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Principles of Legislation and Interpretation of Statutes: Case Analysis On Shilpa Mittal V/S State of Nct Delhi & Another

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Abstract
The term 'Interpretation' refers to the process of determining the true meaning of an enactment and is the most important function of the judicial bodies. The court has to follow certain set principles which have emerged through various interpretations done by the courts in order to fulfil the intentions of the legislature. Over the period of time, there are several rules and principles of interpretations of statues that have emerged. Here for the purpose of analyzing the case of Shilpa Mittal v/s St. of NCT of Delhi 1 , we will be discussing the Golden Rule of interpretation. This Rule is applied in order to determine the legislature's intention from the terms used in the enactment through their ordinary/natural interpretation, and only changing the meaning to a certain degree in order to prevent absurdity, repugnance, difficulty or unfairness. The given case discusses questions regarding how should a juvenile be treated under a category of a crime that is not in the Statute but is asserted by the appellant to be included as a "heinous" offence. The case is significant in understanding how the court interpreted the statute, in order to clear the ambiguity regarding the fourth category of offence that is an offence prescribing a maximum punishment of more than seven years imprisonment but not providing any minimum punishment, or providing a minimum punishment of less than seven years. The main aim of this article is to analyze the case in accordance with the rules of interpretation used by the courts to come to a decision.

Keywords: Interpretation, principles of interpretations, Golden Rule of interpretation, ambiguity, heinous offence.

Introduction:

Interpretation of Statutes is the primary and the most essential task of a court. The court interprets any legislation in case any dispute arises out of it. The will of the parliament is expressed generally in the form of a legislation. The main objective of the court is to realise the intentions of the parliament through the language used in the concerned enactment. The court cannot interpret the laws arbitrarily and consequently have to follow certain set principles which have emerged through various interpretations done by the courts. These principles are also known as rules of interpretation. According to V. P Sarathi, "the legislature, as the representative of the people of a nation or the people of a state expresses its will and such expression of the will in accordance with constitutional provisions is a statute. When these statutes are applied by courts, according to well-recognised rules of interpretation of statutes, such exposition forms the body of statute law. When a court applies a statute, it first ascertains the meaning of a particular provision and then applies that meaning to the particular set of facts." The terms '***interpretation***' and '***construction***' are commonly used interchangeably. However, the term '*Interpretation*' refers to the process of determining the true meaning of an enactment by referring the words their ordinary meaning, whereas '*construction*' is the process analysing the true spirit behind the enactment and drawing conclusions based on it. The judge has to only inquire about the legislature's intentions. It is the legislature's responsibility to establish what is best for the public welfare and to provide for it via effective legislation whereas it is the judge's responsibility to interpret the law. The maxim "***optima est lex mini mum relinquit arbitrio judicis, optimus judex qui minimum sibi***-that system of law is best which relinquishes as little as possible to the discretion of the judge; that judge the best, who relies as little as possible on his own opinion." The purpose of the norms of interpretation is to guide the court in determining the legislature's intention— "not to control that intention, or to confine it within limits which the judges may deem reasonable or expedient." The greatness of a judge would be

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determined by his ability to accurately predict the legislature's purpose and how the legislature meant to attain that object, and to shape the law accordingly. The general principles and rules of interpretation which have been applied by Courts from time to time are "literal or grammatical interpretation, mischief rule, golden rule, Harmonious construction, statute should be read as a whole, Construction ***ut res magis valeat quam pereat***, Identical expressions to have same meaning, Construction ***noscitur a sociis, construction ejusdem generis, Construction expression unius est exclusio alterius and Construction contemporanea expositio est fortissima in lege."*** Here we are discussing the Golden Rule of interpretation for the purpose of case analysis on ***Shilpa Mittal v/s St. of NCT of Delhi and another*** . The golden rule is a variation on the grammatical interpretation principle of interpretation. It states that usually, the court must determine the legislature's intention from the terms used in the legislation by giving them their natural interpretation, but if this results in absurdity. repugnance, difficulty, unfairness, the Court must change the meaning only to the degree necessary to prevent such a result. On the surface, this rule appears to solve all issues and is hence known as the golden rule. Furthermore, because the literal meaning is altered to some extent, this method is known as the modifying way of interpretation. This rule implies that the implications or effects of an interpretation are far more important since they provide true spirit to the real meaning of a law. There is a presumption that the legislature did not intend specific objects, and any construction that leads to any of them should be rejected. When presented with more than one potential interpretation of an enactment, the court has the authority to evaluate the outcome of each interpretation in order to determine the real purpose of the enactment. There may be situations when, despite the fact that literal interpretation may result in outcomes not intended by the legislature, the court will not do so because there is some legitimate reason for doing so. Similarly, even if the wording does not expressly state so, an Act may be considered to have a restricted scope. In some cases, a legislation may be granted a limited meaning based on the aim of it, even though the grammatical form would take its operation beyond.

The case is significant to have an idea about the development of Juvenile Justice legislations in India. In the Juvenile Justice Act, 2000, a "juvenile" was defined to mean a person that has not completed age of 18 years. In December 2012, an unfortunate incident of rape and murder of a young girl occurred in Delhi. A juvenile, aged 17, was one of those involved in the crime. This prompted a call from society to reconsider the law, and some members of society felt that the term "juvenile" had been given a very broad meaning, and juveniles had been treated leniently. Following that, a writ petition titled **Subramanian Swamy and others v/s Raju through Member, Juvenile Justice Board and Others** was filed, challenging the provisions of the Act of 2000, particularly those pertaining to juvenile classification. This petition was also rejected. This Court ruled that deciding classification of juvenile is a decision for the Legislature to make, and that the courts cannot intervene in this matter. Following that, the Juvenile Justice Act 2015 was passed. A simple reading of Sec. 2(12), 2(13), and 2(35) of this Act reveals that a juvenile is a person who has not reached the age of 18, and a child in conflict with the law is a "child/juvenile who commits an offence while under the age of 18". Sec. 2(45). defines "petty offences" as "offences for which the maximum punishment provided by any law, including the IPC, is imprisonment for up to three years". The term "serious offences" refers to offences for which the maximum penalty under any law is imprisonment for three to seven years. The term "heinous offences" refers to offences for which the minimum punishment under any law is imprisonment for seven years or more. The Children's Court established by the Act must decide whether there is a necessity for the child to be tried as an adult under the provisions of the CrPc and make necessary orders in this respect. Even if the Children's Court rules that the child must be tried as an adult, the final decision must contain an individual care plan for the child's rehabilitation, as provided in Subsection (2) of Sec. 19. The present case raised questions regarding how should a

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juvenile be treated under a category of a crime that is not in the Statute but is asserted by the appellant to be included as a heinous offence. The case is significant in understanding how the court interpreted the statute, in order to clear the ambiguity regarding the fourth category of offence that is an offence prescribing a maximum punishment of more than seven years imprisonment but not providing any minimum punishment, or providing a minimum punishment of less than seven years.

Objectives of the Study

Analysis of the case Shilpa Mittal v/s State of NCT Delhi and Another in respect of interpretation by the court of the term "heinous offence" in reference to the Sec. 2(33) of the 2015 JJ Act.

Contemporary Legal Relevance

The case is relevant in the present times to under the concepts of interpretations including "*Presumptions in Interpretation (presumption against redundancy or surplusage*)", External and Internal Aids to understand the intention of legislature behind the enactment of certain provisions in the enactment.

Scope and Limitation

The scope of the research paper is limited to the analysis of the case, Shilpa Mittal v/s State of NCT Delhi and Another. The researchers have relied upon the judgement of the case along with various principles of interpretations.

Facts of the Case

Citation: Cr. Appeal no. 34, 2020.

Bench: Deepak Gupta, Aniruddha Bose, JJ The facts of the case are that a juvenile 'X' is accused of committing an offence punishable under Sec. 304 of IPC, which offence is punishable with a "maximum punishment of imprisonment for life or up to ten years in prison and a fine, or both, in the first part and imprisonment up to ten years in prison and a fine, or both, in the second part." However, there is no mandatory minimum punishment. The appellant's brother was the deceased in the motor vehicle accident. The juvenile was above sixteen but under eighteen years at the time of the offence. On 4th June, 2016, the Juvenile Justice Board ruled that juvenile 'X' committed a "heinous" crime and should be prosecuted as an adult. On 11th February 2019, an appeal filed in the Children's Court, which was later dismissed. Following that, the juvenile 'X', through his mother, approached the High Court of Delhi. On May 1st, 2019, the court ruled that since no minimum punishment is prescribed for the offence in dispute, it does not fall within the purview of Sec. 2(33) of the 2015 Act. In this appeal, this order was being challenged. MAIN ISSUE The main issue in the case was "whether an offence prescribing a maximum sentence of more than 7 years imprisonment but not providing any minimum sentence, or providing a minimum sentence of less than 7 years, can be considered to be a 'heinous offence' within the meaning of Section 2(33) of The Juvenile Justice (Care and Protection of Children) Act, 2015?"

Sections Referred of the Juvenile Justice Act, 2015

Sec. 2(12). "child means a person who has not completed eighteen years of age";

Sec. 2(13). "child in conflict with law means a child who is alleged or found to have committed an offence and who has not completed eighteen years of age on the date of commission of such offence";

Sec.2(33). "heinous offences include the offences for which the minimum punishment under the Indian Penal Code (45 of 1860) or any other law for the time being in force is imprisonment for seven years or more";

Sec.2(35). "juvenile means a child below the age of eighteen years";

Sec. 2(45). "petty offences include the offences for which the maximum punishment under the Indian Penal Code (45 of 1860) or any other law for the time being in force is imprisonment up to three years";

Sec.2(54). "serious offences include the offences for which the punishment under the Indian Penal Code (45 of 1860) or any other law for the time being in force, is imprisonment between three to seven years";

Sec.14. "Inquiry by Board regarding child in conflict with law.

(5) The Board shall take the following steps to ensure fair and speedy inquiry, namely: — **(d)** cases of petty offences, shall be disposed of by

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the Board through summary proceedings, as per the procedure prescribed under the Code of Criminal Procedure, 1973 (2 of 1974);
(e) inquiry of serious offences shall be disposed of by the Board, by following the procedure, for trial in summons cases under the Code of Criminal Procedure, 1973 (2 of 1974);
(f) inquiry of heinous offences, —
(i) for child below the age of sixteen years as on the date of commission of an offence shall be disposed of by the Board under clause (e);
(ii) for child above the age of sixteen years as on the date of commission of an offence shall be dealt with in the manner prescribed under section 15."
Sec. 15. "Preliminary assessment into heinous offences by Board. –
(1) In case of a heinous offence alleged to have been committed by a child, who has completed or is above the age of sixteen years, the Board shall conduct a preliminary assessment with regard to his mental and physical capacity to commit such offence, ability to understand the consequences of the offence and the circumstances in which he allegedly committed the offence, and may pass an order in accordance with the provisions of sub-section (3) of section 18:

Provided that for such an assessment, the Board may take the assistance of experienced psychologists or psycho-social workers or other experts. Explanation. —For the purposes of this section, it is clarified that preliminary assessment is not a trial, but is to assess the capacity of such child to commit and understand the consequences of the alleged offence.

(2) Where the Board is satisfied on preliminary assessment that the matter should be disposed of by the Board, then the Board shall follow the procedure, as far as may be, for trial in summons case under the Code of Criminal Procedure, 1973 (2 of 1974): Provided that the order of the Board to dispose of the matter shall be appealable under subsection (2) of section 101. Provided further that the assessment under this section shall be completed within the period specified in section 14."

Sec. 19. "Powers of Children's Court
(1) After the receipt of preliminary assessment from the Board under section 15, the Children's Court may decide that—
(i) there is a need for trial of the child as an adult as per the provisions of the Code of Criminal Procedure, 1973 (2 of 1974) and pass appropriate orders after trial subject to the provisions of this section and section 21, considering the special needs of the child, the tenets of fair trial and maintaining a child friendly atmosphere;
(ii) there is no need for trial of the child as an adult and may conduct an inquiry as a Board and pass appropriate orders in accordance with the provisions of **Section 18.**
(2) The Children's Court shall ensure that the final order, with regard to a child in conflict with law, shall include an individual care plan for the rehabilitation of child, including follow up by the probation officer or the District Child Protection Unit or a social worker.
(3) The Children's Court shall ensure that the child who is found to be in conflict with law is sent to a place of safety till he attains the age of twenty-one years and thereafter, the person shall be transferred to a jail: Provided that the reformative services including educational services, skill development, alternative therapy such as counselling, behaviour modification therapy, and psychiatric support shall be provided to the child during the period of his stay in the place of safety.
(4) The Children's Court shall ensure that there is a periodic follow up report every year by the probation officer or the District Child Protection Unit or a social worker, as required, to evaluate the progress of the child in the place of safety and to ensure that there is no ill-treatment to the child in any form.
(5) The reports under sub-section (4) shall be forwarded to the Children's Court for record and follow up, as may be required."

Submission by Appellant Counsel

It was contended by the senior counsel for appellant that the definitions of "petty", "serious" and "heinous" offences in case are read literally then the Act leaves out one category of offences. He claims that petty offences are those with a maximum punishment of three years, severe offences are those with a maximum punishment of seven years, and

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heinous offences are those with a minimum sentence of seven years or more, if the definition is taken literally. However, the fourth category of offences are those where the minimum punishment is less than seven years, or there is no minimum punishment prescribed but the maximum is more than seven years. Some of these offences include offences related to abetment, offences relating to counterfeiting of currency, culpable homicide not amounting to murder and abetment to suicide. The Counsel contended that it could not have been the Legislature's purpose to exclude these offences, and that they should have been included in some group at the very least. The counsel for the Appellant contended that if the word "minimum" is removed from the definition of "heinous offences", then all offences would fall under the title of "heinous offences" other than petty and serious offences. The Counsel stated that excluding the fourth category of offences would result in an absurdity that could not have been the Legislature's purpose and hence using the "doctrine of surplusage", by removing the word "minimum" will make cover such offences. SUBMISSION BY COUNSEL FOR JUVENILE 'X' The Senior lawyer for the juvenile 'X', on the other hand, argued that the Court cannot rewrite and change the law. He also contended that the Legislature's intention cannot be understood by the Court solely because a category of offences has been excluded. If there is a gap and ambiguity in the Act's scheme, it is up to the Legislature to fill it, and hence court cannot intervene.

Analysis by the Court

The Court stated that the main concerning issue is that the fourth category of offences is not covered by the Juvenile Justice Act. Further, it is impossible to say for definite that the Legislature meant to include this fourth category of offences in the category of "heinous offences." Hence simple elimination of the term "minimum" might make the Act more practical but not a sufficient reason to hold that the word "minimum" is surplusage.

(1)Presumptions as to interpretations of statutes The Court analysed the submissions of both the counsels and stated that an Act is not a jigsaw puzzle in –which we must arrange all of the pieces. Interpretation of a legislation that requires it to be read in accordance with its text and meaning. The Court first referred to the Golden Rule of Interpretation which was laid down the case of ***Grey v/s Pearson***

"...I have been long and deeply impressed with the wisdom of the rule, now, I believe, universally adopted, at least in the Courts of Law in Westminster Hall, that in construing wills and indeed statutes, and all written instruments, the grammatical and ordinary sense of the words is to be adhered to, unless that would lead to some absurdity, or some repugnance or inconsistency with the rest of the instrument, in which case the grammatical and ordinary sense of the words may be modified, so as to avoid that absurdity and inconsistency, but no farther. ..."

The Court then referred to the principle observed by the Privy Council in ***Salmon v/s Duncombe & Ors ,***

"It is, however, a very serious matter to hold that when the main object of a statute is clear, it shall be reduced to a nullity by the draftsman's unskilfulness or ignorance of law. It may be necessary for a Court of Justice to come to such a conclusion, but their Lordships hold that nothing can justify it except necessity or the absolute intractability of the language used. ..."

The Court also referred to the cases ***of McMonagle v/s Westminster City Council*** and ***Vasant Ganpat Padave v/s Anant Mahadev Sawant*** to emphasise the Court's ability to amend a legislation given only where the Legislature's intention is explicit and the words of the statute that are in question contradicts the Legislature's objective. In Vasant Ganpat case, the court after various interpretations held that,

" 43.Given the fact that the object of the 1956 Amendment, which is an agrarian reform legislation, and is to give the tiller of the soil statutory title to land which such tiller cultivates; and, given the fact that the literal interpretation of Section 32-F(1)(a) would be contrary to justice and reason and would lead to great hardship qua persons who are similarly circumstanced; as also to the absurdity of land going back to an absentee landlord when he has lost the right of personal cultivation, in the teeth of the object of the 1956

Amendment as mentioned hereinabove, we delete the words ..of the fact that he has attained majority. Without these words, therefore, the landlord belonging to all three categories has to send an intimation to the tenant, before the expiry of the period during which such landlord is entitled to terminate the tenancy under Section 31."

The Court further stated that words can be added or subtracted to give full effect to the purpose of statute. However, this requires to determine the intention of the Legislature. It is not required that the Legislature's purpose be the same as what the court believes it to be. If the Legislature's intention is clear, the Court can overlook the phrasing of statute. However, where the legislation's text is certain but the Legislature's intention is not clear, the Court cannot add or delete terms from the statute to give it a meaning that the Court believes to be fit. If the Legislature's intention is absolutely clear, then the Court can correct errors made by the person who drafted the legislation and delete/add words to serve the purpose of the legislation and ensure that the legislation is given the meaning that the Legislature intended.

2. External Aids – It includes Travaux preparatory, history behind the legislation, parliamentary debates and speeches. The Court while discussing the history and background of the Act stated that its objectives is to guarantee that children who are in conflict with the law be dealt separately and not as adults. Following the terrible rape incident in Delhi in the year 2012, in which one juvenile was implicated, there was protest from several parts of country that juveniles involved in such horrific crimes should not be treated as children. Hence, in these circumstances, the Legislature's purpose was to put all offences with a sentence of more than seven years in the category of *"heinous offences*". The word "*minimum*" cannot be overlooked when the text of the section is unambiguous and it specifies a minimum penalty of 7 years imprisonment when dealing with "heinous offences". The Court also analysed the speeches of ministers referred by the counsel of appellant in relation to the JJ Act of 2015. The Speech included that those children could be tried as adults in dealing with *"heinous offences*" such as offences of murder, rape and terrorism. However, the intention of the entire Legislature cannot be determined from the speeches of ministers in respect of the bill introducing the JJ Act of 2015. The major reliance could only be placed on the Minister's introduction of the Bill, which primarily refers to heinous offences, where the minimum sentence is more than seven years. The gap regarding the fourth category of offences cannot be filled by stating that this category should be treated under *"heinous offence"*. While some offences in this category can be termed as heinous, there are many other offences which cannot be treated same. The court stated that it cannot legislate on this ambiguity and it is a matter of legislature

3. Internal Aids – According to V.P Sarthi, "the present attitude of the courts is that respect to (a) Preamble (b) title(long) (c) headings (d) marginal notes-(e) punctuations and brackets (f) illustrations (g) explanations (h) schedule, these items can be looked into only if there is a doubt about the scope of a particular provision of an enactment". Further, the Juvenile Justice (Care and Protection of Children) Act of 2015 is designed to safeguard children. To treat children like adults is an **exception** and it must generally be assigned a restrictive and limited meaning.

Decision of the Court

The Court held that from analysis of Sec 14, Sec 15, and Sec 19 of the Juvenile Justice Act shows that the Legislature felt that before the juvenile is tried as an adult, a thorough investigation must be conducted and the procedure must be followed. Even if a child commits a heinous crime, he will not be tried as an adult. This also clearly shows that removing the word *"minimum*" from the definition does not expand the meaning of the words *"heinous offence*". Though the word "*minimum"* cannot be considered as surplusage, yet the court is bound to decide about children falling within the fourth category of offence. The Court held that: "Since two views are possible we would prefer to take a view which is in favour of children and, in our opinion, the Legislature should take the call in this matter, but till it does so, in exercise of powers conferred under **Article 142**

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of the Constitution, we direct that from the date when the Act of 2015 came into force, all children who have committed offences falling in the 4th category shall be dealt with in the same manner as children who have committed 'serious offences'." Further a copy of this judgment was sent to the Ministry of Law and Justice; Ministry of Women and Child Development, and the Ministry of Home Affairs to ensure that the issues raised in this case are addressed either by Legislature or the Executive through Ordinance.

Conclusion

The court reached its decision by mandating that this fourth category of offences be considered under "*serious offences*" under Sec. 2(54), until Parliament reaches a decision on the subject after obtaining a copy of the ruling. From a legal standpoint of analysis, the judgement might be seen as prudent because the court in this case was cognizant of the limitations of their powers. Even though the appeal was dismissed, the judiciary acknowledged the concerns presented and was wary of the potential pitfalls that may arise as a result of the ambiguity. It is crucial to note that there is a wide variety of offences that do not fit under the description of "*serious*" or "*heinous*" offences, categorising all such offences as "*heinous*" would have created problems. The Court also discussed the golden rule of interpretation and the doctrine of surplusage. The court cited several cases to support the court's rejection of appellant counsel's submission to remove the word "*minimum*" from Sec. 2(33) of the Act, which would have placed all offences with a max. or min. punishment of more than seven years, naturally, within the ambit of "*heinous crimes*" as defined in Sec. 2(33) of the Act. In support of these cited instances, the court reaffirmed that a legislation must be construed according to its language and intent unless there is absurdity or conflict with the wordings, in which case the Court may alter the same.

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