



INTERNATIONAL LAW
JOURNAL

**WHITE BLACK
LEGAL LAW
JOURNAL
ISSN: 2581-
8503**

Peer - Reviewed & Refereed Journal

The Law Journal strives to provide a platform for discussion of International as well as National Developments in the Field of Law.

WWW.WHITEBLACKLEGAL.CO.IN

DISCLAIMER

No part of this publication may be reproduced or copied in any form by any means without prior written permission of Editor-in-chief of White Black Legal

– The Law Journal. The Editorial Team of White Black Legal holds the copyright to all articles contributed to this publication. The views expressed in this publication are purely personal opinions of the authors and do not reflect the views of the Editorial Team of White Black Legal. Though all efforts are made to ensure the accuracy and correctness of the information published, White Black Legal shall not be responsible for any errors caused due to oversight or otherwise.

WHITE BLACK
LEGAL

EDITORIAL TEAM

Raju Narayana Swamy (IAS) Indian Administrative Service officer



Dr. Raju Narayana Swamy popularly known as Kerala's Anti Corruption Crusader is the All India Topper of the 1991 batch of the IAS and is currently posted as Principal Secretary to the Government of Kerala . He has earned many accolades as he hit against the political-bureaucrat corruption nexus in India. Dr Swamy holds a B.Tech in Computer Science and Engineering from the IIT Madras and a Ph. D. in Cyber Law from Gujarat National Law University . He also has an LLM (Pro) (with specialization in IPR) as well as three PG Diplomas from the National Law University, Delhi- one in Urban Environmental Management and Law, another in Environmental Law and Policy and a third one in Tourism and Environmental Law. He also holds a post-graduate diploma in IPR from the National Law School, Bengaluru and a diploma in Public Procurement from the World Bank.

professional diploma in Public Procurement from the World Bank.

Dr. R. K. Upadhyay

Dr. R. K. Upadhyay is Registrar, University of Kota (Raj.), Dr Upadhyay obtained LLB , LLM degrees from Banaras Hindu University & Phd from university of Kota.He has succesfully completed UGC sponsored M.R.P for the work in the ares of the various prisoners reforms in the state of the Rajasthan.



Senior Editor

Dr. Neha Mishra



Dr. Neha Mishra is Associate Professor & Associate Dean (Scholarships) in Jindal Global Law School, OP Jindal Global University. She was awarded both her PhD degree and Associate Professor & Associate Dean M.A.; LL.B. (University of Delhi); LL.M.; Ph.D. (NLSIU, Bangalore) LLM from National Law School of India University, Bengaluru; she did her LL.B. from Faculty of Law, Delhi University as well as M.A. and B.A. from Hindu College and DCAC from DU respectively. Neha has been a Visiting Fellow, School of Social Work, Michigan State University, 2016 and invited speaker Panelist at Global Conference, Whitney R. Harris World Law Institute, Washington University in St.Louis, 2015.

Ms. Sumiti Ahuja

Ms. Sumiti Ahuja, Assistant Professor, Faculty of Law, University of Delhi, Ms. Sumiti Ahuja completed her LL.M. from the Indian Law Institute with specialization in Criminal Law and Corporate Law, and has over nine years of teaching experience. She has done her LL.B. from the Faculty of Law, University of Delhi. She is currently pursuing Ph.D. in the area of Forensics and Law. Prior to joining the teaching profession, she has worked as Research Assistant for projects funded by different agencies of Govt. of India. She has developed various audio-video teaching modules under UGC e-PG Pathshala programme in the area of Criminology, under the aegis of an MHRD Project. Her areas of interest are Criminal Law, Law of Evidence, Interpretation of Statutes, and Clinical Legal Education.



Dr. Navtika Singh

Nautiyal



Dr. Navtika Singh Nautiyal presently working as an Assistant Professor in School of law, Forensic Justice and Policy studies at National Forensic Sciences University, Gandhinagar, Gujarat. She has 9 years of Teaching and Research Experience. She has completed her Philosophy of Doctorate in 'Intercountry adoption laws from Uttranchal University, Dehradun' and LLM from Indian Law Institute, New Delhi.

Dr. Rinu Saraswat



Associate Professor at School of Law, Apex University, Jaipur,
M.A, LL.M, Ph.D,

Dr. Rinu have 5 yrs of teaching experience in renowned institutions like Jagannath University and Apex University. Participated in more than 20 national and international seminars and conferences and 5 workshops and training programmes.

Dr. Nitesh Saraswat

E.MBA, LL.M, Ph.D, PGDSAPM

Currently working as Assistant Professor at Law Centre II, Faculty of Law, University of Delhi. Dr. Nitesh have 14 years of Teaching, Administrative and research experience in Renowned Institutions like Amity University, Tata Institute of Social Sciences, Jai Narain Vyas University Jodhpur, Jagannath University and Nirma University.

More than 25 Publications in renowned National and International Journals and has authored a Text book on Cr.P.C and Juvenile Delinquency law.



Subhrajit Chanda



BBA. LL.B. (Hons.) (Amity University, Rajasthan); LL. M. (UPES, Dehradun) (Nottingham Trent University, UK); Ph.D. Candidate (G.D. Goenka University)

Subhrajit did his LL.M. in Sports Law, from Nottingham Trent University of United Kingdoms, with international scholarship provided by university; he has also completed another LL.M. in Energy Law from University of Petroleum and Energy Studies, India. He did his B.B.A.LL.B. (Hons.) focussing on International Trade Law.

ABOUT US

WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal providededicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

WHITE BLACK
LEGAL

K.M NANAVATI V. STATE OF MAHARASHTRA

AUTHORED BY - AAKANKSHA SINGH

AIR 1962 SC 605

Facts:

People involved:

- Kawas Manekshaw Nanavati who was commander in the Indian Navy.
- Sylvia, who was born in England and was married to Kawas Nanavati.
- Prem Ahuja was a wealthy businessman who was a close friend of Nanavati.

Timeline:

- 18 April 1959- Nanavati returned from his ship. After returning on several occasions tried to be affectionate with his wife but she was behaving strangely to him.
- 27 April 1959- Sylvia confessed her relationship with Prem Ahuja to her husband. On the same day, he dropped Sylvia and two kids to the movie theater. He went to the naval base, collected his pistol on a false pretext from the store along with six bullets, completed his official duties and proceeded to Ahuja's office. Because he couldn't find him there he went to Prem's flat.
- Nanavati walked into Ahuja's bedroom and closed the door behind him. A little later, three shots rang out. Ahuja, clad only in a towel, lay slumped on the floor. Nanavati walked out of the apartment, past the cries of Mamie.
- Nanavati then went to the nearest Police station to surrender himself. ¹

¹<https://www.mansworldindia.com/entertainment/cinema/love-death-and-scandal-in-bombay-nanavati-case-inspired-film-rustom-the-real-story/amp/>

Arguments:

K.M. Nanavati:

- The defense team put forward that the shooting happened because of sudden and grave provocation. They tried to put the act as **culpable homicide not amounting to murder**.
- The defense put forward their version of the incident. Hearing Sylvia's confession about her and Prem, an enraged Nanavati wanted to shoot himself, but was calmed down by Sylvia, who told him that he was not to be blamed and there was no reason that he should shoot himself. Since Sylvia did not tell him whether Prem intended to marry her, Nanavati sought to find it out for himself.² An angry Nanavati swore at Prem and asked him whether he would marry Sylvia and look after his children to which Prem replied, “will I marry every woman I sleep with?”, which further enraged Nanavati.

Prosecution Version:

- The prosecution's version of the story and their counter-points against the defense's version were based on replies by witnesses and backed by evidence.
- The towel that Ahuja was wearing was intact on his body and had neither loosened nor fallen off. In case of a scuffle, it is highly improbable that the towel would have stayed intact.
- After Sylvia's confession, a calm and collected Nanavati dropped his family to the theater, drove to his naval base and according to the Navy log, had acquired a gun and rounds, under false pretext. This indicated that the provocation was neither grave nor sudden but rather a planned murder.

Procedural history:

1. **Jury trial:** the jury in the greater Bombay sessions court had only one task: to pronounce a Nanavati guilty or not guilty under the charges. The jury in the greater Bombay session pronounced Nanavati as **not guilty** with an 8:1 verdict. Mr. Ratilal Bhaichand Mehta (the session judge) took a historic decision of overturning the jury's decision. He referred the case to the Bombay High court for a retrial³ as it was noticed that the jury had been influenced by the media.

² <http://judis.nic.in/supremecourt/qrydisp.asp?tfnm=4062>

³ <http://judis.nic.in/supremecourt/qrydisp.asp?tfnm=4062>

2. **Bombay High:** the high court agreed with the prosecution's argument. The bench held that the appellant was guilty under section 302 of IPC and sentenced him to undergo rigorous imprisonment for life.
3. **Supreme Court:** K.M. Nanavati appealed to the Supreme Court by Special leave petition and he also made an application to the governor. Thus, the matter came before the Supreme Court of India.

Questions raised:

1. Whether this act of murder comes under grave and sudden provocation and the culpable homicide not amounting to murder or not?
2. Whether the pardoning power of the governor and the special leave petition can be moved together?

Judgment-

The test of sudden and grave provocation:

- Along with many exceptions in section 300 of IPC one of them is sudden and grave provocation. It happens when a person is killed in the heat of the moment, that person is liable for culpable homicide and not amounting to murder.
- The test of "grave and sudden" provocation is whether a reasonable man, belonging to the same class of society as the accused, placed in the situation in which the accused was placed would be so provoked as to lose his self control.
- In K.M. Nanavati, an argument can be made that the final act of the deceased, where he stated, "Am I to marry every woman I sleep with?" Fulfills the requirement of immediacy.⁴

On the first issue, the Supreme Court upheld the judgment of the Bombay High Court, which held K.M. Nanavati guilty under section 302 Of IPC which talks about **Punishment for murder-** whoever commits murder shall be punished with death or imprisonment for life, shall be liable to fine.

⁴ <https://theleaflet.in/case-for-objective-standards-to-determine-grave-and-sudden-provocation-as-exception-to-murder/#:~:text=The%20graveness%20and%20suddenness%20of,the%20provocation%20of%20such%20nature.>

Reasoning:

1. There was a time lapse between Sylvia's confession and murder of Prem Ahuja. That was sufficient to regain self control.
2. Nanavati asked Ahuja whether he would marry Sylvia and take care of the children. So, he was thinking of the future of his wife and children. This indicates that he had not only regained his senses, but also was planning for the future.
3. Before shooting Ahuja, Nanavati abused him, which provoked an equally abusive reply. But this cannot be provocation for murder.⁵

Pardoning power of the governor and Special leave petition:

The apex court held that the governor's power to pardon and special leave petition could not be exercised simultaneously and both of them could not be moved together. If a special leave petition was filed before the Supreme Court then the pardoning power of the governor was terminated.⁶ The Supreme Court also held that the power of the governor's pardon application and the Special leave petition cannot be pursued simultaneously. If a special leave petition is issued, the governor's authority will be revoked.⁷

Reasoning:

The Supreme Court reasoned that as per the 'rule of statutory coexistence', if two statutes are found in conflict as their objectives are different, then the language of each statute is restricted to its own object or subject. They run parallel and never meet.⁸

Nanavati was pardoned by the governor **Vijay Lakshmi Pandit** after spending 3 years in jail.

significance:

- K.M. Nanavati case was one of the most famous jury trials in India. It changed the Indian justice system forever. It was one of the last cases to be heard as jury trial in India, as the

⁵ Important Judgment that transformed India by Alex Andrews George

⁶ <https://www.legalserviceindia.com/legal/article-9188-case-analysis-km-nanavati-v-s-state-of-maharashtra-1961-.html#:~:text=If%20a%20special%20leave%20petitioner,the%20powers%20conferred%20on%20him.>

⁷ <https://lawbhoomi.com/case-analysis-k-m-nanavati-v-the-state-of-maharashtra/>

⁸ Important Judgment that changed India by Alex Andrews George

government abolished jury trial as a result of the case.

- The case also goes to show the power media holds in creating perceptions about a person. As the weekly tabloid Blitz, owned by a Parsi himself, publicized the story, published exclusive cover stories and openly supported Nanavati. They portrayed him as a wronged husband and upright officer, betrayed by a close friend.
- Such crimes with so many twists and turns weren't common in India. People found the whole incident to be interesting. The confessions made in the court were amusing to people and it shows. In 1963 'Yeh Rastey hain pyaar ke' was the first Bollywood Film which seemed to exploit the case. The famous 2016 film Rustom, starring Akshay Kumar, was a fictionalized account of the KM Nanavati Case. And till this day multiple T.V. Shows and movies are inspired by this case.



W H I T E B L A C K
L E G A L