

The Crime & Justice Gazette

NEWSLETTER BY GNLU CENTRE FOR RESEARCH IN CRIMINAL JUSTICE SCIENCES

*“Saboot aur saza jaise jacha aur bacha ...
tandurust jacha toh mazboot bacha”*

*(In English: “Proof and punishment are like
motherhood and a baby ... if the motherhood is
strong only then will the baby be strong”)*

- The Movie, Talvar

*“A virginity test is based on gender bias and
society's view and obsession with the false
concept of virginity being equated with the
purity of a woman.”*

- Delhi High Court



Image Source: Orange County Register

“I never knew her in life. She exists for me through others, in evidence of the ways her death drove them”

— James Ellroy, *The Black Dahlia*

MESSAGE FROM THE CENTRE-HEAD

May the truth always win and good triumph over evil.

It is my utmost pleasure to write this message in the ninth edition of the Crime and Justice Gazette, a newsletter by the GNLU Centre for Research in Criminal Justice Sciences. Truth, courage & bravery, these qualities are a must for every criminal case that is to be instituted, investigated and tried.

Our Hon'ble Director Sir, Prof Dr. S. Shanthakumar, who laid the foundation of this centre, two years before, made its mandate clear that GCRCJS should bring out study, research and training in every aspect of criminal justice and the present Newsletter, is one step ahead in the same direction.

This is the result of the hard work of our student team, which has infinite zeal and never-ending motivation. I wish the team every success and also hope that this newsletter will fill the gap of information in the field of criminal laws for its readers. My best wishes to the student convener (Ashika), who has made this newsletter a reality, to the editors, to every team member as contributors, and every reader, who will let us know improvements and enable further excellence in this endeavor.



Dr. Anjani Singh Tomar

MESSAGE FROM THE TEAM

The GNLU Centre for Research in Criminal Justice Sciences, ever since its inception, is making continuous efforts to improve the culture of Research and Analysis in the field of Criminal Law and Justice System. The Centre has been reaching new heights since its inception. In the said time, we have managed to successfully conduct one National Essay Writing Competition; a Certificate Course on Cyber Crime, Cyber Forensics and Law (in collaboration with National Forensic Sciences University, Gandhinagar and Police Academia Interactive Forum); first of its kind-Police Image Building Workshop; eleven sessions of “Crime & Justice: A Discourse Series” on some of the pertinent topics having great contemporary relevance; several research posts for our Instagram page. The Centre provides a platform for a holistic research environment and aims to further knowledge and academic discussions about the multifaceted dimensions of criminal science.

GNLU Centre for Research in Criminal Justice Sciences is committed to achieving a goal of motivating law students to do research, especially in criminal law. And, for the same here we are with the ninth edition of our newsletter 'The Crime & Justice Gazette' which aims to cover contemporary developments as well as criminal law cases and events from the past.

We would like to express our heartfelt gratitude to our Hon'ble Director Sir, Prof Dr. S. Shanthakumar, for his unwavering support, as well as our Faculty Convenor, Dr. Anjani Singh Tomar, for believing in us and encouraging us to pursue our research in every possible direction.

Disclaimer

The authors' opinions expressed in the newsletter are their own, and neither GCRCJS nor GNLU is responsible for them. The case briefs solely summarise the current state of the cases' verdicts or orders, and do not cover anything with respect to future proceedings or appeals. The newsletter is only for internal circulation in GNLU and will be available on the GCRCJS official webpage on a later date.

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TABLE OF CONTENTS

PREFACE	1
RECENT DEVELOPMENTS	2
SECTION 498A OF THE INDIAN PENAL CODE, 1860 - NO WAY OUT FOR THE HUSBAND & HIS RELATIVES	6
INTERNATIONAL MURDER MYSTERY - THE BLACK DAHLIA MURDER	8
IDIOSYNCRATIC BAILS IN POCSO CASES A JUDICIAL DOGMA OR CONSEQUENTIAL DECISION?	10
MOVIE REVIEW - TALVAR	12
CONTINUOUS WORDS	15
ANSWERS FOR JUMBLED WORDS - ISSUE 8	16
ANSWER FOR CROSSWORD - ISSUE 8	16

P R E F A C E

Criminal law is a dynamic study of law that undergoes development at every curve of dawn. This newsletter attempts to encapsulate the recent advancements in criminal law through various judgements, articles and reviews.

To begin with, the authors have presented a comprehensive review of section 498A of the Indian Penal Code, 1860 and an analysis of Idiosyncratic Bails in POCSO cases and the dilemma it poses. The newsletter further presents a intriguing murder mystery pertaining to Black Dahlia Murder. We've also provided a review of the a fictional movie “Talwar” based on the unsolved murder mystery of Aarushi Talwar dual murder case. Not to forget, there's glimpse of important recent judgements from the Supreme Court and different High Courts of India. The fun doesn't stop there; there's also a mind-boggling continuous word puzzle for you to solve! Also, don't forget to check the answers of last issue’s jumbled words and crosswords!

Happy Reading!

RECENT DEVELOPMENTS

VARDAAN MAHAJAN AND SHIVAM
AGRAWAL

SR. SEPHY V. CBI AND ORS.

In the High Court of Delhi

“Virginity Test: Concept of Sexism, Society’s view and obsession with the false concept of virginity being the purity of a woman.”

Section 53 of the Code of Criminal Procedure Code, 1973; Article 21 of the Constitution of India, 1950 ; Part III of the Constitution of India, 1950.

The Delhi High Court stated on Tuesday that the "virginity test" carried out on a woman detainee or accused is unconstitutional, "sexist, and in violation of the right to dignity," and that it is based on gender bias and "society's view and obsession with the false concept of virginity being equated with the purity of a woman." The single bench led by Justice Swarana Kanta Sharma directed all the investigating agencies to declare the virginity test as unconstitutional through circulation of information by relevant ministries.



Image Source: India TV News

Sister Sephy, a nun from the St. Pius Convent in Kottayam, Kerala, who had been found guilty and given a life sentence in the murder case of Sister Abhaya, was pleading before the High Court. Sephy contended in her 2009 plea that the CBI's conduct of the virginity test on her should be ruled unlawful. She also demanded retribution from the officials who forced her to take the test against her will and disclosed the results to the media.

On June 23, 2017, a division bench of the Kerala High Court postponed the life sentence and gave bail to Father Kottoor and Sephy until the outcome of their case contesting the trial court's decision. Sephy had submitted the petition before the Supreme Court ruled that the virginity test was illegal, the Delhi High Court remarked. In addressing whether the test was constitutional, the HC noted that "even as an accused, fundamental rights available to an accused/prisoner/detainee are not suspended so far as the subject of their privacy and dignity."

According to Justice Sharma, the 'explanation' to Section 53 of the Code of Criminal Procedure, 1973 requires that an accused person be medically examined using "modern and scientific techniques," rejecting the CBI's claim that the virginity test is recognised under this provision (examination of an accused by a medical professional at the request of a police officer). It wouldn't be out of context to say that the virginity test cannot possibly fall under the abovementioned rule, according to Justice Sharma. Virginity testing is neither modern nor scientific; rather, it is illogical and medieval.

The test amounted to "managing women's bodies, their sexual behaviour," the court ruled, because virginity lacks a clear scientific and medical definition. The bench emphasized that even when a person is detained or accused of committing a crime, their right to dignity under Article 21 of the Constitution is not suspended. The court stated that the test also reveals the "undesirable and repulsive (abhorrent) notion of distinction on the basis of gender and stereotypes" in addition to the "feeling of being demeaned by such treatment in prison by bodily invasion."

**P. SUNIL KUMAR AND PRAKASH RAO
M V. STATE OF KARNATAKA**

**In the High Court of Karnataka at
Bengaluru**

Explosive Substance Act: Can an Employee be held liable for his master?

Section 286 of the Indian Penal Code, 1860;
Section 304 of the Indian Penal Code, 1860;
Sections 3 of the Explosive Substances Act, 1908;
Sections 5 of the Explosive Substance Act, 1908;
Section 6 of the Explosive Substances Act, 1908;
Section 482 of the Code of Criminal Procedure Code, 1973;

A criminal case against the owners of a store authorized to sell explosives to quarry contractors was dismissed by the Karnataka High Court on the grounds that one of their employees had sold gelatin sticks to a person who later died in an explosion.

The plea submitted by P Sunil Kumar and others was approved by a single-judge panel of Justice K Natarajan, who also invalidated the legal actions taken against them in accordance with Sections 286, 304 of Indian Penal Code, 1860 and Sections 3, 5 and 6 of the Explosive Substances Act, 1908.

On August 16, 2021, the Satanur police received information that a car parked inside its jurisdiction was shot at and a person inside was killed. During an inquiry, it was discovered that Mahesh, who was transporting gelatin in his car at the time of the explosion, was the deceased. The police discovered after conducting an inquiry that the deceased person had bought explosives from the petitioners—the license holder and his son’s shop. They and other suspects were named in a chargesheet that the police filed.

The bench stated that it is a well-known fact that the petitioners were not present in the store when Harish Kumar, the employee, was selling gelatin sticks and explosives. Other than that, he didn't demand payment for selling the gelatin sticks. The court made an

observation that the “accused no. 3/Harish Kumar, categorically stated in the voluntary statement that in the absence of the owners, he used to sell the explosives without the knowledge of the owners and money received by him was spent on himself along with the others. On perusal of the voluntary statement of accused no. 3, he admitted that he had sold the gelatin sticks to the accused no. 1 at the instance of the accused no. 2 and he has not implicated this petitioner,” said the court.

The bench noted that since the petitioners were not aware that the explosives were being sold, it was not admissible to accuse them of violating the license as well.

“Though the purchase was from the shop of the accused nos. 4 and 5 but without their knowledge there is no bill or receipt issued by the accused no. 3 on behalf of the shop or owners of the license holders. Such being the case, implicating accused nos. 4 and 5 is not correct,” the court added.

Quashing the proceeding, it was observed by the judge that “conducting criminal proceedings against the petitioners is abuse of process of law.”

**USHA CHAKRABORTY & ANR. V. STATE
OF WEST BENGAL & ANR.**

In the Hon’ble Supreme Court of India

*Cloak of Criminal Offence Over Civil Disputes -
A Valid Ground for Quashing Proceedings u/s
482 Cr.P.C*

Section 482 of the Code of Criminal Procedure Code, 1973;
Section 153 of the Code of Criminal Procedure Code, 1973;
Section 323 of the Indian Penal Code;
Section 384 of the Indian Penal Code;
Section 406 of the Indian Penal Code;
Section 423 of the Indian Penal Code;
Section 467 of the Indian Penal Code;
Section 468 of the Indian Penal Code;
Section 420 of the Indian Penal Code;
Section 120B of the Indian Penal Code,

The Supreme Court has ruled that when it is determined that an attempt was made to

"cloak an otherwise civil issue in the criminal offence," criminal proceedings may be quashed in accordance with Section 482 CrPC.

The aforementioned ruling was made by a bench of Justices MR Shah and CT Ravikumar in a criminal appeal stemming from a ruling by the Calcutta High Court. The appellants had filed a petition with the High Court according to Section 482 Cr.P.C., asking for the quashing of F.I.R. No. 189/2017 on the grounds of Sections 323, 384, 406, 423, 467, 468, 420, and 120B of the Indian Penal Code. The High Court refused to exercise its authority under Section 482 CrPC, stating that a review of the case diary and documents alone established a need for an investigation.

It was further contended by the appellants that the application made under Section 156(3) CrPC did not disclose a criminal offence altogether. The bench, while delivering the judgement also reiterated that "there can be no doubt with respect to the position that jurisdiction under section 482 Cr.P.C. is to be exercised with care and caution and sparingly." The court thoroughly scanned the application filed by the respondent which was forwarded for investigation under Section 156(3) Cr.P.C and found that the existence of a civil dispute regarding the removal of the respondent from the post of Secretary of a School was concealed.

The Hon'ble Apex court held that, "By non-disclosure the respondent has, in truth, concealed the existence of a pending civil suit between him and the appellants herein before a competent civil court which obviously is the causative incident for the respondent's allegation of perpetration of the aforesaid offences against the appellants...."

The Court further cited the case of Paramjeet Batra v. State of Uttarakhand & Ors, in which it was decided that "the High Court must determine whether a dispute that is fundamentally of a civil nature is given the



Image Source: Raconteur

mask of a criminal offence." If a civil remedy is available in such a scenario and is really used, as it was in this instance, the High Court should not hesitate to quash the criminal proceedings to avoid judicial abuse.

SK AND ORS. V. STATE OF MAHARASHTRA AND ANR.

In the High Court of Judicature at Bombay

Section 498A IPC and Mental Cruelty: Mental Cruelty is an abstract concept and can be committed even if in-laws reside separately.

Section 3 of the Dowry Prohibition Act, 1961;
Section 4 of the Dowry Prohibition Act, 1961;
Section 498A of the Indian Penal Code, 1860;

The Bombay High Court in February 2023 observed that mental cruelty is an abstract concept and can be committed even if in-laws reside separately.

The Bombay High court (Nagpur Division Bench) dismissed with costs an application filed by relatives of a man seeking quashing of criminal proceedings against them instituted by his wife. The complainant claims that the applicants treated her cruelly and sought dowry. The applicants were booked under various provisions of IPC and Sections 3 and 4 of the Dowry Prohibition Act, 1961.

The applicants allegedly convened at the complainant's marital home at some point, according to the allegations and witness testimony, the court observed. Also, they had phone or in-person conversations with the

complainant. The complainant claimed that the applicants humiliated, harassed, and mistreated her during these interactions.

"Here, in this case, for meting out mental cruelty to non-applicant no. 2, of course, in a prima facie way, these applicants seem to have employed modern means of communication i.e. telephone etc. and on many occasions, they have also remained present in the company of non-applicant no. 2. Therefore, this is not a case where the applicants, by virtue of their separate residence, could be presumed to not have treated non-applicant no. 2 in a cruel manner," said the court.

"Mental cruelty is an abstract concept and it is a matter of experience for a person who is subjected to cruelty ... Sometimes, the taunts might be seen to be innocuous by one person, while they may not be necessarily so perceived by another person ... Such being the nature of mental cruelty, it is not necessary that it must take place in the physical presence of persons and that it can be handed out even from a distant place," the court observed.

If there are no claims of cruelty in the FIR, no criminal case may be brought against the accused. Nevertheless, if the foundation is solid, as was in this case, a strong criminal case can be brought before the court.

PRAKASH NAYI @ SEN VS STATE OF GOA

In the Hon'ble Supreme Court of India

Burden of proof on accused to prove plea of insanity is one of the preponderance of probability: Supreme Court

Section 300 of the Indian Penal Code, 1860;
Section 302 of the Indian Penal Code, 1860;
Section 84 of the Indian Penal Code, 1860;_

Accepting the plea of insanity, the Supreme Court recently set aside an order passed by a trial court in 2006 convicting a man for the offence of murder.

The appellant was receiving treatment for schizophrenia at the time of the offence in 2004, the court found. There was documentation showing that he had received inpatient treatment for mental illness at a Government Medical College Hospital before the incident. Also, two medical professionals gave testimony before the court regarding the appellant's condition. The Trial Court and the High Court, however, disregarded those elements.

Justice B.R. Gavai and M M Sundresh observed that "it is the collective responsibility of the person concerned, the Court and the prosecution to decipher the proof qua insanity by not treating it as adversarial"

It was further observed that The existence of an unsound mind is a sine qua non to the applicability of the provision. A mere unsound mind per se would not suffice, and it should be to the extent of not knowing the nature of the act. Such a person is incapable of knowing the nature of the said act. Similarly, he does not stand to reason as to whether an act committed is either wrong or contrary to law. Needless to state, the element of incapacity emerging from an unsound mind shall be present at the time of commission.

With regards to the prosecution to decipher the proof qua insanity, the Bench observed that "The burden of proof does lie on the accused to prove to the satisfaction of the Court that one is insane while doing the act prohibited by law. Such a burden gets discharged based on a prima facie case and reasonable materials produced on his behalf. The extent of probability is one of preponderance. This is for the reason that a person of unsound mind is not expected to prove his insanity beyond a reasonable doubt. Secondly, it is the collective responsibility of the person concerned, the Court and the prosecution to decipher the proof qua insanity by not treating it as adversarial. Though a person is presumed to be sane, once there are adequate materials available before the Court, the presumption gets discharged."

SECTION 498A OF THE INDIAN PENAL CODE, 1860 - NO WAY OUT FOR THE HUSBAND & HIS RELATIVES

AKANKSHA RAI

ABSTRACT

This article dives in-depth into the current misuse of section 498A of the Indian Penal Code, 1860. It also throws light on the latest Apex court amendment in section 498A IPC, which shows how the relatives of the husband cannot be forced towards a trial in the absence of specific allegations of dowry demand. The article ponders upon the fact that the role of the husband's relative and the correlation of this offence with Section 304B IPC gives arbitrary powers to women to exploit the husband's family."

INTRODUCTION

"The total number of cases registered under section 498A of IPC, 1860 was 1,11,549. Out of these 5,520 were considered as false by police and 16,151 cases were closed due to mistake of false fact or law, Insufficient Evidence, Mistake or Civil dispute".

The lawmakers have always advocated for women welfare and empowerment and have expressly showcased the same by virtue of numerous legislations in this regard. These laws have essentially provided women with extra safety and security, where the presumption of doubt is pondered upon the male. While the incorporation of section 498A IPC (hereinafter referred to as 'the statute') was intended to facilitate quick state intervention and prevent cruelty committed against a woman by her husband and her in-

laws, the reality is quite the opposite. Cases of domestic violence and harassment by partners and family members are nuanced activities that routinely continue to be devalued.

Because educated women are aware that this section is both cognizable and non-bailable, it can be caused by a woman's simple accusation, putting the man behind bars, which is why the violence in this section is getting worse. The Courts have also noticed that matrimonial litigation has increased significantly in the country over the past few years which has resulted in increased discontent and conflict surrounding the institution of marriage than ever before. As a result, people are more likely to use laws like the Section 498A IPC to settle personal scores with the husband and his family. Section 498A IPC reads as:

"Husband or relative of husband of a woman subjecting her to cruelty- *Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to a fine.*

Explanation.—For the purposes of this section, "cruelty means"—

(a) any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or

(b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand."

EXPLOITATION OF SECTION 498A OF IPC, 1860

There were more acquittals than convictions during cross-investigations into the legality of these laws. Despite the fact that Section 498A IPC was enacted with the intention of protecting women from violence, the Supreme Court now views this as an act of legal terrorism. The excessive misuse of this section has made the



Image Source: Vajirqm and Ravi

public question its veracity and utility even more. Furthermore, there is no reliable empirical data on the extent of the alleged misuse, despite numerous complaints and courts' admission of widespread use.

One of the essentials of this section is that it requires the marriage to be a valid marriage for the conviction of the accused i.e. conviction for the husband or their relative. The Apex court has ruled that if the marriage is declared null and void, this section won't be applicable. Women are filing an FIR under this section to pressurize and harass their husband's family members. These cases are merely filed for taking 'revenge' with 'weak vengeance'. Recently, in a judgment given by the Andhra Pradesh High Court, it was held that vague allegations won't constitute a case under Section 498A IPC. According to the Apex court in *Savitri Devi v. Ramesh Chand & Ors*– *“The abuse is connected with the manipulation of the laws to such an extent that it was totally influenced by the influence of marriage itself and thus found not to be intelligent for the welfare of the giant community.”*

The worst part, in reality, is that the husband's relatives are also a part of this offence. Cruelty is also experienced as a mental trauma which in turn is a very

subjective term. Individual women experience cruelty in different forms which in turn becomes difficult for the police to investigate and come up with a piece of substantial evidence.

SUGGESTIONS

- FIR shouldn't be filed in a routine manner under this section as the allegations could have been omnibus or false and should be first verified.
- The efforts of reconciliation should be initiated before moving forward with the arrest.
- The arrest should also take place after the proper investigation of the matter.

CONCLUSION

“The misuse of law arises when there aren't enough enforcement guidelines and when a person has malicious intent. Women have been empowered with these laws to help them and create a presumption of doubt on the males but these laws have a negative impact too. Nowadays, these laws are exploited without considering the long-term effects of a trial on both the complainant and the accused. Section 498A IPC and the growing trend of including the husband's family in marital disputes is one such alarming section that we witness in everyday life. The gross and unmindful misuse of this section should be taken notice of immediately. An illustration of it would be *“As per the Malimath Committee report, 2013 of the misuse of Section 498, A were taken into consideration in reform of the criminal justice system. The Committee took the view ‘general complaint’ of section 498 A to be a part of gross misuse.”*”

The courts are in line with this issue and some courts have even issued guidelines such as no arrest can take place within 2 months of filing an FIR under this section. They are creating a cooling period for the police agencies to investigate the matter and look for verified evidence. This disparity can only be addressed when both genders would make peace and use the legal framework responsibly.

INTERNATIONAL MURDER MYSTERY - THE BLACK DAHLIA MURDER

OJASI GOPIKRISHNA

The Black Dahlia Murder is one among the most renowned murders in the Federal Bureau of Investigation's unsolved crimes and for good reasons. The gruesome murder was a rage among the media since it dealt with the infamous glamour of Hollywood and the rising number of such murders was becoming a common occurrence.

The fateful day was the 15th of January, 1947, at Leimert Park in Los Angeles, California, when Betty Bersinger, walking with her two-year-old through a park, saw a pale body-shaped object and assumed it to be an abandoned artificial model. When she moved closer to inspect it, she discovered that it was the body of a woman and immediately reported it to the police.



Image Source: Entertainment Weekly

Investigations revealed that the body belonged to a 22-year-old named Elizabeth Short. Other information that the LAPD (Los Angeles Police Department) was later able to gather by distributing fliers asking about information regarding the victim, was that she was originally from Medford, Massachusetts, and had moved to LA with aspirations of making it big in Hollywood. To support herself in the big city, she worked as a waitress and oftentimes, went through periods of unemployment.

Her body had been cut in half at the waist and the blood had been drained out. Her body was posed in an eerie manner with her eyes open and her hands and legs spread out. The infamous "Joker" smile was etched on her as the perpetrator had cut her face from the corners of her mouth to her ears. Other gruesome injuries were plastered all over her body and the medical autopsy revealed that she had been killed due to a haemorrhage on her head due to multiple blows to her face and the lacerations on her body.

The autopsy also revealed that the body had been scrubbed before being placed where it was found. Multiple marks on her body suggested that she had been bound and tortured. The various cuts found on her body were made while she was alive, and their precise nature created suspicions of the murderer being someone with a medical background and surgical skills.

The story behind the name given to the murders is a rather interesting one. The news reports at the time had the habit of giving nicknames to murders. The case of Elizabeth Short soon began getting addressed as the "Black Dahlia's case", since the police had received reports about her often being dressed in sleek black clothing and because she had dyed black hair.

This information is pertinent since there were assumptions about her being an escort, which, in the opinion of many, may have been the cause of interference in the investigation.

The case made headlines for almost a whole month, because of its proximity to Hollywood, its gruesome nature, and the tactics of the murderer. The LAPD started receiving letters and envelopes filled with clues and identification cards such as Short's social security card, birth certificate, and photographs. There was no feasible evidence that could be gathered from these items which could point to who sent them because the items were cleaned with gasoline and there were no fingerprints on them. The letters were made with newspaper cut-out words and letters and the LAPD received around 13 letters, all signed with the name - "The Black Dahlia Avenger ". The LAPD did receive a letter with a fingerprint and the Federal Bureau of Investigation tested and checked the same against their database but did not find a match.

Almost 7 decades later, the story remains an unsolved mystery. Multiple crime theorists and investigators have revisited these case files and narrowed down suspects, however the mystery of the Black Dahlia Murders still remains to this day, a haunting tale of an unspeakable act, twisted with the manipulative and psychopathic tendencies of the killer.

Over the years, multiple observers and people who worked the case in the past, have submitted names and had their suspicions regarding the murder, but one suspect that multiple crime investigators always mention is Dr. George Hodel.

Steve Hodel, a retired LAPD detective decided to give a second glance to the case, and through his investigation and evidence collected over the years, believed that his father, Dr. George Hodel was the Black Dahlia killer.

Dr. George Hodel, was a well respected and well-connected man, in charge of a venereal disease clinic in Los Angeles, which brought him immense power and money. Theorists and researchers have stated that his medical background meant that he possessed the skills to perform the surgical Mutilations on the body of Elizabeth Short. Detective Hodel has also suggested that his father was responsible for the murder of one Jeanne French, a woman who was found dead approximately three weeks after Short. The profile of French's murderer fits the profile of Short's; a mutilated body with blunt force trauma found oddly posed and abandoned in an empty lot.

The most crucial aspect of this murder was that French's body bore the initials B.D, written with red lipstick, which has been thought to stand for Black Dahlia. A handwriting expert hired by Steve Hodel, analysed the penmanship of the letters B.D and Dr. Hodel's handwriting and concluded that these samples were a match.

A psychological factor that comes into play is Steve's analysis of paintings that Dr. Hodel had, which were painted by a friend of the Hodels, a surrealist artist named Man Ray. The pose in which the body was found, and the "smile" carved into her face, may have been inspired by the artist's work.

Multiple disturbing facts about the family are revealed. Tamara Hodel, the daughter, stated that she had been subject to nudity, assault, and rape at the hands of her father, and there were instances where he "offered" her to friends. A particularly disturbing fact about the case is that many analyzers have come up with the theory that George Hodel might have impregnated his own daughter, since Fauna Hodel, daughter of Tamara Hodel, was conceived when Tamara was 15, and Tamara herself has reported that her father had sexual intercourse with her, when she was 14.

There is no legal or medical proof of these statements since George Hodel was acquitted of all these charges after several family members testified in his favour. A popular theory for this act is that since the Doctor was the breadwinner

and a well-known person in the society, no one would want to testify against him.

The trail into the investigation ends abruptly in the 1950s with George Hodel moving to the Philippines and the LAPD closing investigation into the case stating that the evidence that they found after tapping George Hodel's phone proved his innocence.

A renowned theory that multiple investigators agree upon is that George Hodel might have had information about corruption inside the Los Angeles Police Department, and about their illegal prostitution, trafficking, and abortion rings. Thus, to save face and as "*quid pro quo*", the LAPD and Dr. Hodel may have reached a "mutual agreement" for their own wrong gains and benefits. There are many reasons why this is a popular theory. The LAPD stated that audio tapes, physical evidence from the case, and other such crucial evidence of the Black Dahlia's case are not with the files.

The case remains open even today and has been a source of enthusiasm and fascination for crime sleuths. There has been no concrete evidence found linking the murder to George Hodel, but given the evidence at hand, he was the prime suspect of the murder, with even law enforcement at times stating that they would have no qualms about pressing charges for these murders against him.

George Hodel passed away in 1991, a year after he returned to the States, leaving behind the mystery of the infamous Black Dahlia's murder.



Image Source: Entertainment Weekly

IDIOSYNCRATIC BAILS IN POCSO CASES A JUDICIAL DOGMA OR CONSEQUENTIAL DECISION?

KUBHER MALHOTRA

One of the most controversial judgments today is the granting of bail orders under POCSO Protection of Children from Sexual Offences Act, 2012. Several journalists and media houses have criticized judges for granting bail in POCSO matters. Judicial discretion must recognise that circumstances differ in every situation. It is not justice to ignore the facts of a situation and order based solely on the results of an incident without considering the intent behind the same. In this article, we will discuss some of the controversial and criticized bail orders issued by High Court Judges in POCSO cases.

In the recent case Akash v. State of NCT of Delhi and ANR, Citation:2023 LiveLaw (Del) 139] brought under the POCSO Act in the Hon'ble Delhi High Court, bail was granted to a 21-year-old after the prosecutrix consented to marry the accused, prosecutrix was 17 at the time, the alleged crime was committed. The records also stated that she wanted to marry the defendant and they had a child who already belonged to the couple and is now 18 months old. The petitioner had been detained for over a year in the case, which was filed in November 2021 under Sections 363, 366, 366A, and 376 of the Indian Penal Code, 1860 "IPC", as well as Section 6 of the POCSO Act.

The counsel of the accused referred to the cases of Dharmander Singh v. The State [Govt. of NCT Delhi] and Bijendra Mehto v. GNCT of Delhi to demand for leniency in such matters. The prosecutrix, who was present in person with her parents, declared in the ruling written

by Hon'ble Justice Anup Jairam Bhambhani that she was eager to marry the petitioner, with whom she already had a kid. Even in the present case, the prosecutrix stuck with her claim. The petitioner's desire to marry the prosecutrix was likewise noted by the court. For what it's worth, his parents did not oppose the marriage, according to the statement.

The court granted bail to the petitioner, taking into consideration that not granting one would have led to a rape victim bearing a child alone, whose father was in jail, and would have ruined the life of the petitioner. Therefore, due to the discretion of the Hon'ble Court, an integrated and well-accepted family was formed, contributing to a better-functioning society overall.

Moving on to a similar case in the Hon'ble Allahabad High Court *Monu v. State Of U.P. Thru. Prin. Secy. Home Lko. And 3 Others* [CRIMINAL MISC. BAIL APPLICATION No. - 10567 of 2022], a POCSO suspect arrested for raping a 17-year-old girl with whom he reportedly eloped, was recently granted bail by the Court. The statements of the prosecutrix and her father, stating that they had no objection to the accused being released on bail, were taken into account by Hon'ble Justice Dinesh Kumar Singh while granting him bail. The daughter had previously given birth to a child from the accused applicant. In addition, the defense attorney claimed that the accused-applicant is prepared and eager to marry the prosecutrix since they already decamped to execute the ceremony because they were in love. He also stated that as soon as the victim was released from prison, he would marry her. Without commenting on the merits of the case, the court deemed it appropriate to grant bail after taking into account the prosecutrix's and her father's positions and the fact that the prosecutrix has already given birth to a child from the accused applicant, who has been detained since 10.04.2022. However, the bail was granted on the condition that if

he was released from jail on bail, he would marry the prosecutrix within 15 days of the date of release and register the marriage within one month after the date of the marriage. He would also be given full parental rights to the prosecutrix and his daughter. Family formation is often seen as a crucial component of a strong and prosperous society. The creation of stable families can be advantageous for a person's well-being, a child's growth, and societal cohesion which is better than putting the accused-applicant in jail.

Even in the case of *Satish Kumar vs State Of Punjab* on 19 March 2021, the person was accused of rape after having intercourse with a 16-year-old female. The accused said that he was ignorant of the law and that the victim had given her consent. The court, however, decided that the accused had engaged in rape and that ignorance of the law was not a valid excuse. The minor granted consent being unaware of the fact that the consent by a minor is invalid and due to this lack of legal awareness the whole jurisprudence of the ultimate motive of law is defeated.

The issue of whether courts should have the discretion to grant liberal bail rulings is complicated and demands careful examination of a variety of variables. On the other hand, in some circumstances, enabling judges to use their discretion in decisions about things like bail can be advantageous. On the other side, allowing judges excessive latitude in situations like bail might have negative consequences. For instance, if judges are allowed too much discretion to render lenient judgments, this may result in the release of dangerous people back into society, endangering the safety of others. However, there



Image Source: JurisHour

is a chance that judges may make these decisions in defiance of established legal precedent due to bias, personal convictions, or outside pressure. In the end, the debate over whether judges should have more or less latitude in decisions involving bail is a complicated one that necessitates a careful balance of conflicting interests. While it may be advantageous to give judges some latitude in some situations, it's equally crucial to make sure that the decision-making procedure is open to the public and adheres to the law. This can support ensuring that justice is delivered to all parties in a fair and equal manner.

Plus, we can also not ignore the fact that it's critical to realize that when it comes to sexual behaviour, including rape, there is a big gap between the concept of 'consent' and the question of "age of consent." For instance, Judge Madan B. Lokur, one of the judges on the bench, made a statement on the necessity to strike a balance between the idea of consent and the age of consent in the case of *Independent Thought v. Union of India* [SC 2017].

He noted that although it is critical to respect an individual's autonomy and right to make decisions, it is also crucial to safeguard children from sexual abuse and exploitation. He pointed out that even if a juvenile provides their assent, it is still illegal to engage in sexual contact with them since it is recognised by law that they lack the mental capacity to make an educated decision. The age of consent, according to the court, is not set arbitrarily and is founded on the idea that children are unable to give informed assent. In instances involving sexual assaults, Indian courts have recently struggled with the question of consent and the appropriate age for approval. Judges have made remarks on the discrepancy between the idea of consent and the legal consent age and the necessity to strike a balance between the two.

Parallel to this, in 2010, the court in the case

Mohd. Haroon v. State of U.P. noted that the law clearly distinguishes between consent and the age of consent. While permission is a voluntary and informed agreement to participate in sexual activity, he pointed out that a person's legal competence to offer such consent depends on their age. The scope of formation of a basic unit of a well-functioning society has been limited due to such grey grounds of our legal system and therefore, no Criminal Justice and a uniform-sustainable society.

It might be possible to resolve these inconsistencies in sexual violence legislation that restrict young people's rights by repealing the current reporting requirements and lowering the consent age to 16 years. An important change to enable young people's access to health care will be mandatory reporting to social services and counselors rather than the police, with strict safeguards of the confidentiality and privacy of young people. Additionally, the penal provisions on doctors, hospitals, teachers, psychologists, counselors, parents, and all others who work with children and young people will be removed.

MOVIE REVIEW - TALVAR

TUSHAR KUMAR

"Talvar" is a 2015 Hindi-language film directed by Meghna Gulzar. The 2008 double homicide in Noida, whereby Aarushi Talvar, a young girl, and Hemraj Banjade, a domestic helper, were discovered dead in their home, served as the inspiration for the film. In addition to posing doubts about the investigation and the legal system, the film explores other viewpoints and hypotheses surrounding the case.

From a legal analysis standpoint, "Talvar" raises several issues related to the criminal justice system, including investigation, prosecution, and trial. The movie highlights the flaws in the

investigation conducted by the police and the CBI [(Central Bureau of Investigation)] and the lack of a fair trial due to media trials and public pressure.

The first issue the movie addresses is the investigative process. The movie depicts the police investigation as hasty, unprofessional, and influenced by media and public pressure. The initial investigation was poorly conducted, with several vital pieces of evidence being destroyed or tampered with, making it challenging to determine what happened. The movie also shows how the police were quick to jump to conclusions without considering alternative possibilities. For instance, the police focused their investigation on Aarushi's parents, Rajesh and Nupur Talvar, without adequately exploring other suspects. As a result, the investigation was flawed and failed to provide a clear answer to what happened to Aarushi and Hemraj.

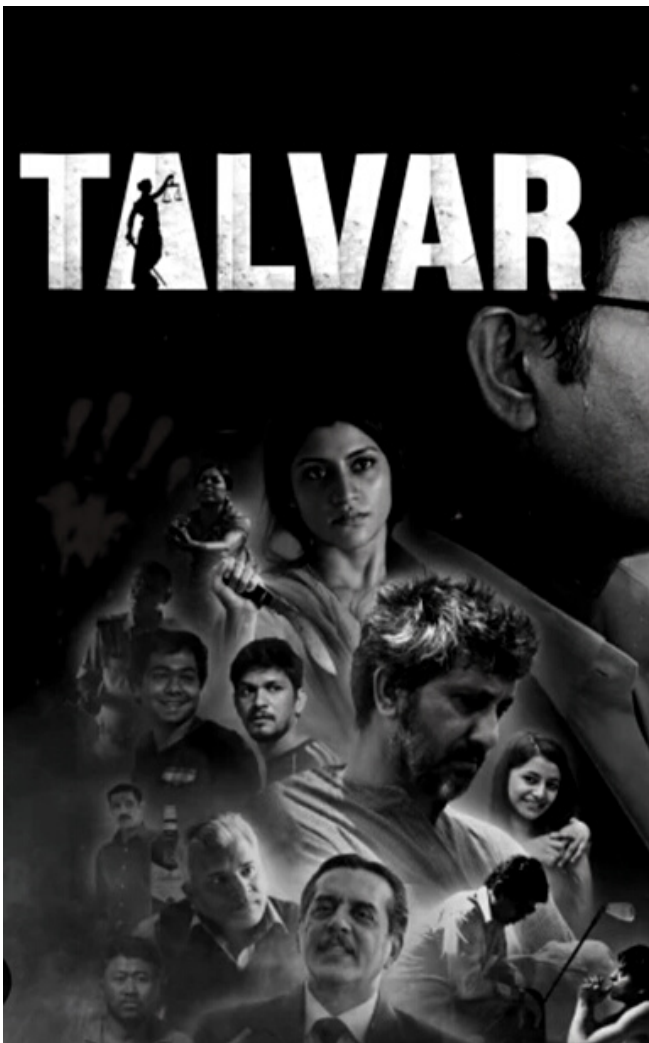


Image Source: Hotstar

The second issue that the movie highlights is the role of media trials and public opinion. The media coverage of the case was extensive, with sensationalist headlines and sensationalist reporting. This coverage resulted in public pressure and influenced the investigation, with the police being pressured to make an arrest. Additionally, the movie shows how media coverage of the case contributed to the vilification of the Talvar family, causing them to face significant social stigma and isolation, despite their claims of innocence.

The third issue the movie raises is the role of forensic evidence in criminal investigations. The movie shows how forensic evidence can be manipulated and misinterpreted, leading to false conclusions. The movie highlights how evidence collection and forensic analysis in India are often flawed, with poor collection methods and inadequate facilities leading to contamination and degradation of evidence.

The fourth issue the movie raises is the concept of "benefit of the doubt." In the movie, Rajesh and Nupur Talvar are found guilty and sentenced to life imprisonment by the court, despite doubts being raised about their guilt. The movie shows how the judicial system can fail to provide justice when the prosecution fails to prove guilt beyond a reasonable doubt.

One of the strengths of the film is its nuanced portrayal of the characters. Rather than painting the protagonists as heroes or villains, the film presents them as flawed human beings, prone to making mistakes and driven by their own agendas. This approach adds to the film's realism and makes it all the more compelling. The performances of the lead actors are also top-notch, with Irrfan Khan in particular delivering a standout performance as the investigative officer assigned to the case. The film's direction and editing are also noteworthy, effectively building tension and maintaining the film's pace throughout. However, the film's handling of the subject matter has also drawn criticism, with some arguing that it is too sympathetic towards the parents of the murder victims, who were ultimately acquitted by the court. Others have criticized the film for exploiting a real-life

tragedy for entertainment purposes.

In conclusion, "Talvar" is a thought-provoking movie that raises several issues related to the criminal justice system. The movie highlights the flaws in the investigation, prosecution, and trial, including the influence of media trials and public opinion, the role of forensic evidence, and the need for the benefit of the doubt. "Talvar" serves as a reminder that a fair and impartial investigation is critical to providing justice and that the criminal justice system needs to be improved to ensure that innocent people are not wrongfully convicted.

motivates one to perform gruesome acts
against humanity.

CONTINUOUS WORDS

Below is a chain of continuous words. Start at clue no 1 and write the answers to the clues in the order that they are given. Every answer overlaps the next one by one letter or more.

1							
				5			
						8	
2		4					
				6	7		
		3					

Clues (LEGAL TERMINOLOGIES)

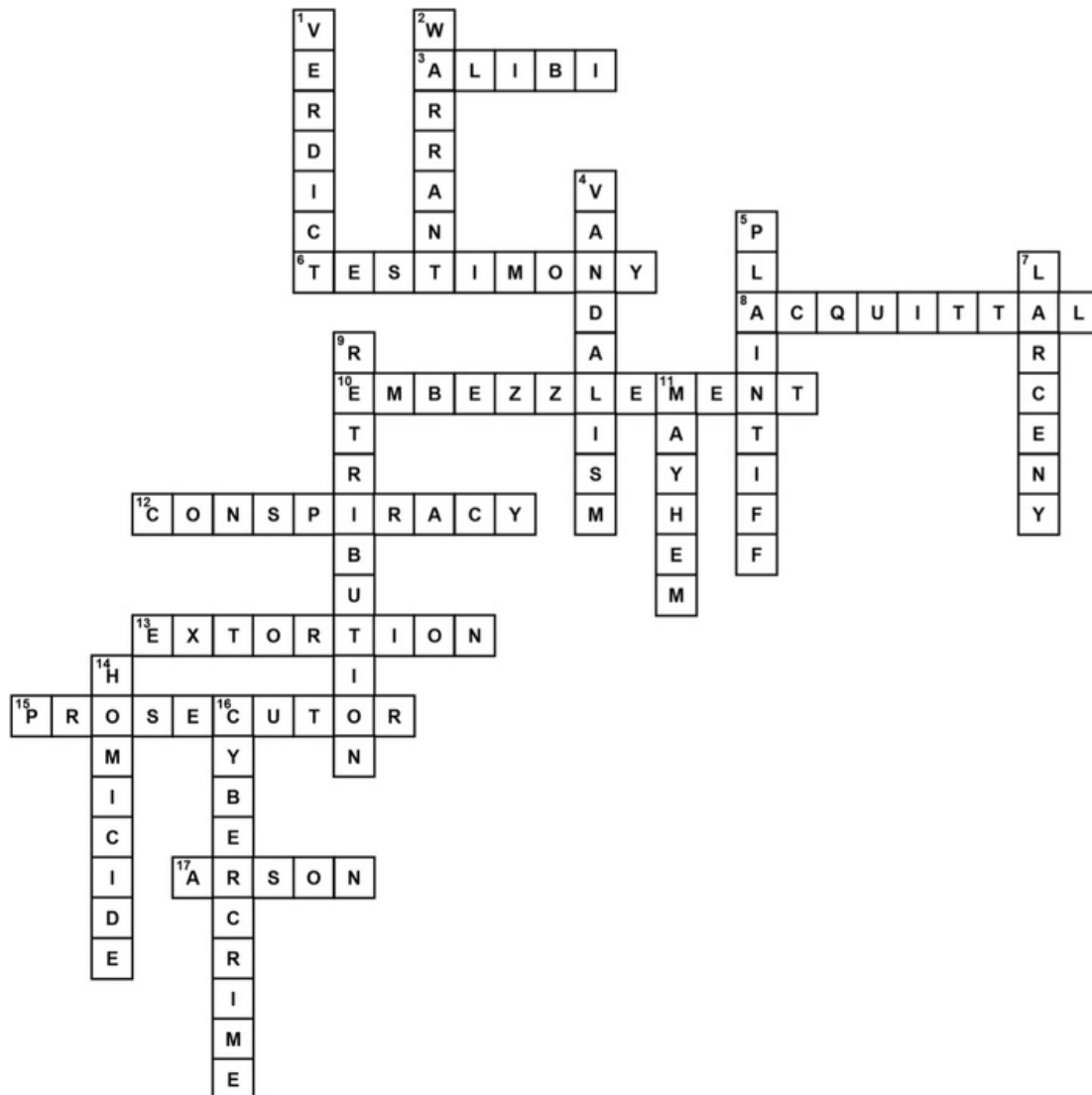
1. A knowing misrepresentation of the truth or concealment of a material fact to induce another to act to his or her detriment.(5)
2. A log containing the complete history of each case in the form of brief chronological entries summarizing the court proceedings.(6)
3. Amount of money that we pay to use a road or bridge. (4)
4. A sexual act that the actor knows will likely be observed by someone who will be affronted or alarmed by it. (8)
5. The process of legally compelling a witness to appear in court or give testimony. (8)
6. To put something into action, especially the act of making something law. (5)
- 7.The illegal act of transferring drugs from one location to another. (11)
8. To bet, game, or participate in an activity that is based on luck not on the skills to win money. (6)

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against humanity.

ANSWERS FOR JUMBLED WORDS ISSUE 8

1. ACCESSORY
2. EXONERATE
3. EMBEZZLEMENT
4. EXPUNGEMENT
5. VOIR DIRE
6. ARREST
7. CHARGE
8. ABSCONDER
9. DETENTION
10. EXTORTION

ANSWER FOR CROSSWORD ISSUE 8





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