

Litigation News

Supreme Court warns against disrupting legal aid work during strikes, closes contempt of court case against Bar Association

"There shall be no impediment in the work of legal defense counsel," the Court warned in an order passed on July 10.



Lawyers

Bar & Bench

office-bearers of the *Bharatpur Bar Association*, Rajasthan accused of impeding the work of lawyers who avoided calls for strikes and boycott of courts
[***Purnaprakash Sharma and ors v. Yashwant Singh Faujdar and ors***]

A bench of Chief Justice of India **DY Chandrachud** and Justice **PS Narasimha** also cautioned that the Court would take coercive action if any lawyer is stopped from working or expelled citing non-participation in strikes.

*"The concerned members of the Bar are placed on notice that this Court will be constrained to take recourse to the coercive arm of law, should any incident occur in the future. **There shall be no impediment in the work of legal defense counsel,**"* the Court warned in an order passed on July 10.

In this case, there were allegations that the petitioners, who were defense counsel extending legal aid, were stopped from working by the association's office-bearers on the ground that the petitioners had weakened and opposed the bar's calls for a strike.

The legal aid services authority had introduced a 'Legal Aid Defence Counsel Scheme' for Bharatpur district.

As per the scheme, lawyers were to be engaged full time to exclusively work to provide legal aid to persons accused or convicted of crimes.

When the recruitment process for the scheme was initiated, the lawyers in Bharatpur protested against the scheme.

The petitioners, advocates Purnaprakash Sharma, Puneet Garg and Madhavendra Singh, however, continued working under the scheme and did not participate in the protest.

In view of this, the petitioners were issued show cause notice for opposing and weakening the movement.

When they did not budge, they were suspended for not falling in line.

The petitioners approached the Supreme Court seeking initiation of contempt of court proceedings against office bearers of the bar association.

that no calls for strikes or impeding the work of legal aid counsel remained.

The Court was also informed that the membership of the petitioners and other similarly placed lawyers in the association had been reinstated.

Advocates KV Upadhyaya and Anuj Bhandari appeared for the erstwhile and current Bharatpur Bar office-bearers respectively. Advocate Abhigya Kushwah and Sunita Yadav appeared for the petitioners.

[Read order]

Attachment

PDF

Purnaprakash Sharma vs Yashwant Faujdar.pdf

Preview

Supreme Court of India

Contempt of Court

Lawyers strikes

Bharatpur Bar Association

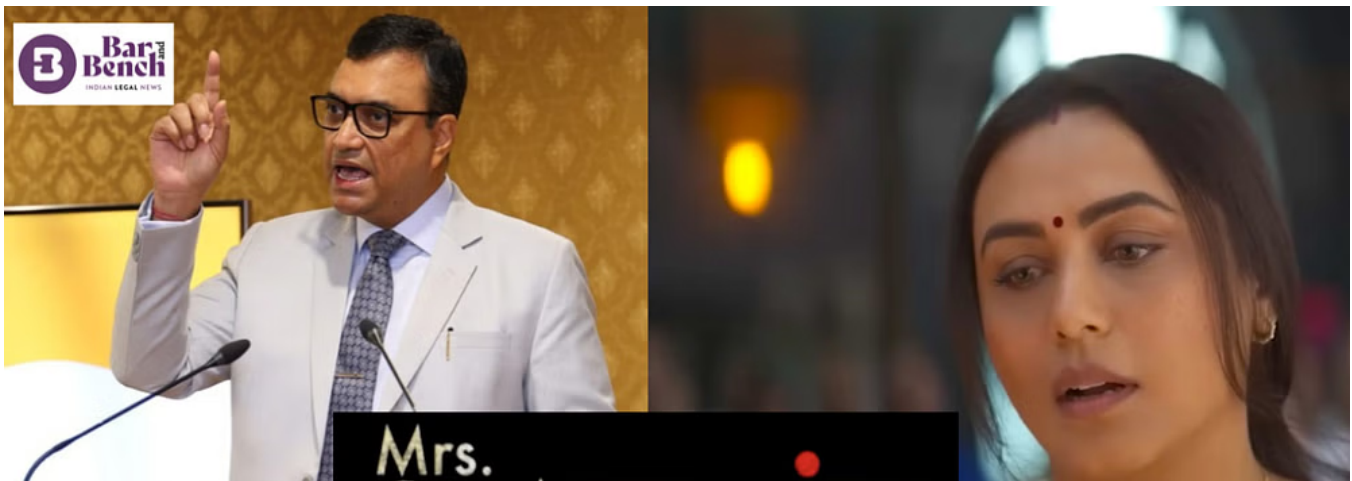


Litigation News



How the real life events that inspired Mrs Chatterjee vs Norway unfolded before the Calcutta High Court

Ten years since, the judge who heard the case, Justice Dipankar Datta, has been elevated to the Supreme Court and the case has made its way to the silver screen.



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Am I a good mother?

Chaterjee vs Norway, Justice Dipankar Dutta

Debayan Roy 

Published on : 13 Jul 2023, 6:52 pm

The Rani Mukherjee starrer *Mrs Chatterjee vs Norway* opened to mixed reactions in March this year. **One review** said that it fell short of being a compelling courtroom drama, given that the movie only got better when the legal arena shifted from Norway to India.

The latter portion of the film is based on a case that was adjudicated by the Calcutta High Court back in 2013.

An ordinary custody case on the face of it turned out to be a major international issue which brought out the aspect of how Indian children were forcefully taken into care by the Norwegian government.

Ten years since, the judge who heard the case, Justice **Dipankar Datta**, has been elevated to the Supreme Court and the case has made its way to the silver screen.



Justice Dipankar Datta

The film is inspired by the true events of a couple who get married and move to Norway for a better future. Owing to the fact that their two children were not being raised in accordance with Norwegian laws, the Child Welfare Services takes over the custody of the children. Later, the Indian government persuades the Norwegian authorities to return the children back to India, on an agreement that the children would stay with the younger brother of their father in Kolkata.

When the children return to India, the mother (played by Rani Mukherjee) seeks their custody, based on agreement with her brother-in-law (respondent no. 4 in the case before the High Court). However, after the man reneges on his promise, the mother moves the High Court.

In real life, the case was decided by Justice Datta, who ultimately granted the mother custody of her children.

In his January 10, 2013 order, Justice Datta took note of how the mother, in a desperate attempt to regain custody of her children, called the police on her brother-in-law, in violation of orders earlier passed by the High Court.

While refusing to initiate contempt proceedings against the mother, the Court noted how the case was of a “distressed mother trying to get back her children.”

desperate bid to get her children back, in ignorance of the ramifications. In an appropriate case, law has to bend before justice. The situation warrants the petitioner to be pardoned for her acts, for, to my mind, there has been no deliberate attempt on her part to undermine the dignity, prestige and majesty of this Court,” the order stated.

Further, Justice Datta noted that not granting the mother relief as prayed for “would amount to violence to the sense of justice.”

The Court also considered the position of the children's uncle, from whose custody they were removed. While granting him visitation rights, the Court said,

“As an uncle, the respondent no. 4 must be held to have discharged his responsibility in the manner the situation required. Although it might result in considerable pain for him to be separated from the children, his interest must yield for the better interest of the children.”

As is often the case, the movie has taken a few creative liberties with the facts of the matter. For instance, while the movie showed a Norwegian lawyer appearing before the High Court, no such foreign lawyer appeared in the real-life case.

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For instance, while the movie showed a Norwegian lawyer appearing before the High Court, no such foreign lawyer appeared in the real-life case.

The lawyer in question, played by actor Jim Sarbh, opposes the mother getting custody of the children, owing to the agreement between the Indian and Norwegian governments. In the film, the mother's lawyer (played by Balaji Gauri) makes an argument challenging the locus of the Norwegian lawyer to appear before the High Court. Later, it is shown that the judge makes an exception and allows him to appear.

By the end of the movie, the Norwegian lawyer softens his stand against the mother and goes against Norway's position, submitting that it would be in the

met their mother in the presence of Justice Datta.

“Justice Datta used to frequently meet such children in custody matters and he always kept a box of chocolates in his chamber so that the children would be comfortable. In this case, when the two children came inside, the girl ran to her mother and hugged her, while the boy went for the chocolate. Justice Datta had then looked on and smiled... and the movie stuck to this portion accurately,” a source told Bar & Bench.

[Read the Calcutta HC order]

Attachment

PDF Original Calcutta HC order Mrs Chatterjee vs Norway.pdf

Preview

Calcutta High Court

Justice Dipankar Datta

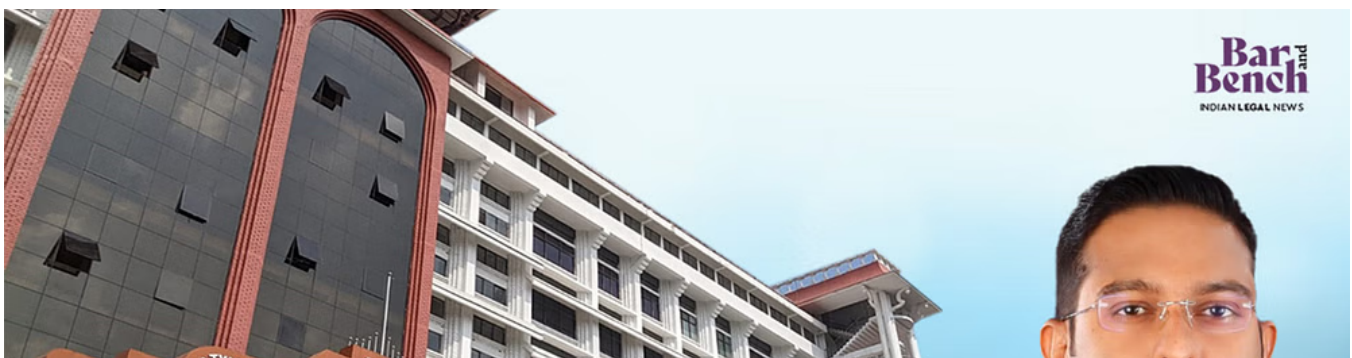
Mrs Chatterjee vs Norway

News



Facebook post against judge: Kerala High Court sentences V4 Kochi President Nipun Cherian to 4 months in jail for contempt of court

A suo motu criminal contempt of court case was initiated against Cherian for a Facebook post on the V4 Kochi page that leveled corruption allegations against a High Court Judge.





Nipun Cherian and Kerala High Court [Linkedin](#)

Sara Susan Jiji [!\[\]\(07e95c4c760ed8b72579d140ce510c89_img.jpg\)](#)

Published on : 13 Jul 2023, 6:04 pm

The Kerala High Court on Thursday sentenced 'V4 Kochi' President, Nipun Cherian to four -months of imprisonment and imposed a fine of ₹2,000 for contempt of court after he levelled corruption allegations against a High Court judge. [***Suo Motu Contempt Criminal v Nipun Cherian***]

A *suo motu* criminal contempt case was initiated against him for a Facebook post on the V4 Kochi page that raised the allegations.

A division bench consisting of Justices **AK Jayasankaran Nambiar** and Justice **Mohammed Nias CP** found Cherian guilty of criminal contempt of court and noted that the charge against Cherian stood established primarily because the entire evidence relied upon by him to defend his statements was mere hearsay.

"On the facts of the instant case, we find that the respondent has unambiguously admitted to making the speech and has also not succeeded in establishing a defence of justification by truth. The entire evidence relied upon by him is hearsay and does not inspire confidence in this court. As regards the contention of the respondent that the learned Judge was carrying out and supervising executive tasks and therefore lacking the character of an adjudication, the same has to be rejected outright as the learned Judge had passed the judgment with directions as part of his judicial duty. We are therefore of the view that the charges against the respondent stand established and he is liable to be punished for contempt of court," the Court observed.

considerations while deciding cases.

"As we have already observed earlier, while fair and temperate criticism of the court, even if strong, may not be actionable, the attributing of improper motives or actions that tend to bring Judges or courts into hatred and contempt, and thereby erode public confidence in the judicial institution, will certainly lead to the invocation of the contempt jurisdiction so as to uphold the majesty and dignity of the courts of law," the judgement stated.

The Court also noted that Cherian's conduct during the proceedings in the contempt case was that of arrogance and obstinance and, therefore, he deserved no leniency.

"Under such circumstances, and more so since the conduct of the respondent throughout the proceedings has been that of an obstinate and arrogant litigant whose actions are intended to lower the public faith in the judicial institution through the baseless allegations made against a learned Judge of this Court, we are of the view that he does not deserve any lenient view in the matter of punishment," the Court said.

Even though it could have imposed a longer sentence, the Court sentenced Cherian to simple imprisonment of four months taking note of the fact that Cherian is a Graduate Engineer, aged 36 years, who *will possibly understand the gravity of his misconduct* through sufferance of a *lesser punishment* and will *hopefully desist from resorting to such actions in future*.

"We also direct that any period of imprisonment already undergone by the respondent during these proceedings be set-off against the aforementioned term of four months," the Court added.

The Court further directed the Station House Officer, Cyber Cell, Ernakulam to take all steps necessary for removing the video containing the offending speech of Cherian from all electronic media platforms.

V4 Kochi is a political organisation cum movement based out of Kochi, Kerala. The organization was formed prior to the 2020 Kerala local elections to contest in Kochi Municipal Corporation. The stated objective of the organization was to

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Attachment

PDF**Suo Motu contempt case V Nipun Cherian.pdf**[Preview](#)[Contempt of Court](#)[Kerala High Court](#)[Justice AK Jayasankaran Nambiar](#)[Justice Mohammad Nias CP](#)[Nipun Cherian](#)

Litigation News



Kerala High Court directs DGP to consider Mathrubhumi News' complaint of police harassment

The Court clarified that the police can continue investigating the FIR against the channel's TV crew filed on allegations that they obstructed a police vehicle during their coverage of the Kozhikode train arson case.



Kerala High Court and Matharabhumi News

Sara Susan Jiji

to consider a complaint by prominent malayalam news outlet, *Mathrubhumi* alleging police harassment of the channel's employees [***The Mathrubhumi Printing & Publishing Company Ltd & Ors. v The Station House Officer & Ors.***].

A criminal case had been registered by the Kerala police earlier this year against members of the channel's television crew, for allegedly obstructing a police vehicle and taking photographs of an accused in a train arson case.

However, the probe in this case led to the harassment of channel employees, claimed the petitioners before the High Court.

Justice **PV Kunhikrishnan** on Wednesday took on record an assurance made on behalf of the Kerala police that the channel's employees were not being harassed.

“When the Government Pleader submit before this Court on behalf of the respondents that, there is absolutely no harassment from the side of the police towards the petitioners, I think no further order is necessary,” he opined.

However, the Court ordered the DGP to consider the representations made by Mathrubhumi concerning the alleged police harassment and to take *appropriate steps* in accordance with the law within a month's time, after hearing the media channel's representatives.

Pertinently, the Court clarified that the police are free to continue with the investigation in the first information report (FIR) filed against the channel's TV crew.

If any notice is issued by the police authorities in connection with FIR, the petitioners will have to cooperate with the police, the Court said.

The petitioners before the Court included Mathrubhumi's executive editor, unit manager, cameraman, and reporter, as well as a driver that the channel hired on a contract basis.

police vehicle to take photographs of the suspect.

As a result, the purpose of a Test Identification Parade was defeated, the police stated.

The petitioners claimed that after the FIR was registered, they were sent notice after notice by the police, without even being given sufficient time to respond.

"The manner in which the State Police is conducting the investigation has brought to light the knavish nature of the State Police to indulge in violation of privacy, and scant respect for press freedom," the petitioners had contended in their petition.

The Government Pleader countered that the police investigation was being conducted in line with the law and that there was no harassment from the side of the police towards the petitioners.

Having recorded this assurance, the Court disposed of the channel's writ petition, after issuing directions so that the State's police chief would consider the channel's complaint in a time-bound manner.

The petitioners were represented by Senior Advocate P Vijaya Bhanu and advocates Sruthy KK, PM Rafiq, M Revikrishnan, Sruthy N Bhat, Ajeesh K Sasi, Nikita J Mendez, and Rahul Sunil.

The respondents were represented by the Government Pleader, Jyothish George.

[Read Judgment]

Attachment

PDF

The Mathrubhumi Printing & Publishing Company Ltd & Ors. v The Station House Officer & Ors..pdf

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Litigation News



PIL against IT Rules on online gaming a Trojan Horse and proxy litigation: Central government to Delhi High Court

The government said that the online gaming regulations have been introduced pursuant to orders of the Court and after extensive consultation.



Delhi HC With online gaming

Prashant Jha

Published on : 13 Jul 2023, 5:38 pm

to the Information Technology Rules on online gaming, stating that it was a 'Trojan Horse'.

Additional Solicitor General (ASG) Chetan Sharma said that the Rules have been introduced pursuant to the orders of the Court and that the petition is a proxy litigation by people who do not want to comply with it.

"Please see the writ petition and see the doublespeak...Your lordships must enquire who is the petitioner. These are companies who do not want to be amenable to the regulations, perhaps this individual is a front," the ASG submitted.

He added that the regulations have been formulated after consultations involving an inter-ministerial committee, the Chief Executive Officer (CEO) of NITI Aayog and the Cabinet Secretary.

The submissions were made before a Division Bench of Chief Justice **Satish Chandra Sharma** and Justice **Sanjeev Narula** in response to a plea by an NGO named Social Organisation for Creating Humanity.

The NGO has challenged the constitutional validity of regulations under the *Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Amendment Rules, 2023* insofar as they relate to online gaming.

Appearing for the NGO, Senior Advocate Ritin Rai clarified that the petitioner was in favour of regulation of online gaming. However, the reason he is asking for the Rules to be quashed is that only state governments have the power to regulate gaming and gambling activities.

The Bench then pointed out that the Madras High Court had struck down the State's legislation on online gaming.

Rai responded that those Rules were quashed because they prohibited all online real money games and did not distinguish between games of chance and games of skill.

He added that Tamil Nadu has now come up with new legislation where a State authority has been set up to determine which games are of skill and which are a

listed the case for further consideration on September 21.

ASG Sharma said that he will put the material on record.

In its plea, the petitioner NGO has submitted that the Constitution of India gives state governments exclusive powers to legislate on the issues of betting and gambling. Therefore, the IT Amendment Rules are beyond the legislative competence of the Central government.

The NGO has also expressed concerns over the appointment of Self-Regulatory Bodies (SRBs).

The **Central government** had said that SRBs will verify whether online real money games are permissible under the Rules. However, the PIL stated that these SRBs would be financed by gaming companies that have a vested self-interest in the regulation of the community.

This is wholly arbitrary, irrational, and violative of Article 14 of the Constitution, the plea contended.

“The Government cannot abdicate its role of overseeing and monitoring of the online gaming sector and outsource its responsibility to private bodies,” the plea argued.

Also Read

Central government notifies online gaming rules; self-regulatory bodies to verify whether games involve wagering

[Delhi High Court](#)[Online Gaming](#)[IT Rules 2021](#)[Online Gaming rules](#)

Litigation News



Central government notifies transfer of three High Court judges 8 months after Collegium recommendation

Union Law Minister Arjun Ram Meghwal tweeted the development.





Justice D Ramesh, Justice Lalitha Kanneganti, Justice Vipul M Pancholi

Bar & Bench

Published on : 13 Jul 2023, 5:28 pm

The Central government on Monday notified the transfer of three High Court judges, nearly 8 months after the same was first recommended by the Supreme Court Collegium.

Union Law Minister **Arjun Ram Meghwal** tweeted the development this evening.

The three judges whose transfers have been notified are:

- Justice **D Ramesh**, from the Andhra Pradesh High Court to the Allahabad High Court
- Justice **Lalitha Kanneganti** from the Telangana High Court to the Karnataka High Court
- Justice **Vipul M Pancholi** from the Gujarat High Court to the Patna High Court

Justices **Ramesh and Kanneganti** were recommended for the transfers by the Collegium on November 24, 2022.

Justice Pancholi's transfer resolution was passed after a Collegium meeting held on September 29 last year. The decision became public nearly a month later when the **resolution** was uploaded online on November 21, 2022.

Bar and Bench

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The association made a three-page representation to Chief Justice of India **BY Chandrachud** days after the proposed move was made public.

In its representation, the association had highlighted that there was no just reason to transfer such a *fine* judge, who was among the senior judges of the High Court and who was set to enter the Collegium of the Gujarat High Court in a short time.

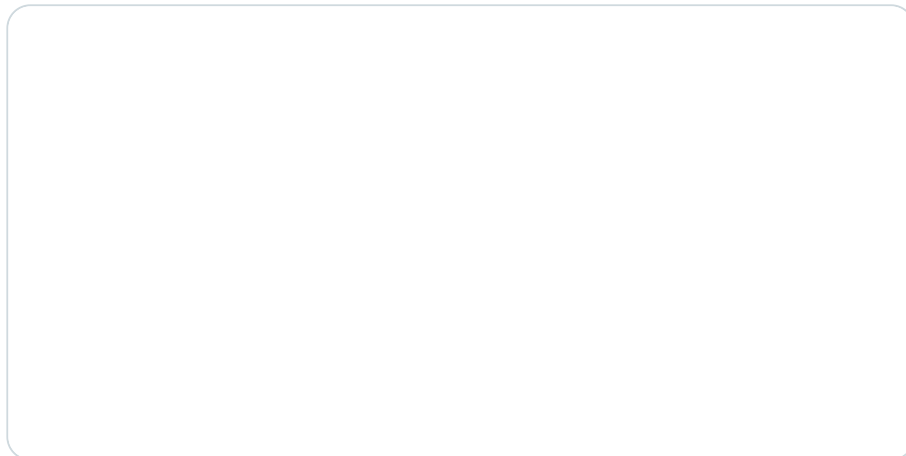
"To transfer such an experienced judge from Gujarat will be counter-productive to the administration of justice in Gujarat and as paterfamilias of the institution, Your Lordships will be weighing such factor in taking any decision including transfer of judge," the GHCAA had said.

Arjun Ram Meghwal 

@arjunrammeghwal · [Follow](#)



In exercise of the power conferred by the Constitution of India, the President of India, after consultation with Chief Justice of India, has transferred the following Judges of High Courts:-



4:10 PM · Jul 13, 2023



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