

## EVENTS OF THE MONTH

1. **Ten Days Training Programme for the Public Prosecutors (31) from the State of Punjab and Chandigarh** was organized from October 09 to 22, 2019. The training included four sessions of 1.5 hours per day. Total 39 sessions and the valedictory session were structured covering different aspects relevant for Public Prosecutors regarding Criminal and Civil Matters in order to enhance their capacity to perform their duties effectively and efficiently. The topics are : The Role of Prosecutor and the Constitution, Law of Custody during Investigation and special legislations, Interpretation of Revenue Records and their Applicability in Cases-I&II, Protection against self Incrimination- Dimensions and Applicability, Law on Bails-Regular and Anticipatory, Mens Rea Presumptions under NDPS Act & its constitutionality, Important provision of SC–ST Act, Examination of witnesses – Principles and Procedures, General Aspect of Service Law, Recent Changes in Criminal law-Substantive and Procedural, Role of Post-mortem in Aid of Justice, Sentencing Policy & Restitutive Justice- Legal and Procedural Aspects-I&II, Child in Conflict with Law – Legal Rights and Protection, Suits against and by the Government – Legal implications, Compensation under MACT Act, Ramifications of Personal Search under NDPS Act, DNA Profiling & Evidence, Salient Feature of POCSO, Prosecution Sanction for Public Servants, Legal Facets of Human Trafficking, Electronic Evidence Admissibility & Appreciation, Determination of Compensation

under Land Acquisition Act, Awards under Arbitration & Reconciliation Act – Legal Issues, Miscellaneous Applications under Civil Procedure Code, Criminal Appeals & Revisions – Law and Procedure, Law on Constructive & Joint Criminal Liability, Process of Trial in Civil Cases-Best Practices & Law on Amendments of Pleadings, Summoning of Additional Accused and Evidence-Legal Parameters, Law Relating to Under Trials, Parole, Furlough & Pre Mature Release of Prisoners, Cordiality amongst Prosecutors, Police, Judiciary & District Administration, Delays in Criminal Trials-Causes & Remedial Measures, Executions-Speedy & Expeditious Disposals, Important Aspects in Checking of Challans by the Prosecutor, Cyber Crime Parameters of Investigation-Challenge, Access to Justice – Legal Aid Special Ref to Kasab Case, Law of Admissions and Confessions, Jurisprudence of Circumstantial Evidence. Sh.Pradeep Mehta & Dr. Nandita Kaushik, Faculty, CJA co-ordinated the programme. The different sessions were taken by : Dr. Balram K. Gupta, Director (Academics), CJA, Dr. K.P. Singh, IPS, DG, State Vigilance Bureau, Haryana, Dr. D.V. Saharan, Dr. J.S. Dalal, Prof. & Head, Forensic Medicine, CMC, Ludhiana, Faculty from CJA & CFSL, Chandigarh.

2. **Refresher-cum-Orientation Course for Civil Judges** from the States of Punjab and Haryana was organized on October 12, 2019 at CJA. The Civil Judges were sensitized on the topics: (1) Living Will, (2) Forensic Evidence–Legal Scenario, (3)(i) Sensitizing the

Judicial Officers regarding the Acid Attack cases ensuring dignified treatment of victims during the trial, (ii) Quick and Adequate award of compensation including interim compensation, Protection of Women from Domestic Violence Act, 2005, Training on Practical Use of Computers in Courts. Dr. Balram K. Gupta, Director (Academics), CJA took the first session. Second, third and forth sessions were taken by Sh. Pradeep Mehta, Faculty, Ms. Ranjana Aggarwal, ADJ-cum-Faculty and Dr. Nandita Kaushik, Civil Judge (SD)-cum-Faculty, CJA respectively. Fifth session was taken by Resource Person from Punjab and Haryana High Court. 56 judicial officers participated in the course.

3. **Workshop for discussing Module of training to be provided to the ministerial staff of District Court of Punjab, Haryana and UT Chandigarh on 20.10.2019** was organized at Chandigarh Judicial Academy. The High Court Committee of HMJ Ajay Tewari, HMJ Surinder Gupta and HMJ G.S.Gill structured the workshop. In the inaugural

session after the welcome address by Dr. Balram K. Gupta, Director (Academics), HMJ G.S. Gill, HMJ Surinder Gupta and HMJ Ajay Tewari addressed the District and Sessions Judges of different districts of Punjab, Haryana and Chandigarh as also senior officials drawn from the ministerial staff. The inaugural session was followed by separate sessions of DSJs and senior officials of ministerial staff. After lunch, again the joint session took place. In the joint session, Ms. Shalini Singh Nagpal, Dr. Balram K. Gupta, Justice G.S. Gill, Justice Surinder Gupta and Justice Ajay Tewari spoke. On the basis of the celebrations of one day workshop, the module for the ministerial staff shall be finalized. Ms. Shalini Singh Nagpal gave the expression of gratitude.

4. **Refresher-cum-Orientation Course (through Video Conferencing) for ADJs Haryana and UT Chandigarh** was organized on October 31, 2019 on the topic : Crimes Relating to Trafficking and immoral Trafficking (Prevention) Act, 1956 by Sh. Baljinder Singh Sra, ADJ-cum-Faculty Member, CJA.

## FORTHCOMING EVENTS

1. A group of **14 newly selected judicial officers of Assam Judicial Academy Service** from Assam Judicial Academy will be coming for an exposure tour to Chandigarh Judicial Academy from November 03–10, 2019.

2. A group of **12 newly promoted ADJs from State of Haryana and 6 from State of Punjab** will be undergoing one month training commencing from November 04, 2019.

3. **Refresher-cum-Orientation Course for Civil Judges from Punjab and Haryana** is

scheduled to be organized on November 09, 2019.

4. There would be a training programme of ten days for PPs of State of Haryana w.e.f. November 18, 2019.

5. **Refresher-cum-Orientation Course for Civil Judges from Punjab and Haryana** is scheduled to be organized on November 23, 2019.

6. A **group of 54 Judicial Officers of MJS from MJA** would be coming to Chandigarh Judicial Academy for an exposure tour from November 25 to December 01, 2019.