

Weekly Update for Law optional UPSC

A mix of Conceptual, Current/Contemporary Topics

Date: 08th - 14th July, 2024

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Single Stab Murders

The Supreme Court of India, in the landmark case of **JOY DEVARAJ v. STATE OF KERALA**, reaffirmed the principle that a single stab wound causing death can be classified as murder if it meets the criteria under Section 300 of the Indian Penal Code, 1860. The Bench comprising Justices Dipankar Datta and Pankaj Mithal upheld the life imprisonment sentence of the appellant, who was convicted of murdering a member of the 'Anti-Liquor Movement'.

Background of the Case

The appellant was part of a group opposing the Anti-Liquor Movement, which aimed to persuade the public to abstain from alcohol. The prosecution detailed an incident where the appellant, along with others, attacked the victim and stabbed him with a dagger, leading to his death. This brutal act was allegedly motivated by the group's desire to silence the movement against liquor consumption.

Trial and High Court Proceedings

Initially, the Trial Court convicted the appellant of murder, a decision subsequently upheld by the High Court. The appellant then appealed to the Supreme Court, questioning the reliability of the prosecution witnesses and the validity of his conviction.

Supreme Court's Analysis and Findings

Witness Credibility

The appellant argued that inconsistencies in witness testimonies should cast doubt on the prosecution's case. However, the Supreme Court rejected this argument, noting that minor discrepancies are natural and do not necessarily undermine the credibility of witnesses. The Court emphasised that during the attack, around 15 people were present, which could naturally lead to some variations in their recollections.

Motive and Intent

The Court highlighted the clear motive behind the attack: the appellant and his co-accused wanted to stifle the Anti-Liquor Movement. The victim's role in advocating against alcohol posed a threat to their interests, providing a strong motive for the crime. The Court quoted from the judgement, stating, "The victim had in mind bringing a thriving trade in liquor to a grinding halt. There was, thus, definite motive for the accused persons including the appellant to throttle the voice of the victim."

Single Stab and Section 300 IPC

The Court addressed the appellant's contention regarding the nature of the injuries. The appellant argued that only one of the eight injuries was grievous, while the others were minor. The Court relied on the precedent set in **Stalin v. State (2020) 9 SCC 524**, asserting that even a single stab wound can be classified as murder if it satisfies the requirements of Section 300 of the IPC. The judgement emphasised that the intention to cause death or knowledge that the act was likely to cause death is sufficient for a murder conviction under this section.

Amazon Hit with £2.7 Billion UK Lawsuit

Amazon is embroiled in a fresh legal battle in the UK, where a class action lawsuit seeks damages exceeding £2.7 billion. Filed before the UK's Competition Appeals Tribunal, the lawsuit is spearheaded by Andreas Stephan, a professor of competition law at the University of East Anglia and head of its Law School. Representing over 200,000 UK-based third-party sellers on Amazon, Stephan accuses the tech giant of abusing its dominant market position.

Allegations Against Amazon

The core of the lawsuit alleges that Amazon prioritises its own retail offerings over those of third-party sellers. This preferential treatment extends to Amazon's logistics service, Fulfilled by Amazon (FBA), which, according to the complaint, disadvantages other logistics providers. Furthermore, the lawsuit claims that Amazon unfairly ties access to its Prime membership to the use of FBA, effectively coercing sellers into using Amazon's logistics services if they want to reach Prime customers.

Additionally, the complaint asserts that Amazon makes it challenging for third-party sellers to offer their products at lower prices on other platforms. These practices, the lawsuit contends, result in increased costs, lost sales, and higher fees for third-party sellers.

Class Action Dynamics

The lawsuit is designed to automatically include all eligible third-party sellers unless they choose to opt-out. Sellers do not incur any costs to participate and will be entitled to a share of any compensation if the claim is successful. This approach ensures broad participation and amplifies the collective voice of the affected sellers.

The case has garnered financial backing from Innsworth Capital Limited, a prominent litigation funder known for supporting high-profile collective action lawsuits against major tech companies in the UK and Europe. This backing is crucial in sustaining the lengthy and costly legal process against a giant like Amazon.

Amazon's Defence

In response to the allegations, Amazon has defended its business practices by highlighting the success of over 100,000 small and medium-sized businesses in the UK that sell on its platform. Amazon argues that its success is intertwined with the success of its partners, suggesting that the platform benefits sellers rather than hinders them.

Understanding Dominant Position and Its Abuse

A dominant position in the market refers to a scenario where a company holds substantial power to influence market conditions, set prices, and exclude competitors. Several factors contribute to determining a company's dominance, including market share, market power, barriers to entry, and economic strength.

Under EU competition law, particularly Article 102 of the Treaty on the Functioning of the European Union (TFEU), a company abuses its dominant position if it imposes unfair purchase or selling prices, limits production, markets, or technical development, applies discriminatory conditions, or ties additional obligations. Similar principles are enforced in the United States under the Sherman Act by the Federal Trade Commission (FTC) and the Department of Justice (DOJ).

In India, the Competition Act prohibits the abuse of a dominant position. Section 4 of the Act considers an enterprise to be in a dominant position if it can operate independently of competitive forces in the relevant market or if it can affect its competitors, consumers, or the market in its favour. The Act explicitly prohibits imposing unfair or discriminatory conditions in the purchase or sale of goods or services. For instance, in 2018, the Competition Commission of India (CCI) fined Google for abusing its dominant position in the online search market by promoting its own services over competitors.

Arbitration Clause Enforcement

The Delhi High Court, in the case of Deepa Chawla vs Raheja Developers Ltd, delivered a significant ruling regarding the enforceability of arbitration clauses in subsequent agreements. The bench, led by Justice Jasmeet Singh, held that for an arbitration clause to be enforceable in subsequent agreements, it must be explicitly referenced within those agreements. This decision highlights the importance of clear and explicit contractual provisions to avoid disputes over arbitration.

Background of the Case

The dispute arose from a series of agreements between Deepa Chawla (the Petitioner) and Raheja Developers Ltd (the Defendant). Initially, the Plaintiff agreed to purchase a flat in Gurgaon for Rs. 2,00,00,000/- under the Flat Buyer's Agreement. This was followed by a Second Agreement in which the Defendant committed to complete the refurbishment of the flat. Despite several extensions granted by the Plaintiff, the Defendant failed to fulfil these obligations. Consequently,

the Plaintiff filed a suit seeking the recovery of Rs. 4,55,45,182/-, which included the principal amount, interest, and assured returns.

The Defendant approached the High Court under Section 8 of the Arbitration and Conciliation Act, 1996, seeking to refer the parties to arbitration as per Clause 14.2 of the Flat Buyer's Agreement. The Plaintiff, however, contended that the dispute primarily centred on the Second Agreement, which lacked an arbitration clause, and thus argued against arbitration.

Observations by the High Court

The High Court noted that there were two distinct agreements: the Flat Buyer's Agreement and the Second Agreement governing the refurbishment and possession of the flat. The Flat Buyer's Agreement outlined the sale terms without provisions for a refund or specific deadlines for possession. In contrast, the Second Agreement mandated the Defendant to deliver possession by December 2, 2016, or refund Rs. 2 crores.

Justice Jasmeet Singh observed that the Second Agreement explicitly excluded arbitration for disputes arising under its terms. The Court referred to the Supreme Court's decision in NBCC (India) Limited vs Zillion Infraprojects Pvt. Ltd, which established that arbitration clauses must be specifically referenced to apply to subsequent agreements.

Defective TV Case: Cloudbail India and Amazon Held Liable

District Consumer Disputes Redressal Commission, Ernakulam, Kerala, has held Cloudbail India Pvt. Ltd. and Amazon liable for delivering a defective television and failing to replace it or provide a refund. The bench, comprising Shri DB Binu (President), Shri V. Ramachandran (Member), and Smt. Sreevidhia T.N. (Member), has directed the companies to compensate the aggrieved consumer, Aneesh T.U.

Brief Facts of the Case

The complainant, Aneesh T.U., alleged that Cloudbail India Pvt. Ltd. ("Cloudbail"), representing Amazon for the online sale of Panasonic televisions, assured a discount on a Panasonic 147 cm Full HD-LED TV. Acting on this assurance, Aneesh placed an order and paid Rs. 49,990/- on August 30, 2018. He received a tax invoice and the television was delivered. However, upon installation on December 6, 2018, the television was found to have internal issues and could not be installed.

Despite multiple complaints, Cloudbail did not respond with any communication regarding repair or replacement. Aneesh, feeling aggrieved by the defective television and the lack of response, filed a consumer complaint with the District Consumer Disputes Redressal Commission, Ernakulam.

Consumer Definition and Rights

The District Commission observed that under Section 2(1)(d) of the Consumer Protection Act, 1986, a consumer is defined as a person who buys goods or hires services for consideration. Aneesh, having purchased the television and made the payment as evidenced by the tax invoice, qualified as a consumer.

Failure to Respond

The Commission noted that both Amazon and Cloudfair failed to file their written version despite receiving the notice. This non-response was considered an admission of the allegations made by Aneesh, leading the Commission to accept the complainant's case unchallenged.

Deficiency in Service and Unfair Trade Practices

The evidence presented indicated that the television purchased by Aneesh was defective. The failure of Amazon and Cloudfair to replace the defective television or refund the payment constituted a deficiency in service and unfair trade practices. The District Commission found no reason to disbelieve Aneesh's claims, as they were unchallenged and supported by evidence.

Judgment and Compensation

In light of these observations, the District Commission directed Amazon and Cloudfair to:

1. Replace the defective television with a new, defect-free unit of the same model.
2. Alternatively, refund Rs. 49,990/- to Aneesh.
3. Pay Rs. 15,000/- for mental agony.
4. Pay Rs. 10,000/- for legal costs.

Irrelevance of Money Lending License in Cheque Dishonour Cases

In the case of *Ishak Mohammad v State of Rajasthan & Anr.*, the Rajasthan High Court provided crucial clarification regarding the legal considerations in cases of cheque dishonour. The bench, presided by Justice Arun Monga, emphasised that the core issue in such cases is whether the cheque was issued in relation to a valid loan and was dishonoured without payment, even after notice was given.

Core Issue: Valid Loan and Dishonored Cheque

The Court focused on the fundamental question of whether the cheque issued was connected to a legitimate loan and subsequently dishonoured. Justice Monga ruled that the complainant's status as a licensed money lender is not relevant in determining the outcome of a cheque dishonour case under Section 138 of the Negotiable Instruments Act, 1881 (NI Act).

Background of the Case

The petitioner, accused of cheque dishonour under Section 138 of the NI Act, filed an application under Section 91 of the Code of Criminal Procedure (CrPC). Section 91 CrPC allows for summons to produce documents or other evidence. The petitioner sought to compel the complainant to produce his income tax return and money lending licence. Both the trial court and the sessions court dismissed this application, prompting the petitioner to approach the High Court.

High Court's Ruling

The Rajasthan High Court upheld the lower courts' decisions, finding them based on valid reasoning. The Court noted that the sessions judge correctly observed the petitioner's failure to demonstrate the relevance and necessity of the requested documents. Justice Monga stated that in a Section 138 NI Act case, the essential determination is whether the accused committed the offence of dishonouring the cheque. The complainant's money lending licence was deemed irrelevant to this determination.

Law and Ethics: GS Paper IV

Medical Ethics and Legal Accountability

Medical ethics and legal accountability represent a critical intersection between moral principles and regulatory frameworks in healthcare. The ethical obligations of medical practitioners often involve complex dilemmas that require careful navigation of legal standards.

Ethical Foundations in Medical Practice

Medical ethics is grounded in principles such as beneficence, non-maleficence, autonomy, and justice. These principles guide healthcare providers in delivering care that prioritises patient well-being, minimises harm, respects patient autonomy, and ensures fairness.

Legal Frameworks and Medical Accountability

Legal frameworks play a crucial role in ensuring that medical ethics are upheld. The Consumer Protection Act, for example, provides patients with legal recourse in cases of medical negligence. This Act mandates that healthcare providers adhere to standards of care, ensuring accountability for their actions. The legal obligations complement ethical duties, reinforcing the need for medical practitioners to act in the best interests of their patients.

Jacob Mathew v. State of Punjab

The landmark Supreme Court case of *Jacob Mathew v. State of Punjab* illustrates the intersection of medical ethics and legal accountability. In this case, the court emphasised the importance of professional expertise and independent medical opinions in determining negligence.

The ruling highlighted that while doctors must exercise due care, the inherent uncertainties in medical practice necessitate a balanced approach to legal accountability.

The court's decision highlighted the ethical principle of non-maleficence, recognizing that doctors, despite their best efforts, cannot guarantee successful outcomes in all cases. The judgement also stressed the need for protecting medical practitioners from undue legal harassment, ensuring that the fear of litigation does not hinder their ability to provide care.

Ethical Dilemmas in Medical Practice

Medical professionals often encounter ethical dilemmas that require balancing conflicting duties. For instance, maintaining patient confidentiality is a fundamental ethical obligation. However, situations may arise where disclosing information is necessary to prevent harm to others. The ethical principle of beneficence may sometimes conflict with the legal duty to disclose, posing significant challenges for healthcare providers.

The Role of Medical Councils

Medical councils and regulatory bodies play an important role in upholding medical ethics and legal standards. They provide guidelines and codes of conduct that outline the ethical responsibilities of medical practitioners. For example, the Medical Council of India's Code of Ethics Regulations mandates that doctors maintain patient confidentiality, obtain informed consent, and avoid conflicts of interest. These guidelines ensure that ethical principles are integrated into everyday medical practice.

Case of the Week: Bimbadhar Pradhan v. State of Orissa

Facts of the Case

Bimbadhar Pradhan, the appellant, served as the District Food Production Officer in Sambalpur. Along with four agricultural sub-overseers under his supervision, he was charged with criminal conspiracy, criminal breach of trust, and falsification of accounts in relation to the misappropriation of funds intended for the procurement and distribution of oil cakes to augment food production. The prosecution alleged that the appellant conspired with his subordinates to falsify records and embezzle government funds.

Decision

The Court distinguished this case from the precedent in Topan Das v. State of Bombay. In Topan Das, the only persons accused of conspiracy were those on trial, and the acquittal of co-accused led to the inevitable conclusion that a person cannot conspire with himself. However, in Bimbadhar Pradhan's case, the approver, Pitabas Sahu, provided crucial evidence that implicated himself along with the appellant and others in the conspiracy. The presence of this independent corroboration was a critical factor that differentiated the two cases.

The Court emphasised that the nature of conspiracy involves an agreement between two or more persons to commit an illegal act or a legal act by illegal means. The conviction for conspiracy can be sustained if there is substantial evidence proving such an agreement, even if the co-accused are acquitted. The approver's detailed account and corroborative testimonies from independent witnesses established the unlawful agreement beyond reasonable doubt, making the conviction valid.

Repeated PYQ

Q. Discuss the purpose and principle governing the United Nations. What reforms, if any, do you suggest for the UN system?

The United Nations (UN) is an international organisation founded in 1945 after World War II to prevent future conflicts and promote global peace, security, and cooperation. It serves as a platform for dialogue among nations and addresses a wide range of global issues, including human rights, development, and international law.

Purpose and Principles of the United Nations

Maintaining International Peace and Security

The primary purpose of the UN, as outlined in **Article 1** of the UN Charter, is to maintain international peace and security. This is achieved through various means, including conflict prevention, peacekeeping operations, and the promotion of peaceful resolutions to disputes. The Security Council plays a central role in this mission, empowered to take enforcement measures to maintain or restore international peace.

Developing Friendly Relations Among Nations

Another key objective is to develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples. The UN aims to foster cooperation among states to solve international problems of an economic, social, cultural, or humanitarian nature. This principle is fundamental in promoting **mutual understanding and cooperation**, thereby reducing the likelihood of conflicts.

Promoting Human Rights and Fundamental Freedoms

The UN is also dedicated to promoting and encouraging respect for human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion. This commitment is enshrined in various UN treaties and declarations, including the Universal Declaration of Human Rights. The Human Rights Council and various committees oversee the implementation and protection of these rights globally.

Upholding International Law

Upholding international law is another core principle of the UN. The International Court of Justice (ICJ) serves as the principal judicial organ of the UN, resolving legal disputes between states and giving advisory opinions on legal questions referred to it by authorised UN organs and specialised agencies. The development and codification of international law help create a stable and predictable international order.

Reforms for the United Nations System

Security Council Reform

One of the most debated areas of UN reform is the composition and functioning of the Security Council. Critics argue that the current structure, with its five permanent members (the United States, the United Kingdom, France, Russia, and China) having veto power, reflects the post-World War II power dynamics rather than the contemporary geopolitical realities. Proposals for reform include expanding the number of permanent and non-permanent members to better represent the current global distribution of power and to include major emerging powers such as India, Brazil, and South Africa. Additionally, some suggest limiting or abolishing the veto power to make the Council more democratic and effective.

General Assembly Revitalization

The General Assembly, comprising all member states, is the main deliberative body of the UN. However, its resolutions are often seen as lacking binding force and real impact. Revitalising the General Assembly could involve granting it greater authority and ensuring its resolutions are more influential. This could enhance the democratic legitimacy of the UN, as the General Assembly represents the collective will of the international community.

Enhanced Role of the International Court of Justice

The ICJ's role could be expanded to ensure greater compliance with international law. States should be encouraged to accept the compulsory jurisdiction of the ICJ to resolve disputes peacefully. Strengthening the enforcement mechanisms of the ICJ's decisions could also enhance its effectiveness and the overall adherence to international law.

