

- vs - on 1 July, 2024

Author: Ananda Sen

Bench: Ananda Sen, Subhash Chand

IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P.(PIL) No. 3865 of 2024

Court on its own Motion

-versus-

The Union of India

...

Respondents

CORAM: SRI ANANDA SEN, J.

SRI SUBHASH CHAND, J.

01.07.2024 An issue which has been noted below needs utmost attention and is of concern, thus, we are taking up the same suo moto.

2. Today is a red letter day for the Indian Legal System. Three new laws, i.e., (1) Bhartiya Nagrik Suraksha Sanhita 2023; (2) Bhartiya Nyaya Sanhita, 2023 and Bhartiya Sakshya Sanhita is seeing the light of the day. All these three laws has been made effective from today, i.e., 1st July, 2024, replacing the Code of Criminal Procedure, 1973; Indian Penal Code, 1860 and Indian Evidence Act, 1872.

3. Since these three laws have entirely changed, several publishers have come forward to publish Bare Acts and Criminal Manuals. There are numerous publishers in the market and there is huge demand for these Bare Acts. Publishers have also printed these Bare Acts in huge quantity and the same have been and are being purchased by large number of people, including Advocates, Courts, Libraries, and Law Enforcing Agencies and several institutions. Thus, any publication of these laws are expected to be without any error. Any small error at any place will have a huge impact on interpretation of the law and also their applications. A small typographical error or an omission will lead to great injustice and embarrassment to all concerned even to the lawyers and Court.

4. While going through the "Bare Act - Bharatiya Nyaya Sanhita"

published by "Universal LexisNexis" we have found a major omission and error which goes to the root of one of the penal provision and in fact changes the interpretation and application of the same. The said error is in Bhartiya Nyay Sanhita 2023. Section 103 of the said Act provides for punishment of murder. Sub Section (1)

of Section 103 provides that whoever commits murder shall be punished with death or with imprisonment for life and shall also be liable to fine. The error is in Section 103 (2) of the said Act. Section 103(2) of Bharatiya Nyay Sanhita, as published and printed by "Universal LexisNexis" reads as under:-

"103. Punishment for Murder (1) ...

(2) When a group of five or more persons acting in concert commits murder on the ground of race, caste or community sex, place of birth, language, personal belief or any other ground each member of such group shall be punished with death or with imprisonment for life and cell also be liable to fine."

5. When we go through the Gazette Notification of the Bhartiya Nyaya Sanhita, 2023 bearing CG-DL-E-25122023-250883 dated December 25, 2023 downloaded from the website of the Ministry of Home, we find that Section 103(2) of the Bhartiya Nyaya Sanhita reads as under:-

Punishment	103(1) ...
for murder.	(2) When a group of five or more persons acting in concert commits murder on the ground of race,

caste or community, sex, place of birth, language, personal belief or any other similar ground each member of such group shall be punished with death or with imprisonment for life, and shall also be liable to fine.

6. In Section 103(2) of the Bharatiya Nyay Sanhita, published and printed by "Universal LexisNexis" the word "similar" after the phrase "or any other" and before the word "ground" has been omitted. This omission of the word has a huge impact. This omission in the publication made by Universal LexisNexis, in fact, entirely changes the intent, purport and interpretation of Section 103(2) of the Bharatiya Nyaya Sanhita. This will give a wrong impression to all person concerned and there are high probabilities that by these provisions as printed and published by "Universal LexisNexis", may cause injustice.

The error apparent is substantiated from the fact that a comment based on the notes of the Bill has also been printed in the Bare Act, wherein the phrase "or any other similar ground" has been mentioned.

7. We have also gone through several other publications like Professional Book Depot, Delhi; Kamal Law House, Kolkata, Eastern Book Company and other publishers, where we find that in all these publications, the word "similar" finds places, which is there as per the Gazette Notification.

8. We are not saying that this error is deliberate, but may be a human error and might have been caused due to oversight, but this error can become fatal and embarrassing to all concerned, thus, it needs to be cured immediately.

9. Publisher, Universal LexisNexis should immediately take urgent appropriate steps to rectify this error without any delay as because naturally large number of copies of this Bare Acts and Criminal Manual must have been published and sold to numerous advocates, Courts, institutions and individuals. By way of immediate measure, they should highlight this error and publish prominently a corrigendum along with correct provision in each and every National Newspaper of the country published in English and also in all leading Newspapers, published in vernacular languages which have wide circulation in each and every State and Union Territory of the country. This publication must be given prominence so that it catches the eyes of all the readers very easily.

10. Further, Bare Acts and Criminal Manual published by Universal LexisNexis so far as Bharatiya Nyaya Sanhita is concerned, which have not been sold and are lying with the Book Sellers or Distributors, should not be sold further unless its contents are rectified and corrected. They should be sold only after carrying necessary rectification / correction.

11. Further, Universal LexisNexis will inform this Court as to what steps they are taking to make necessary correction in relation to their Bare Acts and Criminal Manual so far as Bharatiya Nyaya Sanhita is concerned, which has been sold and supplied to the Advocates, Institutions and public at large.

12. Let a copy of the Bharatiya Nyaya Sanhita, 2023 printed and published by the Universal LexisNexis and a copy of the Gazette Notification bearing CG-DL-E-25122023-250883 dated December 25, 2023 be kept on record.

13. Let Universal LexisNexis (A Division of RELX India Pvt. Ltd.), 14th Floor, Building No.10, Tower-B, DLF Cyber City, Phase-II, Gurgaon- 122002, Haryana, India be made a party respondent in this case.

14. Considering the urgency of the matter, as we have taken up this matter suo moto and passed this order. Let this matter be placed before Hon'ble the Acting Chief Justice.

15. Let a copy of this order be immediately communicated to Universal LexisNexis on their email and also through fax. Copies of this order be also handed over to the Advocate General, Jharkhand; Chairman, Jharkhand State Bar Council; and the President, Advocates' Association, High Court of Jharkhand for wide circulation and a copy of this order be also reflected in the website of the High Court of Jharkhand.

(Ananda Sen, J.) (Subhash Chand, J.)