



THE CIVIL AND CRIMINAL JUSTICE CELL, NATIONAL LAW INSTITUTE
UNIVERSITY BHOPAL

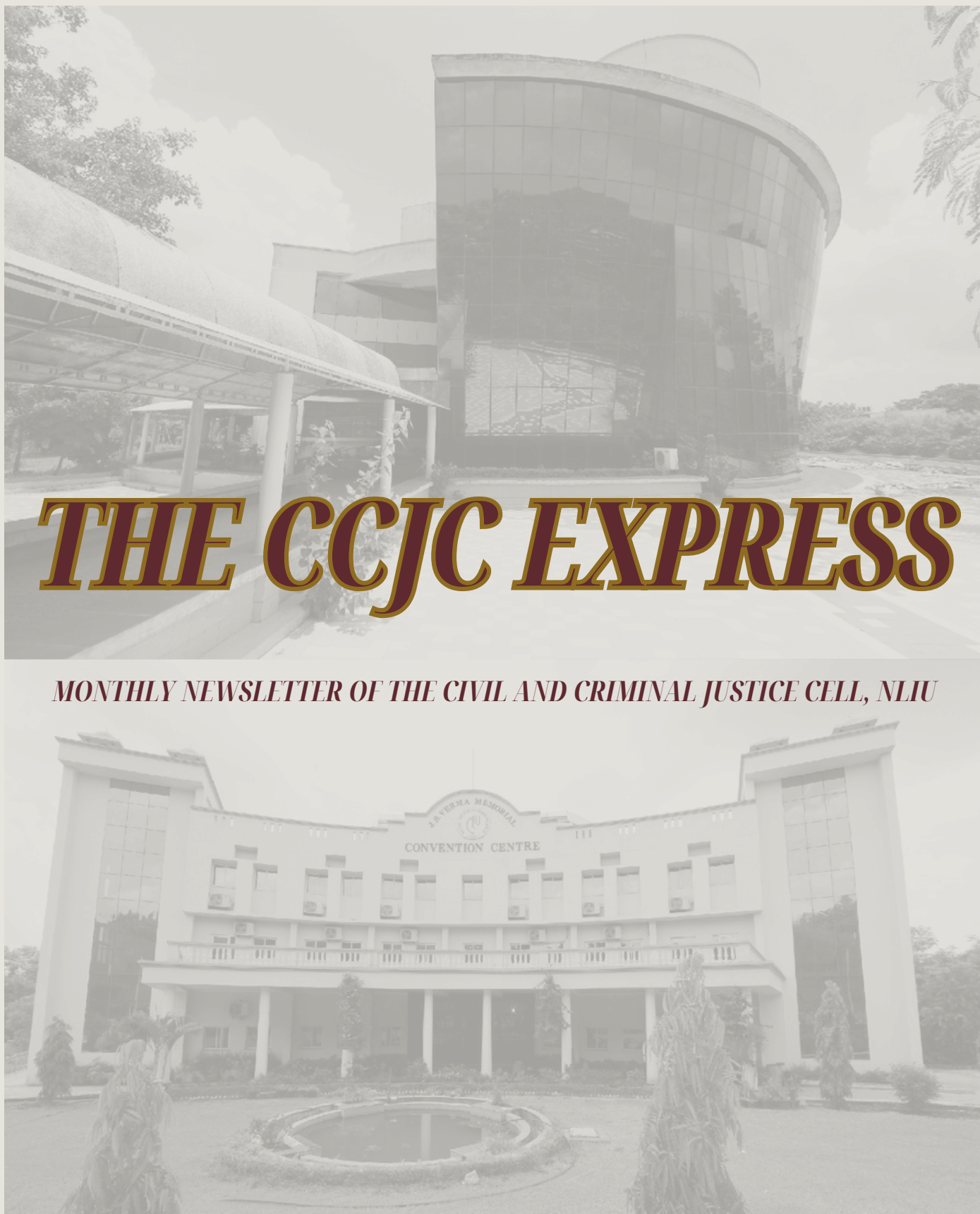


THE CCJC EXPRESS

MONTHLY NEWSLETTER OF THE CIVIL AND CRIMINAL JUSTICE CELL, NLIU

JULY 2024

VOL - 01 || ISSUE - 01



THE CCJC EXPRESS

MONTHLY NEWSLETTER OF THE CIVIL AND CRIMINAL JUSTICE CELL, NLIU

CHIEF PATRON

PROF.(DR.) S. SURYA PRAKASH

Vice Chancellor, National Law Institute University, Bhopal

PATRON

ASSISTANT PROFESSOR MS. DIVYA SALIM

Faculty Advisor, Civil and Criminal Justice Cell

EDITOR-IN-CHIEF

MR. HUSSAIN

Convenor, Civil and Criminal Justice Cell

DEPUTY EDITOR

MR. PRIYASNHU DANU

AUTHORS

KARTIKA BARSAINYAN

PRIYAVARDHAN BALOT

RUJUTA BAPAT

TAMANNA ANBUMANI

TECHNICAL BOARD

SWASTIKA GANGULY

BIKRAM MANHAS

THE CCJC EXPRESS

MONTHLY NEWSLETTER OF THE CIVIL AND CRIMINAL JUSTICE CELL, NLIU

HIGHLIGHTS

Supreme Court Scoffs at Supersized Submissions in Arbitration

PG. 02

Supreme Court: Tracking Accused on Bail Violates Privacy Rights

PG. 11

Supreme Court on Menstrual Leave: Balancing Needs and Avoiding Discrimination

PG. 13



Convictions Overturned: SC on Trial and FIR Filing Errors

PG. 04

SC Demystifies the Conundrum between Disability Humour and Disabling Humour

PG. 11



ccjc.nliu



ccjc@nliu.ac.in



HUSSAIN (JOINT CONVENOR)
9981222168



ANIKET NIGHOJKAR (JOINT CONVENOR)
6261407841

THE CCJC EXPRESS

MONTHLY NEWSLETTER OF THE CIVIL AND CRIMINAL JUSTICE CELL, NLIU

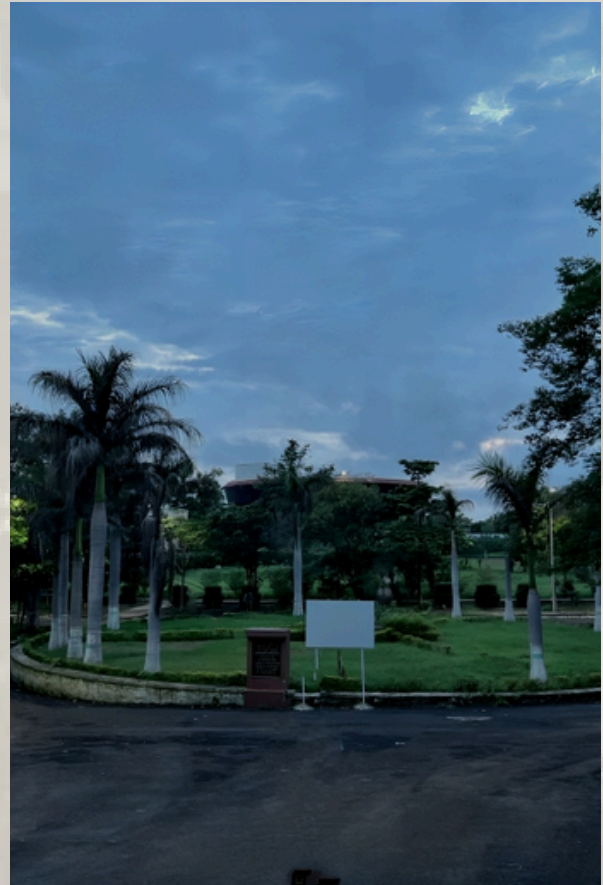
SUPREME COURT SCOFFS AT SUPERSIZED SUBMISSIONS IN ARBITRATION

In a judgment on July 8th, the Supreme Court of India, in a bench led by Justices Abhay S. Oka and Justice Pankaj Mithal, aimed the legal profession's growing fondness for filing excessively long and convoluted submissions in arbitration proceedings.

The Court emphasized the need for lawyers to strictly adhere to the legitimate grounds for challenging arbitral awards as outlined in Sections 34 and 37 of the Arbitration and Conciliation Act, 1996. They noted with disapproval the frequent inclusion of frivolous and legally untenable arguments in petitions under Section 34, which clogs the court system and undermines the efficiency of arbitration.

Justices Oka and Justice Mithal urged the Bar to exercise restraint and ensure their petitions and appeals focus only on legally sound arguments. They further criticized the current trend of bombarding courts with irrelevant case law, regardless of its actual bearing on the case. This practice, they argued, leads to unnecessarily protracted hearings and burdens the arbitral process.

The Court's frustration stemmed in part from a specific case where a staggering 151 grounds were raised in a Section 34 petition before the High Court, followed by a whopping 164 grounds in the subsequent Section 37 appeal. The Court found the vast majority of these arguments to be without legal merit, highlighting the excessive time and resources wasted on such cumbersome filings.



The judgment underscores the importance of concise submissions in achieving a more efficient and effective arbitral system. The Court urged all stakeholders, including lawyers and parties involved in arbitration, to critically evaluate their current practices of filing hundreds of pages of often irrelevant materials. Justice Oka and Justice Mithal warned that a continued disregard for brevity would undermine the very purpose of adopting the UNCITRAL Model Law on Arbitration, which strives for fairness and efficiency in resolving disputes.

Read More:

- <https://www.barandbench.com/news/supreme-court-issues-indian-arbitration>
- <https://www.livelaw.in/supreme-court/avoid-bulky-pleadings-lengthy-submissions-in-arbitration-appeals-supreme-court-to-advocates-262713>



THE CCJC EXPRESS

MONTHLY NEWSLETTER OF THE CIVIL AND CRIMINAL JUSTICE CELL, NLIU

SUPREME COURT APPROVES AGE RELAXATION AND BONUS MARKS FOR RAJASTHAN TEACHERS

In a significant decision on July 9th, the Supreme Court upheld the age relaxation and bonus marks granted to "Shiksha Karmis" and other government educational project employees in the Rajasthan Panchayati Raj Prabodhak Service Rules, 2008. This judgment by Justices Surya Kant and KV Viswanathan endorsed the government's approach in teacher recruitment.

The Court emphasized the crucial role these "para teachers" play in enhancing elementary education, particularly in tackling absentee teacher issues in remote villages. The Court found that Rule 13(v), which provided age relaxation for this specific group, was a legitimate classification and not discriminatory. The Court recognized the valuable experience of these para teachers and deemed the age relaxation, as long as they met the initial project appointment age limit, to be a reasonable measure.

This judgment dismisses 47 appeals contesting the selection of candidates with government project experience in the 2008 recruitment for 20,060 Prabodhak (teacher) positions. It's important to note that the Rajasthan government initiated the Shiksha Karmi Project in 1987 to address educational challenges in rural areas. This project later led to the creation of the "Prabodhak" cadre through an amendment to the Rajasthan Panchayati Raj Act, 1994. The Court further upheld the guidelines awarding bonus marks to candidates with project experience. The Court clarified that these guidelines functioned alongside the existing Rules, specifically recognizing the valuable experience gained working in rural educational projects. Ultimately, the Court concluded that both the age relaxation and bonus marks were justified, dismissing the appeals and validating the recruitment process.

Read more:

- <https://www.livelaw.in/top-stories/supreme-court-upholds-provision-of-age-relaxation-to-shiksha-karmis-in-recruitment-to-post-of-prabodhak-in-rajasthan-262685>
- <https://www.thelawadvice.com/news/sc-upholds-age-relaxation-for-shiksha-karmis-and-govt-educational-project-employees-in-rajasthan-teacher-recruitment>



KEY INSIGHTS FROM WEST BENGAL V. UNION: SC'S TAKE ON ARTICLE 131

Recently, the Supreme Court of India clarified the scope of Article 131 of the Constitution in the case of State of West Bengal v. Union of India. Article 131 grants the Supreme Court original jurisdiction to resolve disputes between the Union and one or more States. The case centred on whether the State of West Bengal could challenge the Central Bureau of Investigation's (CBI) actions under this article. West Bengal argued that the CBI continued to register cases in the State without its consent, despite the State's withdrawal of permission.

The Union contended that the suit was not maintainable under Article 131 because the CBI, being an independent body, should not be considered part of the Union government for these purposes. The Union also argued that ongoing proceedings under other constitutional provisions, such as Articles 32, 136, and 226, precluded the use of Article 131.

The Supreme Court rejected these arguments. It stated that Article 131 is meant to resolve disputes involving the existence or extent of legal rights between the Union and States. Even though the CBI operates independently, it is still an instrumentality of the Union government. Thus, the State's challenge regarding the CBI's authority fell within the Supreme Court's original jurisdiction under Article 131.

The Court also clarified that Article 131's jurisdiction is not barred by the existence of other remedies provided in the Constitution. It emphasized that Article 131 has a specific role in adjudicating disputes between the Union and States, regardless of other ongoing proceedings. The Court's interpretation underscores the importance of Article 131 in addressing significant inter-governmental conflicts, reinforcing its role in maintaining constitutional balance.

Read more:

- <https://www.livelaw-in-nliu.knimbus.com/top-stories/explained-scope-of-article-131-of-indian-constitution-as-interpreted-by-supreme-court-in-west-bengals-suit-against-centre-263319>
- <https://www.thehindu.com/news/national/supreme-court-verdict-on-west-bengal-challenge-to-cbi-probes-explained/article68388097.ece>

THE CCJC EXPRESS

MONTHLY NEWSLETTER OF THE CIVIL AND CRIMINAL JUSTICE CELL, NLIU

C ONVICTIONS OVERTURNED: SC ON TRIAL COURT AND FIR FILING ERRORS

In a pivotal decision, the Supreme Court of India overturned the convictions of several individuals previously found guilty of serious crimes by the Punjab and Haryana High Court. The case, *Gaurav Maini v. State of Haryana* and connected appeals, involved charges of kidnapping, ransom demands, and threats by a gang in Panchkula.

The Supreme Court held that trial courts must proactively engage in proceedings, ensuring that all pertinent evidence is brought forward and that irrelevant material is excluded. This requirement is grounded in Section 311 of the Criminal Procedure Code (CrPC) and Section 165 of the Evidence Act. These statutory provisions mandate that trial courts not only facilitate the presentation of evidence but also take active steps to ensure that critical evidence is not overlooked.

A major issue identified by the Court was the improper handling of the FIR. The FIR in this case was based on confidential information that did not indicate the commission of a cognizable offence, a prerequisite for a valid FIR. The Court underscored that the FIR must disclose a cognizable offence to initiate a lawful investigation. Additionally, the delay in filing the FIR further questioned the reliability of the prosecution's case. The Court noted that the complainants' failure to report the incident promptly after the alleged kidnapping boy returned cast doubt on the credibility of the claims.

Furthermore, the Supreme Court criticized the Investigation Officer for mishandling crucial evidence, specifically currency notes, without obtaining court authorization. This action was deemed a serious violation of procedural norms. The Court also observed that both the trial court and the High Court failed to address the delay in filing the FIR and neglected to examine a key witness.



The Supreme Court concluded that the prosecution's case was fundamentally flawed, characterized by significant inconsistencies. Consequently, the Court quashed the convictions, highlighting the critical need for adherence to legal procedures and the proactive role of trial courts in upholding justice.

Read more:

- <https://www.verdictum.in/court-updates/supreme-court/2024-insc-488-gaurav-maini-v-state-of-haryana-sec-311-crpc-sec-165-evidence-act-obligation-trial-courts-not-act-mere-spectator-must-participate-proactively-1543622>
- <https://www.livelaw.in/supreme-court/trial-court-must-proactively-participate-in-trial-to-ensure-relevant-fact-isnt-left-out-supreme-court-263417#:~:text=%E2%80%9CA%20conjoint%20reading%20of%20Section,be%20brought%20on%20record%20nor>

P RIVATE EDUCATION SOCIETY EXCLUDED: SC ON ARTICLE 12

On July 15, 2024, the Supreme Court of India clarified that a writ petition under Article 226 of the Indian Constitution cannot be filed against a private education society for resolving disputes related to private employment. This judgment was delivered in the case *Army Welfare Education Society New Delhi vs Sunil Kumar Sharma & Ors.*

The core issue before the Court was whether the Army Welfare Education Society (AWES), which manages educational institutions, could be considered a 'State' under Article 12 of the Constitution. Article 12 defines 'State' to include not only the government and its agencies but also entities performing public functions. If AWES were deemed a 'State', it could be subject to writ jurisdiction for disputes concerning private employment conditions.

The Supreme Court addressed whether AWES' role in managing the school involved a public duty. The Court observed that while AWES provides education, which has a public element, the employment relationship between the staff and AWES is based on private contracts. According to the Court, the dispute regarding employment conditions between AWES and its staff does not involve a public law element but rather falls under private law. Thus, AWES does not meet the criteria of a 'State' under Article 12.

THE CCJC EXPRESS

MONTHLY NEWSLETTER OF THE CIVIL AND CRIMINAL JUSTICE CELL, NLIU

The Court highlighted that a writ petition under Article 226 is designed to address violations of fundamental rights by the State or its agencies. Since AWES, as a private entity, does not qualify as a 'State', it cannot be subjected to writ jurisdiction for private service disputes. The Court criticized the High Court's erroneous application of Article 12, which led to the inappropriate handling of the case under public law provisions.

As a result, the Supreme Court set aside the High Court's judgment and allowed the appeals.

Read more:

- <https://www.verdictum.in/court-updates/high-courts/2024-insc-501-army-welfare-education-society-new-delhi-vs-sunil-kumar-sharma-ors-etc-writ-petition-1543997>
- <https://www.livelaw.in/supreme-court/writ-petition-by-teachers-not-maintainable-against-private-school-over-service-disputes-supreme-court-263261#:~:text=The%20Supreme%20Court%20held%20that,adjudication%20of%20private%20service%20disputes>

OFFENCE OF BIGAMY IS A SERIOUS ONE", SAYS THE SUPREME COURT

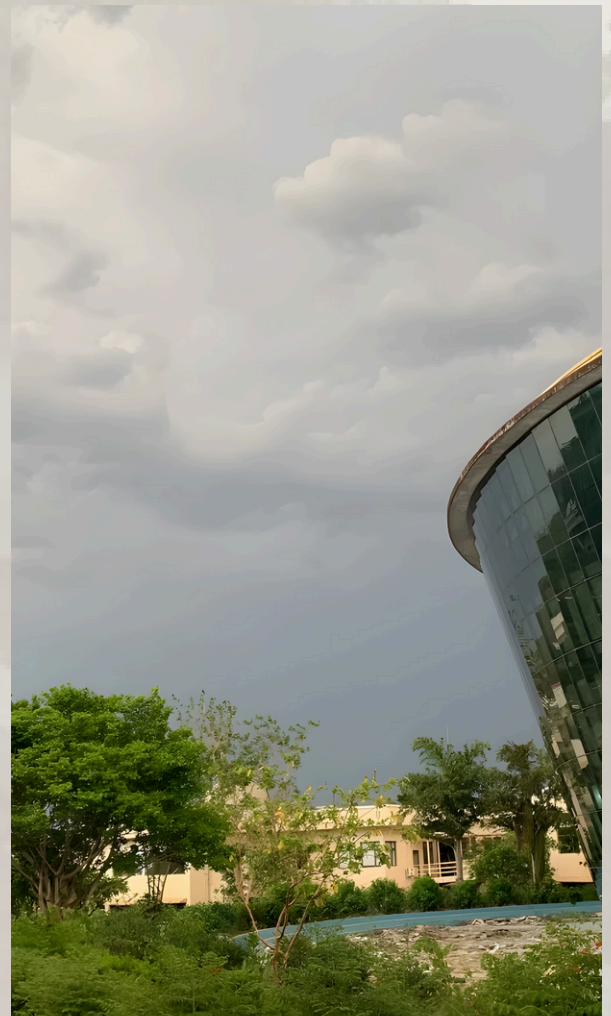
The Supreme Court of India has underscored the seriousness of the offence under Section 494 of the Indian Penal Code (IPC), which pertains to bigamy. The judgment was issued while the Court was hearing appeals seeking an enhancement of the sentence imposed on the accused. The two-Judge Bench, comprising Justice C.T. Ravikumar and Justice Sanjay Kumar, emphasized, "The decision in Gopal Lal's case (supra), and the prescription of maximum corporeal sentence imposable under Sections 494 and 495 I.P.C. (now Sections 82(1) and 82(2) in the BNS), would undoubtedly suggest that the offence under Section 494 I.P.C., has to be treated as a serious offence." The Bench highlighted that a reading of Sections 494 and 495 of IPC reveals that the legislature viewed the offence of bigamy as a grave matter.

The appellant contested the Madras High Court's judgment, which imposed only a minimal sentence for the conviction of the respondent under Section 494 IPC and upheld the acquittal of the co-accused. Despite the High Court restoring the conviction and reversing their acquittal by the First Appellate Court, as well as the consequential imposition of sentence, the Respondents did not challenge the common judgment. The appellant had filed a complaint under Section 200 of the Criminal Procedure Code (CrPC) (now Section 223 of the BNSS) against the respondent and co-accused for committing bigamy. The Respondent's parents were also arraigned as accused for abetting the offence.

The Court further said that undeserving leniency was shown in the case on hand. However, the Trial Court considered the fact that the child born to the first and second accused was less than two years old when the Trial Court passed the sentence and that no minimum term of imprisonment is prescribed for the conviction under Section 494 IPC. It also noted that the maximum sentence imposable for conviction thereunder is seven years, and thus the Trial Court had virtually struck a balance in fixing the term of one year as the corporeal sentence. The Court modified the term of the sentence awarded to the respondent accused and co-accused to six months each and reduced the fine amount from Rs. 20,000 to Rs. 2,000 each. The Court also ordered a staggered serving of sentences, directing the second accused to surrender within three weeks and the first accused to surrender after the second accused completes their sentence.

Read More:

- <https://www.verdictum.in/court-updates/supreme-court/baba-natarajan-prasad-v-m-revathi-2024-insc-523-bigamy-494-ipc-serious-offence-1544100>



THE CCJC EXPRESS

MONTHLY NEWSLETTER OF THE CIVIL AND CRIMINAL JUSTICE CELL, NLIU

SUPREME COURT DISCHARGES MAN IN CUSTODIAL DEATH, STATING THAT FEW BITS CONNECTED BY PROSECUTION IS NOT ENOUGH FOR CRIMINAL CONSPIRACY

"Supreme Court Discharges Man in Custodial Death, stating that few bits connected by prosecution is not enough for criminal conspiracy"

The Supreme Court of India has discharged a man accused in a custodial death case, emphasizing that fragmented pieces of evidence are insufficient to establish a criminal conspiracy. This ruling came in an appeal against the Allahabad High Court's order, which had dismissed an application for discharge under Section 227 of the Criminal Procedure Code (CrPC).

It was observed by the two-judge bench comprising Justice C.T. Ravikumar and Justice Sudhanshu Dhulia that conspiracy is hatched in privacy and not in secrecy, and it is rarely possible for it to be established by direct evidence. A few bits of evidence here and there, on which the prosecution may rely, are not sufficient to connect an accused with the commission of the crime of criminal conspiracy. To even constitute an accusation of criminal conspiracy, there must at least be an accusation of a meeting of minds of two or more persons for doing an illegal act or an act that is not illegal in itself by illegal means.

The appellant had registered a case under Section 392 of the Indian Penal Code (IPC), alleging that his cashier and another person were robbed at gunpoint. Subsequently, the deceased was taken to the police station for inquiry, where he later died. The police filed a chargesheet implicating both the police personnel and the appellant for offenses under Sections 302, 343, 217, 218, 330, 120B, and 34 of the IPC. The appellant sought discharge from these charges, but his application was rejected by the Additional Sessions Judge and subsequently by the High Court. Aggrieved, he approached the Supreme Court.

The Supreme Court underscored that the rejection of the discharge application cannot be solely based on concurrent findings. It was clarified by the Court that the exercise of power under Section 227, Cr.PC, is legally permissible only by considering "the record of the case and the documents submitted therewith." This refers only to the materials produced by the prosecution and not by the accused.

The Bench noted that the prosecution's evidence lacked a clear common plan or intention to support the charge of conspiracy. The Court also pointed out that the Trial Court's decision to proceed against the appellant was based on suppositions and suspicions without substantial evidence.

In its judgment, it was remarked by the Supreme Court that there is a loss of understanding regarding how, in the absence of a prima facie case revealed from the materials produced by the prosecution, a person who lost his money and lodged a complaint can be implicated in a grave allegation of custodial death amounting to murder, merely because he caused the presence of the person concerned before the Police Station.

Accordingly, the Supreme Court allowed the appeal, set aside the impugned order, and discharged the appellant.

Read More:

- <https://www.verdictum.in/court-updates/supreme-court/ram-prakash-chadha-v-the-state-of-uttar-pradesh-2024-insc-522-criminal-conspiracy-custodial-death-1544167>
- <https://scconline.com/blog/post/2024/07/17/supreme-court-discharges-man-accused-of-criminal-conspiracy-for-his-cashiers-custodial-death/>
- <https://lawbeat.in/supreme-court-judgments/top-stories-cant-ignore-medical-expert-light-partisan-eyewitness-supreme-court-acquits-ex-inspector-custodial-death-case>

HIMACHAL PRADESH HC DIRECTS MASKING OF NAMES OF ACQUITTED 'RAPE ACCUSED' & PROSECUTRIX IN DIGITAL RECORDS

In a recent judgement, the Himachal Pradesh High Court directed the masking of names of acquitted rape accused and prosecutrix, observing that the right to be forgotten and the right to be left alone are inherent aspects of the right to privacy. The case involved a victim who, at the age of 17 in 2017, had voluntarily eloped with the accused after he proposed marriage. Subsequently, allegations of rape were raised against him, but the court found that the prosecution had failed to prove its case beyond a reasonable doubt. Notably, the victim and the accused had married, and they had a child together.

A Division Bench of Justice Tarlok Singh Chauhan and Justice Sushil Kukreja said, that the right to privacy, including the right to be forgotten and the right to be left alone, is inherent. Therefore, the names of the prosecutrix and the appellant need to be masked or erased so that they do not appear or are not visible in any search engine. This action is necessary to prevent jeopardy and irreparable hardship, prejudice, and other issues, not only to the respondent and the prosecutrix but also to their young daughter in their daily life and career prospects.

THE CCJC EXPRESS

MONTHLY NEWSLETTER OF THE CIVIL AND CRIMINAL JUSTICE CELL, NLIU

The Court questioned the rationale behind the State's decision to appeal the acquittal, especially after it was established that the victim was leading a contented married life with the accused. The Court noted that apart from the above, the case of the prosecution was not supported by the prosecutrix herself. It was admitted by her that she had married the respondent and had a three-year-old daughter from this wedlock. Obviously, in such circumstances, there was no occasion for the present appeal to be filed by the State. Once it had come on record that the prosecutrix was living a happy married life with the respondent, the ground reality could not be ignored by the Court, and the happy family life of the appellant and the prosecutrix could not be disturbed.

The Court said that once the accused is acquitted or honorably discharged by a competent Court of law or this Court, and the order becomes final, the shadow of the crime should not be allowed to continue and replace the shadow of dignity for any citizen. If permitted, it would be a travesty of the concept of life under Article 21. The right to live with dignity is held by every person. Considering the circumstances, the Court declined to interfere with the acquittal, citing that it would be unduly harsh and unjustified to label the accused as a criminal, particularly since he had married the victim and fathered a child with her.

Read More:

- <https://www.verdictum.in/court-updates/high-courts/state-of-himachal-pradesh-v-x-2024hhc5102-rape-accused-acquittal-masking-name-digital-record-1544227>
- <https://www.sconline.com/blog/post/2024/07/18/right-to-be-forgotten-hp-hc-directs-masking-of-rape-accuseds-name-after-his-acquittal/>



IF AN APPLICATION WAS PENDING WHEN BNSS CAME INTO FORCE, IT WILL CONTINUE UNDER CRPC ITSELF: DELHI HC”

The Delhi High Court has emphasized the application of Section 531 of the Bharatiya Nagrik Sakshya Sanhita (BNSS) while addressing a case of forgery and fabrication of documents in a trademark infringement dispute. This statute stipulates that any appeal, application, trial, inquiry, or investigation pending before the Sanhita came into force will be managed according to the Code of Criminal Procedure, 1973 (CrPC), as if the Sanhita had not been enacted.

Justice Prathiba M Singh noted that, in these proceedings, since the application was pending when the new statutes Bharatiya Nyaya Sanhita, 2023 (hereinafter, 'BNS') and Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter, 'BNSS') were enacted, the matter would continue under the erstwhile Code itself.

KG Marketing, a manufacturer of electrical appliances, initiated a lawsuit against two individuals to stop them from using the 'SURYA' mark and its associated trade dress. KG Marketing claimed significant sales and advertised its products in various newspapers. An ex parte interim injunction was granted in their favor in January of the previous year based on their pleadings. However, the defendants, who used the mark "SURYA GOLD," alleged that KG Marketing had fabricated newspaper advertisements and invoices solely for the lawsuit.

The injunction was vacated after the proprietor of KG Marketing instructed their counsel to withdraw the suit and agreed to the vacation of the ex parte order.

Meanwhile, the defendants filed another suit to prevent KG Marketing from infringing on their design rights and using the 'SURYA GOLD' mark. They presented original newspapers to prove that the documents KG Marketing relied on were fabricated. Subsequently, two affidavits were filed in which the proprietor of KG Marketing apologized for submitting the fabricated newspapers. The High Court emphasized the gravity of forgery and fabrication, noting that KG Marketing did not admit to these actions until the defendants presented the original newspapers. The Court observed that, with the offence of forgery and fabrication of newspapers having been admitted and the filing of a false affidavit having taken place while the proceedings were pending before this Court, a case is made out for the registration of a complaint under Section 340 CrPC.

THE CCJC EXPRESS

MONTHLY NEWSLETTER OF THE CIVIL AND CRIMINAL JUSTICE CELL, NLIU

Consequently, the Court directed the Registrar General to take action within four weeks and lodge a complaint with the concerned Judicial Magistrate. The Court also ruled in favor of the defendants, restraining KG Marketing from using the 'SURYA GOLD' mark and further directing KG Marketing to pay Rs. 5 lakh in costs to the defendants.

Read More:

- <https://www.verdictum.in/court-updates/high-courts/2024-dhc-4887-ms-kg-marketing-india-vs-ms-rashi-santosh-soni-anr-bns-1544278>
- <https://www.livelaw.in/high-court/delhi-high-court/delhi-high-court-appeal-under-bnss-trial-under-crpc-263882?fromIpLogin=9796.382079506682>

NO ONLINE CAMPAIGNS FOR ARRESTED POLITICIANS, RULES SC

The Supreme Court of India has recently dismissed a petition that sought permission for arrested political leaders to campaign virtually during elections. This decision upholds the Delhi High Court's previous order which had rejected the plea.

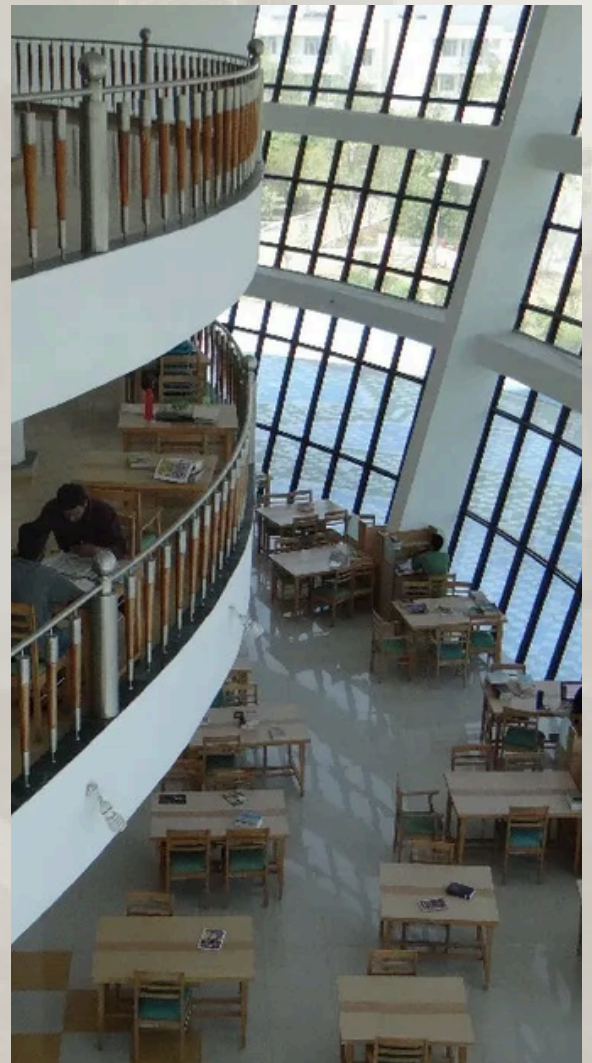
The bench of Justices Surya Kant and Ujjal Bhuyan stated that the petition, filed by law student Amarjeet Gupta, was not worthy of consideration. The court characterized the petition as having been filed with questionable motives, particularly highlighting that it seemed to target a specific politician, Arvind Kejriwal. The court noted that Kejriwal is frequently seen in court with a team of highly skilled lawyers, suggesting that the petition might have been aimed more at this individual than at addressing a genuine legal concern.

The Supreme Court's dismissal followed the Delhi High Court's earlier ruling, which had expressed significant concerns about the implications of allowing virtual campaigning for arrested individuals. The High Court had pointed out that such a move could potentially enable dangerous criminals, including notorious fugitives like Dawood Ibrahim, to register with political parties and campaign in elections. The High Court described the petition as "highly adventurous" and emphasized that such policy matters are within the purview of Parliament, not the judiciary.

The Supreme Court's decision reaffirms the necessity of following proper legal procedures and adhering to legislative guidelines in electoral matters. It also emphasizes on the separation of powers between the judiciary and the legislative body, ensuring that policy decisions remain within the realm of elected representatives rather than the courts.

Read more:

- <https://www.livelaw.in/top-stories/supreme-court-dismisses-plea-seeking-to-permit-arrested-politicians-to-campaign-through-vc-keeps-question-of-law-open-264162>
- <https://timesofindia.indiatimes.com/india/sc-dismisses-plea-to-allow-arrested-political-leaders-to-campaign-virtually/articleshow/111931155.cms>



THE CCJC EXPRESS

MONTHLY NEWSLETTER OF THE CIVIL AND CRIMINAL JUSTICE CELL, NLIU

SUPREME COURT RULES OUT CANCELLATION: NEET UG 2024 EXAM VALID

The Supreme Court has ruled against cancelling the NEET UG 2024 exam, finding that there is insufficient evidence to justify such a drastic measure. The Court's decision came after a comprehensive review of the evidence and legal arguments related to the exam's integrity.

In its ruling, the Supreme Court, led by Chief Justice DY Chandrachud, Justice JB Pardiwala, and Justice Manoj Misra, concluded that the NEET UG 2024 exam should not be annulled. The Court found no widespread systemic issues that would invalidate the exam results. This decision came despite claims of exam malpractices and leaks.

The Court had previously instructed IIT Delhi to review a specific question for which the National Testing Agency (NTA) had revised the answer based on outdated textbooks. The expert report from IIT Delhi supported the NTA's updated answer, which the Court accepted.

Several petitions had raised concerns about leaks and other problems with the exam. While the Court acknowledged that there was a leak in Hazaribagh, Jharkhand, it did not find evidence that this leak significantly affected the overall exam or led to widespread cheating.

In response to these concerns, the Solicitor General provided explanations regarding changes in exam results and technical issues. The Court was informed that adjustments in the syllabus and other factors were responsible for changes in exam performance, rather than large-scale malpractices.

Students who have individual concerns about their exam results or the process can still seek legal remedies. The Court's ruling reinforces the importance of concrete evidence when considering major actions like cancelling an exam.

Read more:

- <https://www.verdictum.in/court-updates/supreme-court/vanshikha-yadav-v-national-testing-agency-cancel-neet-ug-2024-says-no-material-to-show-systemic-breach-1545101>
- <https://www.thehindu.com/sci-tech/health/neet-ug-2024-sc-rules-out-cancellation-and-retest-of-exam/article68436902.ece>

TEN YEAR SENTENCE CAP FOR ATTEMPTED MURDER

The Supreme Court of India has made a key ruling on sentencing for attempted murder cases. On Monday, the Court clarified that a person convicted under Section 307 of the Indian Penal Code (hereinafter IPC) cannot be sentenced to more than 10 years of rigorous imprisonment unless the court imposes a life sentence. Justices CT Ravikumar and Rajesh Bindal, in their decision, explained that Section 307 of the IPC outlines two levels of punishment. The first part of the section allows for a maximum sentence of 10 years if someone is convicted of attempting to murder another person. The second part comes into play if the attempt causes injury, which can lead to a life sentence.

The Court emphasized that if a court decides not to impose a life sentence, the maximum sentence it can impose is 10 years. This decision came during the review of an appeal from two convicts who were initially sentenced to 14 years for attempted murder. The additional advocate general from Haryana argued that the severity of the victim's injuries justified a 14-year sentence. However, the Supreme Court disagreed, affirming that if life imprisonment is not given, the maximum permissible term is 10 years.

The Court's decision ensures that sentencing for attempted murder adheres to the limits set by the law, avoiding excessively long sentences that go beyond what is prescribed. By reaffirming these limits, the Supreme Court helps prevent overly harsh penalties and ensures that sentences fit the nature of the offense.

Read More:

- https://www.livelaw.in/supreme-court/s-307-ipc-sentencing-court-not-imposing-life-imprisonment-on-convict-cannot-impose-sentence-beyond-10-years-supreme-court-264194?utm_medium=also-read&utm_source=internal-article&fromIpLogin=16129.066552288119
- <https://www.hindustantimes.com/india-news/convicts-cannot-be-jailed-beyond-10-years-sc-on-punishment-for-attempted-murders-101721704591417.html>

THE CCJC EXPRESS

MONTHLY NEWSLETTER OF THE CIVIL AND CRIMINAL JUSTICE CELL, NLIU

KANWAR YATRA NOTIFICATION CONTROVERSY: UP DEFENDS NAME DISPLAY RULE

The Supreme Court is currently reviewing a case involving a notification issued by the Uttar Pradesh government for the Kanwar Yatra. The notification, which was stayed by the Court requires all food vendors along the Kanwar Marg to display the names of their shop owners and employees. This route, taken by millions of Kanwariyas, is under scrutiny as it affects how vendors operate during the annual pilgrimage.

In response to the Court's stay, the Uttar Pradesh government has filed a detailed affidavit defending the notification. The State argues that this directive, issued on July 17, 2024, after a meeting on July 13, 2024, is intended to ensure a peaceful and orderly Kanwar Yatra, which draws over 4 crore devotees each year. The government asserts that the notification's purpose is to promote transparency and help Kanwariyas make informed choices about where they eat, respecting their religious beliefs and preventing any inadvertent violations.

The State emphasizes that the directive is temporary, applying only for the duration of the Kanwar Yatra from July 22, 2024, to August 6, 2024. It argues that the requirement to display shop names is not discriminatory or restrictive, as it is meant to address complaints from Kanwariyas about confusion over the food served. The notification aims to avoid incidents related to the consumption of certain foods, such as onions and garlic, which have previously led to disputes and disruptions.

The affidavit further explains that this measure is limited to the Kanwar Yatra route and does not impose permanent changes or hardships on food vendors. It is designed to uphold the sentiments of the Kanwariyas and maintain order during the pilgrimage. The government asserts that similar directives in other states, such as Uttarakhand, have been issued to ensure safety and compliance along the pilgrimage route.

Read more:

- <https://www.verdictum.in/court-updates/supreme-court/directives-issued-for-transparency-and-informed-choice-of-consumer-uttar-pradesh-defends-kanwar-yatra-notification-before-sc-1545434>
- <https://indianexpress.com/article/india/kanwar-yatra-uttar-pradesh-supreme-court-food-9476747/lite/>

BAR COUNCILS CAN'T OVERCHARGE: SC'S NEW FEE RULING

The Supreme Court has ruled that State Bar Councils cannot charge more for enrolment than what is set out in Section 24 of the Advocates Act, 1961. According to the Court, neither the Bar Council of India (hereinafter 'BCI') nor State Bar Councils (hereinafter 'SBCs') have the authority to set fees beyond this statutory limit. The Bench, which included Chief Justice DY Chandrachud, Justice JB Pardiwala, and Justice Manoj Misra, stated that SBCs are not allowed to impose fees that conflict with the law. The rule is retrospective in nature and will apply only to future cases. The SBCs are not bound to return any extra fees paid before the judgement.

The Court highlighted that candidates must pay the fees set by the SBCs to get enrolled, which can unfairly restrict their ability to practice law. The ruling ensures that enrolment fees must be reasonable and not used as a barrier to entry.

Section 24 of the Advocates Act sets the requirements for becoming an advocate, including being an Indian citizen (or qualifying foreign national), at least 21 years old, and holding a law degree from a recognized institution. Candidates must also pay the required fees and meet additional conditions set by the State Bar Council. The maximum enrollment fee for advocates should be capped at Rs.750 for those in the general category and Rs.125 for advocates belonging to SC/ST categories.

The Supreme Court had previously reviewed the issue after receiving complaints about high fees, with examples including amounts ranging from ₹20,050 in Kerala to ₹42,100 in Odisha. The Court had asked State Bar Councils to explain their fee structures and had temporarily reduced fees in Kerala. The new ruling is intended to standardize the process and prevent future disputes.

Read more:

- [Supreme Court Holds That Bar Councils Can't Demand More Fees Than Prescribed U/s. 24 Of Advocates Act, Judgment To Be Prospective \(verdictum.in\)](https://www.verdictum.in/court-updates/supreme-court/demand-more-fees-than-prescribed-u/s-24-of-advocates-act-judgment-to-be-prospective-verdictum.in)
- <https://www.sconline.com/blog/post/2024/07/30/bar-councils-cannot-charge-more-than-amount-specified-under-s-24-of-advocates-act-enrollment-fees-supreme-court/>

THE CCJC EXPRESS

MONTHLY NEWSLETTER OF THE CIVIL AND CRIMINAL JUSTICE CELL, NLIU

T HE SUPREME COURT DEMYSTIFIED THE CONUNDRUM BETWEEN DISABILITY HUMOUR AND DISABLING HUMOUR

The Supreme Court recently laid down guidelines to once and for all clarify the mystified relation between Rights of Persons with Disabilities Act, 2016 (RPwD Act) and provisions of the Cinematograph Act, 1952. The full bench comprising CJI DY Chandrachud, Justice JB Pardiwala and Justice Manoj Misra gave the verdict on a plea that challenged the insensitive portrayal of Persons with Disabilities (PwDs) in the film 'Aankh Micholi,' produced by Sony Pictures. The plea of the appellant claimed that the film released by Sony Film Pictures India (respondent) violated the constitutional rights of disabled persons, the arguments comprised of Right to Privacy and Dignity.

The bench through this judgement sort to "distinguish 'disabling humour' that demeans and disparages persons with disability from 'disability humour' which challenges conventional wisdom about disability. While disability humour attempts to better understand and explain disability, disabling humour denigrates it. The two cannot be equated in their impact on dignity and on stereotypes about persons with disabilities."

Thus, to accomplish these goals the court laid down a definite guideline that included the following: Words that cultivate institutional discrimination, contribute to negative self-image, perpetuate discriminatory attitudes and practices, or overlook disabling social barriers should be avoided. It is crucial to ensure accurate representation of medical conditions to prevent the spread of misinformation. Portrayals of persons with disabilities must reflect the diverse and multifaceted nature of their experiences, avoiding unidimensional, ableist characterizations. Visual media should strive to depict the varied realities of persons with disabilities, highlighting not only their challenges but also their successes, talents, and contributions to society.

This verdict is aligned to the principles laid down in United Nations Convention on the Rights of Persons with Disabilities in 2007 ("UN Convention") which India has ratified to, for the furtherance of which RPwD had also been enacted. These steps have been taken in hopes of universally eradicating the artificial barriers that unjustly separates PwDs from the rest of the population.

Read More:

- <https://iprmentlaw.com/2024/07/21/supreme-court-lays-down-guidelines-for-portrayal-of-persons-with-disabilities-in-media-nipun-malhotra-v-sony-pictures/>
- <https://www.livewlaw.in/top-stories/disabling-humour-disparaging-persons-with-disability-must-be-distinguished-from-disability-humour-supreme-court-262677?fromIplLogin=39771.51388365603>
- <https://naiknaik.com/2024/07/23/supreme-court-mandates-respectful-accurate-depiction-of-disabilities-in-films/>

S UPREME COURT: TRACKING ACCUSED ON BAIL VIOLATES PRIVACY RIGHTS

In a significant judgment on July 8th, the Supreme Court of India, in a bench led by Justices Abhay S. Oka and Justice Ujjal Bhuyan, ruled that a bail condition allowing police to constantly track an accused person's movements infringes upon their right to privacy. This case involved a challenge to conditions imposed on Frank Vitus, a foreign national accused in a drug case.

The Supreme Court scrutinized a Delhi High Court order mandating the accused to share his location via a Google Maps pin and obtain an assurance from the Nigerian Embassy that he wouldn't leave India. The Court deemed both conditions unreasonable. Justice Oka underscored that bail serves to grant temporary freedom, not constant monitoring. He pointed out that such tracking conditions essentially keep the accused under a form of confinement, violating their fundamental right to privacy under Article 21 of the Constitution. The Court emphasized that bail conditions shouldn't be used for constant surveillance, as this undermines individual rights.

Interestingly, the Court also found the requirement for an embassy's assurance to be impractical and irrelevant to the purpose of bail. The judgment further clarified the limited scope of Google Maps pin-sharing. After consulting with Google LLC, the Court established that dropping a pin doesn't enable real-time tracking and remains under the user's control. This rendered the condition redundant as a bail requirement.

THE CCJC EXPRESS

MONTHLY NEWSLETTER OF THE CIVIL AND CRIMINAL JUSTICE CELL, NLIU

The Narcotics Control Bureau (NCB), represented by the Additional Solicitor General, argued for the necessity of such tracking. However, Justice Oka firmly rejected this argument, reiterating that using technology for constant location monitoring as a bail condition is impermissible.

In conclusion, the Supreme Court ordered the removal of the Google Maps pin-dropping condition. This judgment safeguards the right to privacy and ensures that bail conditions don't transform into virtual surveillance. The decision therefore, highlights the Court's effort to balance the needs of law enforcement with the protection of individual liberties.

Read more:

- <https://www.livelaw.in/supreme-court/bail-condition-enabling-police-to-constantly-track-movement-of-accused-cant-be-imposedsupremecourt-262556>
- <https://indianexpress.com/article/india/courts-cant-order-accused-to-share-google-location-as-condition-for-bail-supreme-court-9439621/>

SUPREME COURT STEPS IN: RESOLVING THE WEST BENGAL VC APPOINTMENT FIASCO

In a landmark decision on July 8th, the Supreme Court intervened in the ongoing tussle between the West Bengal government and Governor Bose regarding Vice-Chancellor (VC) appointments for state universities. This intervention aimed to break the deadlock and establish a clear, transparent process.

The Court mandated the formation of a Search Selection Committee (SSC) within two weeks. This five-member body, led by former Chief Justice of India (CJI) U.U. Lalit will shortlist candidates for each VC position. The shortlisted candidates, presented as a panel of three names, will be endorsed by the Chairperson (CJI Lalit) and submitted to the Chief Minister (CM).

The CM has two weeks to review the panel and express any concerns. Following this, the CM can recommend the shortlisted candidates in their order of preference to the Chancellor (Governor), who holds the final appointment authority. However, if the Chancellor has reservations about any candidate, they must record their reasons with supporting evidence.

The Court emphasized that any unresolved disagreements would be brought before them for adjudication, ensuring a fair hearing for all parties involved. The entire process, including the formation of the SSC and the final appointment, must be completed within a three-month timeframe.

This intervention by the Supreme Court stemmed from a Special Leave Petition (SLP) filed by the West Bengal government. The SLP challenged the Calcutta High Court's decision upholding the Governor's appointment of interim VCs. The Court's directive paves the way for a structured and transparent appointment process, resolving the current uncertainty surrounding VC appointments in West Bengal.

Read more:

- <https://www.livelaw.in/top-stories/west-bengal-universities-row-supreme-court-constitutes-committee-headed-by-ex-cji-uu-lalit-to-suggest-names-for-vc-appointments-262579?fromIpLogin=81830.98773998868>
- <https://economictimes.indiatimes.com/news/india/sc-appoints-ex-cji-u-u-lalit-as-head-of-committee-for-appointment-of-vcs-in-west-bengal/articleshow/111576327.cms?from=mdr>



THE CCJC EXPRESS

MONTHLY NEWSLETTER OF THE CIVIL AND CRIMINAL JUSTICE CELL, NLIU

SUPREME COURT ON MENSTRUAL LEAVE: BALANCING NEEDS AND AVOIDING DISCRIMINATION

On July 8th, the Supreme Court of India, in a case led by Chief Justice D.Y. Chandrachud, entered into the debate surrounding menstrual leave for female employees. The Court, while acknowledging the potential benefits of such a policy for women's empowerment, expressed concerns about its practical implementation.

The petition, seeking nationwide menstrual leave for working women and students, highlighted its potential to empower women. However, Chief Justice Chandrachud raised a critical point: the policy could inadvertently disadvantage women in the job market. Employers, worried about maintaining productivity, might be disincentivized from hiring women if they have to offer menstrual leave.

The petitioner's arguments included successful implementation of similar policies in private companies within India and countries like Japan, Indonesia, and the UK. Interestingly, the petitioner had previously approached the Court in 2023 with a similar request and was directed to the Ministry of Women and Child Development. However, no action was taken by the Ministry.

Recognizing the policy domain aspect of the issue, the Supreme Court allowed the petitioner to resubmit their request to the Ministry. The Court crucially urged the Ministry to convene a stakeholder meeting, including employers, to explore the feasibility of the policy and its potential impact on the workplace. It's important to note that the Court also clarified that individual state governments have the authority to enact their own menstrual leave policies for their employees.

This case highlights the Court's attempt to balance the need to address women's health concerns with potential unintended consequences in the workplace. The emphasis on stakeholder consultation reflects the Court's desire for a comprehensive policy that takes into account the perspectives of all parties involved.

Read more:

- <https://www.livelaw.in/top-stories/supreme-court-apprehensive-about-employers-shunning-women-if-menstrual-leave-is-mandated-asks-centre-to-examine-262652>
- <https://www.indiatoday.in/law/story/supreme-court-issues-guidelines-for-portrayal-of-persons-with-disabilities-in-visual-media-2563910-2024-07-08>