

Judiciary Digest

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Innovation vs. Regulation: The Quashing of Charges Against Gaurav Dahake

The Karnataka High Court recently quashed the criminal proceedings against Gaurav Dahake, an IIT graduate and startup founder, under the Railways Act. Dahake developed a software tool to speed up the booking process for Tatkal tickets on the IRCTC platform, which raised concerns under Section 143 of the Railways Act. The court's decision has brought to light the intersection of innovation and legal boundaries, offering important insights into how the law treats technological advancements that benefit the public but may challenge existing regulations.

The Case Background

Gaurav Dahake developed a browser extension that expedited the process of booking Tatkal railway tickets by auto-filling user details. This innovation reduced the booking time from the standard 5-7 minutes to approximately 45 seconds. While this tool initially helped users book tickets for free, Dahake later introduced a small fee of Rs 30 per booking and restricted its use to 10 tickets to prevent misuse by agents engaging in bulk ticketing.

However, in September 2020, the Indian Railways issued a notice to Dahake, alleging that his tool violated Section 143 of the Railways Act, which deals with the illegal procurement and distribution of railway tickets. The case lingered, with the Railway Protection Force filing a final report three years after the notice. Dahake was accused of making Rs 12,49,710 in profits through his software.

Arguments from Both Sides

The petitioner, Dahake, contended that his actions did not meet the requirements of Section 143, as he had neither procured nor supplied tickets illegally. He maintained that his tool only facilitated faster bookings for users who were already navigating the IRCTC platform. Dahake's legal team argued that continuing the criminal proceedings would be an abuse of the legal process, leading to an unjust outcome.

On the other hand, the Railways opposed the plea, asserting that the court had already taken cognizance of the offence and that the proceedings should be allowed to continue. They pointed to

the fact that Dahake had confessed to profiting from his extension, suggesting that his actions fell within the scope of illegal business as outlined in Section 143 of the Railways Act.

Findings of the Court

Justice M. Nagaprasanna, sitting as a single judge on the Karnataka High Court bench, carefully examined the case's details. He noted that Section 143 of the Railways Act pertains to the illegal business of procuring and distributing railway tickets. The court found no evidence that Dahake had engaged in such activity. Rather, his tool simply enhanced the efficiency of the booking process on the IRCTC platform, benefiting potential travelers.

The court emphasised that the fundamental ingredients necessary to establish a violation under Section 143 were not present in Dahake's case. The prosecution had not demonstrated that he was illegally procuring or supplying tickets, which is essential for the registration of a crime under this provision.

Additionally, the court noted that despite multiple show-cause notices and the passage of three years, the Railway Protection Force had not filed a convincing final report, further weakening the prosecution's case.

Reliance on Kerala High Court Judgment

Justice Nagaprasanna also drew parallels between Dahake's case and a previous ruling by the Kerala High Court in Mathew K. Cherian v. State of Kerala (2016). In that case, the Kerala High Court quashed a similar criminal proceeding against a petitioner involved in expediting railway bookings through software. The Karnataka High Court found the circumstances in Dahake's case to be strikingly similar and concurred with the reasoning of the Kerala High Court. Justice Nagaprasanna, invoking Section 482 of the Criminal Procedure Code (Cr.P.C.), quashed the charges against Dahake, citing that permitting further proceedings would be a miscarriage of justice.

Calcutta HC Upholds Arbitral Award in Gas Supply Dispute: Limited Judicial Intervention

In the case of Great Eastern Energy Corporation Ltd. v. SRMB Srijan Ltd., the Calcutta High Court, through a bench led by Justice Sabyasachi Bhattacharyya, reinforced the limited scope of judicial intervention in arbitral awards under Section 34 of the Arbitration and Conciliation Act, 1996. The court held that under the proviso to Section 34(2-A), it cannot re-appreciate evidence under the guise of patent illegality. This ruling highlights the judiciary's reluctance to interfere with arbitral awards unless there is a clear indication of a fundamental error, such as a violation of public policy or an egregious procedural flaw.

Facts of the Case

The dispute arose from a gas purchase and sale agreement dated May 11, 2011, between Great Eastern Energy Corporation Ltd. (the Claimant/Respondent) and SRMB Srijan Ltd. (the Petitioner). According to the agreement, the Claimant was to supply Coalbed Methane Gas to SRMB until April 30, 2034. A key term in the agreement required SRMB to adhere to a Minimum Guaranteed Offtake (MGO) of gas, which obligated SRMB to pay for any shortfall in the agreed amount.

During the contract period, SRMB requested a waiver of the MGO Clause. The company claimed that a consensus was reached whereby the MGO would be waived in exchange for an increase in the gas price by Rs. 5 per Standard Cubic Meter (SCM). The Claimant, however, denied the existence of such an agreement. Following a failure to renew the bank guarantee under the contract, the Claimant suspended gas supply. SRMB, in turn, terminated the agreement, citing the stoppage of gas supply as the reason.

The Claimant invoked the arbitration clause, and the Arbitral Tribunal eventually ruled that SRMB's termination was invalid and that the contract remained in effect. The Tribunal awarded damages of Rs. 58,50,45,169 plus interest to the Claimant, finding that SRMB's actions constituted a breach of contract. Dissatisfied with the arbitral award, SRMB challenged it under Section 34 of the Arbitration Act, seeking to annul the award on grounds of patent illegality.

Key Legal Arguments

SRMB's Arguments:

- The Tribunal erred in its conclusion that there was no valid waiver of the MGO Clause. According to SRMB, correspondence between the parties in 2014 constituted an offer and acceptance, thus forming a valid agreement to waive the MGO.
- SRMB was entitled to terminate the contract under Section 39 of the Indian Contract Act due to the Claimant's refusal to perform its contractual obligations.
- The Tribunal's award of damages was excessive and unsupported by evidence, particularly as there was no substantial proof of loss suffered by the Claimant.
- The agreement was vitiated by fraud and misrepresentation, particularly due to alleged violations in laying the pipeline, which SRMB claimed made the agreement voidable.

Claimant's Arguments:

- The scope for judicial interference under Section 34 of the Arbitration Act is limited. The Tribunal's findings were well within its jurisdiction and based on the evidence before it.
- The alleged modification of the MGO Clause was not supported by a concluded agreement between the parties. The Claimant's rejection of SRMB's terms was clear and definitive.
- The termination by SRMB was wrongful and violated the terms of the contract, as there was no valid contractual basis for the termination.
- The damages awarded were justifiable as the termination of the contract caused a significant loss of revenue, evidenced by the fact that a large portion of the gas produced had to be flared due to the lack of a market following SRMB's breach.

Court's Observations and Findings

The Calcutta High Court carefully examined the facts and legal arguments presented by both sides, paying particular attention to the Tribunal's interpretation of the MGO Clause and the issue of termination.

Offer and Acceptance: The court found that the correspondence between the parties in 2014 did not amount to a concluded contract for waiving the MGO Clause. The letter dated April 24, 2014, from the Claimant was not a firm offer but a response to SRMB's earlier request, and SRMB's subsequent replies, which challenged the price increase, constituted a counter-offer. The court observed that the original offer had been repudiated by SRMB, and thus, its later attempt to

"accept" the offer was legally invalid. The court emphasized that once an offer is repudiated, it cannot be arbitrarily revived by the offeree at a later date.

Termination of Contract: The court held that SRMB's termination of the contract was wrongful. Under the terms of the agreement, termination could only occur after a three-month period of non-supply, which SRMB had not adhered to. Furthermore, the contract required SRMB to maintain a bank guarantee, which it had failed to renew. The court rejected SRMB's reliance on Section 39 of the Contract Act, as the suspension of gas supply was not a fundamental breach that would justify termination.

Damages Awarded: The court upheld the Tribunal's award of damages. The MGO Clause was a binding obligation, and its breach entitled the Claimant to recover damages, including the loss of potential revenue from gas sales. The flaring of gas was considered clear evidence of the Claimant's loss, as the gas had to be discarded due to the absence of a buyer following SRMB's breach.

Kerala HC Extends BNSS Protections to Accused with Dementia: Ensuring Equal Rights

In the case of V.I. Thankappan v. State of Kerala, the Kerala High Court, presided over by Justice K. Babu, addressed a significant issue concerning the rights of accused persons suffering from intellectual disabilities or mental illnesses. The Court ruled that the provisions of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, which offer broader protection to individuals with intellectual disabilities, apply retrospectively to pending proceedings initiated prior to July 1, 2024. This decision underscores the judiciary's commitment to ensuring equal treatment under the law and protecting the rights of vulnerable individuals in judicial proceedings.

Background of the Case

The petitioner, V.I. Thankappan, a 74-year-old man, was accused under Section 13 of the Prevention of Corruption Act, 1988, which deals with misconduct by public servants. Thankappan, suffering from Alzheimer's dementia, argued that his condition rendered him incapable of defending himself in the trial. The petitioner's counsel submitted an application to postpone the trial before the Special Court on the grounds of his mental incapacity.

Initially, the Special Court found that the petitioner did not exhibit signs of unsoundness of mind, and directed him to undergo a psychiatric evaluation. Despite a medical certificate confirming severe dementia with little chance of recovery, the Special Judge ordered the petitioner to approach the Mental Health Centre for further assessment. This order was subsequently challenged before the Kerala High Court.

Protection Under the BNSS vs. CrPC

The case raised important questions regarding the scope of protection available to accused persons under two legislative frameworks: the Criminal Procedure Code (CrPC) and the newly enacted BNSS. Chapter XXV of the CrPC provides protection to accused persons of "unsound mind" but does not explicitly extend these protections to those suffering from intellectual disabilities such as Alzheimer's dementia. In contrast, Chapter XXVII of the BNSS specifically includes individuals with intellectual disabilities, thereby offering a broader protective scope.

Justice K. Babu, in his judgement, noted that the BNSS has widened the protection afforded to individuals suffering from mental and intellectual disabilities. The Court observed that, under the BNSS, persons with intellectual disabilities, such as Alzheimer's dementia, must be treated equally with those suffering from unsoundness of mind. The failure to do so would result in a violation of Article 14 of the Constitution, which guarantees the right to equality.

The Issue of Retrospective Application

The central issue in this case was whether the BNSS, which came into force on July 1, 2024, could be applied to proceedings initiated before that date. The Court ruled in the affirmative, holding that the protections provided by the BNSS must be applied retrospectively to pending cases. The rationale behind this decision was to ensure that persons suffering from intellectual disabilities receive fair treatment, as the CrPC does not provide adequate protection for such individuals.

The Court emphasised that a fair trial is a fundamental right, and mental or intellectual disability should not prejudice an accused's ability to defend themselves. It highlighted that the legislative intent behind the BNSS was to broaden the scope of protection for individuals with mental health issues, and applying it retrospectively was essential to uphold this principle.

Medical Findings and the Court's Observations

The Court reviewed the medical findings in the petitioner's case, noting that Alzheimer's dementia is a progressive neurodegenerative disease that severely impairs cognitive functions, including memory and language abilities. Given that dementia results in a gradual loss of mental capacity, the Court found it highly unlikely that the petitioner could adequately defend himself in a complex trial.

The Court observed that under Section 328 of the CrPC, the Magistrate is required to conduct an inquiry into the mental condition of the accused and postpone the trial if the accused is found to be incapable of defending themselves. However, this provision, though applicable to those of "unsound mind," does not adequately cover individuals with intellectual disabilities like dementia. The BNSS, on the other hand, specifically provides protection to such individuals, making it imperative for the Court to apply these provisions retrospectively in the interest of justice.

Violation of Article 14: Equal Protection Under the Law

In its judgement, the Kerala High Court emphasised that differentiating between persons with mental illnesses and intellectual disabilities would violate Article 14 of the Constitution. Article 14 guarantees equal protection under the law, which means that all individuals in similar circumstances must be treated alike. The Court held that individuals suffering from Alzheimer's dementia or other intellectual disabilities are entitled to the same protections as those provided to persons with unsound minds under the CrPC. The failure to extend these protections would amount to unequal treatment and thus be unconstitutional.

Then and Now: Evolving Standards for Accomplice Testimony

The old and new provisions governing the testimony of an accomplice reflect a subtle yet crucial shift in legal philosophy regarding the reliability of such testimony. Section 133 of the Indian Evidence Act (Old Law) clearly stated that an accomplice is a competent witness against an

accused, and further emphasised that a conviction is not rendered illegal merely on the basis of uncorroborated testimony of the accomplice. This suggests a higher degree of judicial flexibility, allowing courts to convict based solely on an accomplice's testimony, provided it is deemed credible, even without independent corroboration.

In contrast, Section 138 of the Bhartiya Sakshaya Adhiniyam (New Law) introduces a marked change by conditioning the validity of a conviction on the corroboration of the accomplice's testimony. While the accomplice remains a competent witness, the new provision mandates that a conviction must be based on corroborated testimony, thus reinforcing the need for additional evidence to support the accomplice's account. This change signals a more cautious and restrained approach, recognizing the inherent unreliability often associated with accomplices who may have vested interests in the outcome of a case.

The old provision granted greater discretion to the courts to weigh the credibility of uncorroborated testimony, trusting judicial prudence to safeguard against wrongful convictions. However, this approach was often criticised for the potential risk of convicting individuals based solely on the words of an accomplice, who may have turned against the accused for personal gain or under coercion. The new law addresses this concern by mandating corroboration, ensuring that additional evidence is required to substantiate the accomplice's testimony, thereby reducing the risk of wrongful conviction.

Past Exam Highlights

Prelims

1. Who was the founder of Deccan Education Society?

- (A) Jyotiba Phule
- (B) Firoz Shah Mehta
- (C) M.G. Ranade
- (D) Bal Gangadhar Tilak

Answer: (C) M.G. Ranade

Explanation: The founder of the Deccan Education Society was M.G. Ranade. This society played a significant role in promoting education and social reform in the Deccan region during the late 19th and early 20th centuries.

2. The manuscript of Arthashastra was discovered by

- (A) Sir William Jones
- (B) Shyama Shastri
- (C) Ram Gopal Bhandarkar
- (D) James Mill

Answer: (B) Shyama Shastri

Explanation: The manuscript of Arthashastra was discovered by Shyama Shastri, an Indian scholar and historian. This ancient treatise on statecraft and economics was written by Kautilya (Chanakya) and is a valuable historical document.

3. Who was the author of the famous text, Mudrarakshasa?

- (A) Visakhadatta
- (B) Kalidas
- (C) Sudraka
- (D) Rajshekhar

Answer: (A) Visakhadatta

Explanation: The author of the famous text, Mudrarakshasa, is Visakhadatta. This Sanskrit play is a historical drama that portrays the rise of the Mauryan emperor Chandragupta Maurya.

4. The first Buddhist Council was summoned by

- (A) Chandragupta Maurya

- (B) Ashoka
- (C) Ajatasatru
- (D) Kanishka

Answer: (C) Ajatasatru

Explanation: The first Buddhist Council was summoned by Ajatasatru, the king of Magadha. This council, held at Rajgir, was convened to preserve the teachings of Gautama Buddha shortly after his passing.

5. Mahatma Buddha gave his first sermon at
- (A) Lumbini
 - (B) BodhGaya
 - (C) Sarnath
 - (D) Kapilvastu

Answer: (C) Sarnath

Explanation: Mahatma Buddha gave his first sermon at Sarnath, not listed among the options provided. Sarnath is where he delivered the Dhammacakkappavattana Sutta, also known as the "First Turning of the Wheel of Dharma."

6. Which archaeological site is associated with the Mauryan palace?
- (A) Kaushambi
 - (B) Taxila
 - (C) Hastinapur
 - (D) Kumrahar

Answer: (D) Kumrahar

Explanation: The archaeological site associated with the Mauryan palace is Kumrahar. It is located in modern-day Patna, Bihar, and has revealed the remains of an ancient palace.

7. Which Rock Edict of Ashoka mentions the Kalinga War?
- (A) (XII) Thirteenth
 - (B) (VIII) Eighth
 - (C) (II) Second
 - (D) (V) Fifth

Answer: (A) (XII) Thirteenth

Explanation: The Rock Edict of Ashoka that mentions the Kalinga War is (XII) Thirteenth. This edict reflects Ashoka's remorse for the suffering caused during the Kalinga War and his commitment to non-violence.

8. Rajarajeshwara temple at Tanjore is the finest example of which architecture?
- (A) Pallava
 - (B) Chalukya
 - (C) Chola
 - (D) Pandya

Answer: (C) Chola

Explanation: Rajarajeshwara temple at Tanjore is the finest example of Chola architecture. The Chola dynasty, particularly Rajaraja I and his son Rajendra I, were known for their architectural achievements in South India.

9. The system of 'Dagh' and 'Huliya' was introduced by
- (A) Iltutmish
 - (B) Ala-ud-din Khilji
 - (C) Balban
 - (D) Firuz Shah Tughlaq

Answer: (B) Ala-ud-din Khilji

Explanation: The system of 'Dagh' and 'Huliya' was introduced by Ala-ud-din Khilji, the Sultan of Delhi. It was a system of branding horses to maintain a record of military horse ownership.

10. English traveller William Hawkins visited India during the time of which Mughal emperor?
- (A) Shah Jahan
 - (B) Akbar
 - (C) Aurangzeb
 - (D) Jahangir

Answer: (D) Jahangir

Explanation: English traveller William Hawkins visited India during the time of Jahangir, the Mughal emperor. He arrived in the early 17th century.

Mains

Q. Discuss the meaning and scope of fundamental rights to equality before law and equal protection of laws within the territory of India. Also discuss the basis and test of reasonable classification under Article 14.

Ans. Article 14 of the Indian Constitution ensures to every person, citizens and non-citizens alike, "equality before the law and equal protection of laws within the territory of India".

1. **Equality Before Law:** This concept is derived from English Common Law, and it implies the absence of any special privilege in favour of any individual in the eyes of law. Everyone, irrespective of their rank or status, is subject to the jurisdiction of ordinary courts.
2. **Equal Protection of Laws:** Derived from the American Constitution, this concept means that equals should be treated equally. Similar application of law should be ensured in all similar circumstances.

Scope of Article 14

Article 14 doesn't mean that all laws must be universal in application to all persons. The varying needs of different classes of persons often require separate treatment. Hence, Article 14 allows for reasonable classification, but it forbids class legislation.

Basis and Test of Reasonable Classification under Article 14

The 'Doctrine of Reasonable Classification' lays the groundwork for understanding permissible differentiation under Article 14. The Supreme Court, in numerous judgments, has established the two-fold requirement to pass the test of reasonable classification:

1. **Intelligible Differentia:** The classification must be based on an intelligible differentia, which distinguishes persons or things grouped together from others left out of the group.
2. **Rational Nexus:** The differentia must have a rational relation to the object sought to be achieved by the statute in question.

State of West Bengal v. Anwar Ali Sarkar, AIR 1952 SC 75: This is one of the earliest cases where the Supreme Court propounded the 'Doctrine of Reasonable Classification'. The court held that Article 14 permits reasonable classification of persons, objects, and transactions by the law, but it forbids arbitrary or irrational classification.

E.P. Royappa v. State of Tamil Nadu, AIR 1974 SC 555: The court here introduced the concept of "arbitrariness" as a test to determine the validity of a law. The court declared that "Equality is a dynamic concept with many aspects... It cannot be confined within traditional and doctrinaire limits... Any action that is arbitrary, must necessarily involve negation of equality."

Clear Concept: Dowry Death

Dowry death is a grave social issue in India, regulated under Section 304B of the Indian Penal Code (IPC). It refers to the death of a married woman caused by burns, bodily injury, or under other unnatural circumstances within seven years of her marriage, where the death is linked to the

harassment or cruelty connected to dowry demands. This legal provision was introduced to address the growing incidents of dowry-related violence and deaths.

Elements of Dowry Death

For a case to be classified as dowry death under Section 304B, several key elements must be proven:

1. **Death under Unnatural Circumstances:** The woman's death must occur due to burns, injuries, or any unnatural circumstances such as suicide or poisoning.
2. **Death Within Seven Years of Marriage:** The law only applies if the death takes place within seven years of the woman's marriage. This period is considered critical because most dowry-related disputes and conflicts tend to arise during the early years of marriage.
3. **Connection to Dowry Harassment:** It must be proven that the woman was subjected to cruelty or harassment by her husband or his relatives in connection with demands for dowry. This harassment could include demands for money, property, or any other valuable security from the bride's family.

Legal Presumption and Burden of Proof

One of the most significant aspects of dowry death cases is the presumption of guilt under Section 113B of the Indian Evidence Act. This section presumes that if a woman's death is unnatural and occurs within seven years of marriage, and it is shown that she was subjected to dowry-related cruelty or harassment before her death, it can be presumed that the death is a dowry death. This shifts the burden of proof onto the accused, who must prove that the death was not related to dowry demands.

However, the prosecution still needs to provide sufficient evidence of cruelty or harassment for the presumption to apply. Mere unnatural death within seven years of marriage is not enough to establish dowry death without evidence of dowry-related cruelty.