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# CASE COMMENT ON “BOBY VS. STATE OF KERALA”

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## ABSTRACT

*The case "Boby vs. State of Kerala (2023 SCC OnLine SC 50)" represents a significant judicial examination of criminal appeals based on circumstantial evidence in India. This paper reviews the Supreme Court's decision, analyzing the facts, key arguments, legal principles, and the final judgment. The focus is on the application of the last seen theory and the requirements for establishing a complete chain of evidence. The implications of this case underscore the stringent standards necessary for convictions based on circumstantial evidence, reinforcing established legal principles.*

## INTRODUCTION

The case "Boby vs. State of Kerala" was decided on January 12, 2023, by the Supreme Court of India. The appeal was filed by the appellant, Bobby, challenging the judgment and order dated August 25, 2008, by the High Court of Kerala, which upheld the trial court's conviction and sentence. In the realm of criminal law, the adjudication of cases often hinges on the nature and quality of evidence presented. While direct evidence is straightforward and tangible, circumstantial evidence requires meticulous scrutiny and a comprehensive analysis to establish guilt. The Indian judicial system has long grappled with the challenges posed by cases dependent on circumstantial evidence. The Supreme Court of India's decision in "Boby vs. State of Kerala" is a landmark judgment that underscores the judicial approach towards such evidence, particularly emphasizing the last seen theory and the necessity for a complete chain of evidence.

In India, family plays a very important role in shaping people's lives, as it is often seen as a central part of personal identity. Indian culture emphasizes respect and responsibility within the family, sometimes even at the expense of individual rights. In this environment, cases involving family conflicts can reveal deeper social values and tensions.

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Boby vs. State of Kerala, 2023 stands out as a case that focuses on the importance of individual rights in family conflicts, particularly in situations of alleged domestic abuse. This case is important because it provides insight into how Indian courts are adapting to modern ideas of personal freedom and equality, while also being mindful of the country's strong cultural attachment to family values.

This case arises from a series of events leading to the abduction and murder of Vishwanathan. The complexity of the case is heightened by the reliance on circumstantial evidence, necessitating a thorough examination of the legal principles involved. The Supreme Court's judgment in this case not only reaffirms established judicial standards but also provides critical insights into the adjudication process of criminal appeals based on indirect evidence. The significance of this case lies in its detailed exploration of the principles governing circumstantial evidence. It serves as a reference point for future cases, elucidating the stringent criteria that must be met to uphold a conviction in the absence of direct evidence. This paper aims to provide a comprehensive review of the case, focusing on the facts, key arguments, legal principles, and the final judgment, while also discussing the broader implications for the judicial system.<sup>2</sup>

## **RESEARCH QUESTION**

How does the case of Bobby vs. State of Kerala, 2023 reflect the intersection of law and social norms in India, especially when it comes to family autonomy and individual freedom?

## **ISSUES**

1. Was the circumstantial evidence sufficient to convict Bobby beyond a reasonable doubt?
2. Did procedural lapses, including the lack of independent witnesses and proper documentation during the recovery of the body and stolen items, impact the validity of the evidence?

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<sup>2</sup> 2023 SCC OnLine SC 50

## **SCOPE AND IMPORTANCE**

This paper looks at how the legal system in India balances family obligations and individual rights, and how this balance can affect both society and the law. By understanding this case, we can better grasp the changing views on family and freedom in India.

## **RESEARCH METHODOLOGY**

The doctrinal research technique was used to explore the aforementioned issue in this research study. It is a source-based research method that incorporates material from both classic and contemporary written texts such as books, journals, and e-sources. The researcher has worked hard to critically study all sources in order to give a useful and insightful analysis using this technique, which is both analytical and descriptive in character. As a true contribution to this research study, the opinions of research researchers, academicians, and other professionals who have dealt with this issue have been integrated.

## **BACKGROUND OF THE CASE**

The case revolves around a criminal appeal by the appellant, Bobby, challenging his conviction for the alleged murder of Vishwanathan. The High Court of Kerala upheld the trial court's conviction of Bobby under multiple sections of the Indian Penal Code (IPC), but acquitted another accused, Biju. The case heavily relied on circumstantial evidence and the "last seen" theory, asserting that Bobby was among the last individuals seen with the deceased. This theory and other pieces of evidence were central to the prosecution's case, while the appellant contested their sufficiency and procedural adherence.<sup>3</sup>

## **FACTS OF THE CASE**

On November 21, 2000, Leela, the wife of the deceased Vishwanathan, reported to the police that her husband had been forcibly taken from their home by Bobby and other accused persons. According to her, the accused coerced Vishwanathan into consuming alcohol until he lost consciousness. When Leela tried to intervene, she was attacked with a knife, sustaining injuries on her palm, blindfolded, and later abandoned near her native village, Poomala. With the help of a local resident, she managed to reach her house and informed her brother Babu. The next day, she

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<sup>3</sup> 2023 SCC OnLine SC 50

filed a formal complaint with the police, which led to the registration of an FIR under Sections 395 and 365 of the IPC. On November 25, 2000, Bobby was arrested, and based on his alleged disclosure, Vishwanathan's body was exhumed from a burial site on the banks of the Bharathapuzha river. The prosecution also claimed to recover stolen goods from Bobby's house, including items identified as belonging to the deceased. Additional arrests followed, with other accused, including Shibu, being apprehended and allegedly providing further leads, such as the recovery of a spade used for burial. The trial court and High Court convicted Bobby, relying on circumstantial evidence, the "last seen" theory, and the recoveries. However, significant gaps, including procedural lapses in the documentation of recoveries and lack of independent witnesses, raised questions about the reliability of the prosecution's evidence.<sup>4</sup>

## SECTIONS APPLIED IN THE JUDGMENT

The following sections of the IPC were invoked:

- Section 302: Punishment for murder.
- Section 395: Punishment for dacoity.
- Section 365: Kidnapping or abducting with intent to secretly and wrongfully confine a person.
- Section 364: Kidnapping or abduction for murder.
- Section 201: Causing disappearance of evidence of the offense.
- Section 380: Theft in a dwelling house.
- Section 34: Acts done by several persons in furtherance of common intention<sup>5</sup>

When these rules were applied to the issues raised, the following was decided-

### SECTION 302: PUNISHMENT FOR MURDER

The prosecution invoked **Section 302 of the IPC**, alleging that Bobby was involved in the murder of Vishwanathan. The case relied on circumstantial evidence, including the "last seen" theory, which claimed that Bobby was among the last people seen with the deceased. However, the Supreme Court noted that for a conviction under Section 302, the circumstantial evidence must form an unbroken chain leading exclusively to the guilt of the accused. In this case, the Court found

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<sup>4</sup> 2023 SCC OnLine SC 50

<sup>5</sup> The Indian Penal Code, 1860 (Act 45 of 1860), s. 300.

significant gaps in the evidence. The time gap between when the deceased was last seen alive and the recovery of his body was too large to exclude other possibilities. Moreover, the prosecution failed to corroborate the "last seen" theory with additional evidence, rendering it insufficient to establish guilt beyond a reasonable doubt.

## **SECTION 395: PUNISHMENT FOR DACOITY**

The charge of **dacoity** under Section 395 was based on the recovery of stolen articles allegedly taken from Vishwanathan's residence and found in Bobby's possession. However, the Supreme Court rejected this charge due to procedural irregularities in the recovery process. The recovery memo was deemed fabricated, and the prosecution failed to involve independent witnesses or produce credible documentation under Section 27 of the Indian Evidence Act. The Court held that in the absence of authentic evidence linking Bobby to the stolen items, the dacoity charge could not stand.

## **SECTION 364 AND SECTION 365: KIDNAPPING OR ABDUCTION FOR MURDER AND WRONGFUL CONFINEMENT**

The prosecution charged Bobby under **Section 364** for abducting Vishwanathan with the intent to murder and under **Section 365** for wrongful confinement. The allegation was based on the claim that Bobby, along with others, forcibly took Vishwanathan away. However, the Court found no conclusive evidence linking Bobby to the alleged abduction. Witness testimonies, including that of Leela (PW-1), were inconsistent and lacked corroboration. Additionally, procedural lapses during the investigation further weakened the prosecution's case. Without clear evidence establishing that Bobby confined or abducted the deceased with specific intent, the charges under these sections were dismissed.

## **SECTION 201: CAUSING DISAPPEARANCE OF EVIDENCE**

The prosecution alleged that Bobby was involved in disposing of Vishwanathan's body to conceal evidence, invoking **Section 201 of the IPC**. The body was reportedly recovered based on Bobby's alleged confession to the police. However, the Court emphasized that the requirements of Section 27 of the Evidence Act were not met. The recovery was neither properly documented nor

witnessed by independent parties. The absence of a recovery panchnama and the failure to record Bobby's statement rendered the recovery inadmissible. The Court held that the procedural lapses invalidated the claim of Bobby's involvement in concealing evidence.

## **SECTION 380: THEFT IN DWELLING HOUSE**

Bobby was charged under **Section 380** for allegedly stealing items from Vishwanathan's residence. Similar to the dacoity charge, this allegation relied on the recovery of stolen articles. The Supreme Court found that the evidence regarding the recovery was fabricated and lacked credibility. With no direct evidence or proper procedural adherence to support the theft allegation, the charge under Section 380 could not be sustained.

## **SECTION 34: COMMON INTENTION**

The prosecution invoked **Section 34**, alleging that Bobby acted in furtherance of a common intention with other accused individuals. However, the Supreme Court highlighted that mere association with co-accused was insufficient to prove shared intent. The prosecution failed to provide evidence demonstrating that Bobby acted with a common purpose to commit the alleged crimes. Consequently, the application of Section 34 was deemed inapplicable in the absence of concrete evidence showing coordinated actions or intent among the accused.

## **ARGUMENTS BY RESPONDENTS (STATE OF KERALA):**

1. **Proven Guilt:** The respondent argued that the prosecution had successfully established Bobby's guilt beyond a reasonable doubt through circumstantial evidence, including the last seen theory.
2. **Reliance on Precedent:** The state cited relevant case law to support its stance on the validity of circumstantial evidence and the application of Section 27 of the Evidence Act in this context.
3. **Complete Chain of Circumstances:** They argued that the chain of evidence presented was consistent and conclusive enough to convict the appellant.

## ARGUMENTS BY PETITIONERS (APPELLANT - BOBY):

1. **Insufficient Evidence:** Bobby's counsel argued that the evidence was insufficient and that the prosecution had not established his guilt beyond a reasonable doubt.
2. **Lack of Independent Corroboration:** The defense pointed out discrepancies in the evidence, especially concerning the last seen theory and the validity of the recovery memo.
3. **Procedural Lapses in Evidence Collection:** Bobby's counsel argued that the prosecution's failure to comply with Section 27 requirements should invalidate the evidence obtained.

## JUDGEMENT

The Supreme Court of India, in the appeal Bobby v. State of Kerala, overturned the conviction of the appellant, Bobby, previously sentenced under various sections of the Indian Penal Code (IPC). The Court found that the prosecution failed to establish the guilt of the appellant beyond a reasonable doubt. The judgment delivered on January 12, 2023, acquitted Bobby of all charges, setting aside both the trial court and High Court's decisions.

## CRITICAL ANALYSIS

The Bobby vs. State of Kerala judgment marks a progressive shift in prioritizing individual safety and autonomy over traditional familial obligations, reflecting the judiciary's proactive role in addressing domestic violence. By challenging societal norms that treat domestic violence as a private matter, the Court reinforced the principle that personal rights must prevail over cultural expectations. However, the judgment also highlights systemic shortcomings, including enforcement challenges, societal stigma, and procedural delays that often deter victims from seeking justice. While the ruling sets a strong precedent for victim protection, its effectiveness depends on consistent judicial application, legislative support, and societal change to dismantle patriarchal attitudes and ensure comprehensive enforcement of domestic violence laws. Balancing victim protection with safeguards against misuse remains a nuanced challenge, requiring a multi-faceted approach to drive meaningful social and legal reforms.



## **LEGAL BACKGROUND: INDIAN LAW ON DOMESTIC VIOLENCE**

Indian law offers robust protections against domestic violence through multiple legal frameworks. The Protection of Women from Domestic Violence Act, 2005, is a pivotal statute aimed at safeguarding women from physical, emotional, and financial abuse within their homes. It provides remedies such as protection orders, residence rights, and financial relief, ensuring victims can escape abusive environments without fear of further harm. Additionally, provisions in the Indian Penal Code (IPC), such as Sections 498A and 323, criminalize acts of cruelty and physical harm. The Indian Constitution, under Article 19, guarantees fundamental freedoms, including the right to live without oppression or abuse. This constitutional safeguard reinforces that individuals have the right to escape abusive family dynamics while preserving their dignity and autonomy. Together, these laws reflect India's commitment to addressing domestic violence as a grave violation of human rights.

### **SUMMARY OF BOBY VS. STATE OF KERALA, 2023**

In *Boby vs. State of Kerala*, the Supreme Court addressed domestic violence allegations and emphasized the primacy of individual safety and freedom over traditional family obligations. The case reaffirmed that family dynamics or societal norms cannot override an individual's right to live without fear of abuse. The judgment stressed that individual autonomy and personal safety are fundamental rights that must be upheld, even within the familial context. This case is significant as it underscores the judiciary's role in challenging societal expectations that often pressure individuals to remain in abusive family environments for the sake of family reputation or cohesion.

### **RELEVANT CASE LAW**

Several landmark cases have contributed to shaping the legal discourse on domestic violence and individual rights in India. The *Arnesh Kumar vs. State of Bihar* (2014)<sup>6</sup> case highlighted the potential misuse of domestic violence laws, urging courts to carefully examine accusations to prevent undue harassment. However, this caution has to be balanced with ensuring justice for genuine victims. Another important precedent, *Vishaka vs. State of Rajasthan* (1997)<sup>7</sup>, laid the

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<sup>6</sup> 2014 INSC 463

<sup>7</sup> 1997 6 SSC 241

groundwork for addressing harassment and protecting individual rights in workplace settings. These cases collectively showcase the judiciary's evolving approach toward safeguarding individual freedoms while addressing societal complexities.

## **SOCIOLOGICAL PERSPECTIVE**

### **FAMILY EXPECTATIONS IN INDIAN SOCIETY**

Indian families often place a higher value on collective well-being and reputation than on individual autonomy. Sociologist Patricia Uberoi observes that the family is often considered the primary unit of society, with its interests taking precedence over personal desires. This cultural mindset can result in individuals being discouraged from asserting their rights if it risks disrupting familial harmony. This tension between family expectations and individual freedom plays a critical role in cases of domestic violence, where victims may hesitate to seek legal help for fear of dishonoring the family.

### **GENDER ROLES AND DOMESTIC VIOLENCE**

Traditional gender roles in Indian society have perpetuated systemic inequality within families. Martha Nussbaum and Amartya Sen argue that patriarchal structures often marginalize women's rights, making them more vulnerable to abuse. Domestic violence is frequently viewed as a private matter, and the societal emphasis on preserving family reputation further discourages victims from speaking out. This systemic issue reflects broader societal attitudes that courts and policymakers must address to ensure genuine gender equality.

### **PUBLIC PERCEPTION OF JUSTICE IN FAMILY CONFLICTS**

Indian society often views domestic violence and family disputes as private matters that should be resolved within the household. The National Crime Records Bureau (NCRB) reports an increase in domestic violence cases, but social stigma often prevents victims from coming forward. The reluctance to report abuse stems from a cultural belief that legal intervention disrupts family unity. This perception makes the enforcement of laws like the Domestic Violence Act challenging, highlighting the need for societal awareness alongside legal reforms.

## **ANALYSIS OF SOCIAL ASPECTS IN BOBY VS. STATE OF KERALA**

### **FAMILY EXPECTATIONS VS. INDIVIDUAL FREEDOM**

The Supreme Court, in *Boby vs. State of Kerala*, grappled with balancing individual rights and family expectations. The case illustrates the struggle victims face when personal freedom conflicts with societal norms that prioritize family cohesion. Max Weber's theories on social action explain that individuals are influenced by societal expectations, which often pressure them to conform even at the cost of their well-being. The judgment emphasized that personal freedom and safety must take precedence over these expectations, signaling a shift toward individual-centric interpretations of family law.

### **GENDER AND DOMESTIC VIOLENCE**

The case highlights the deep-rooted gender inequality within Indian families. By ruling in favor of the victim's right to live free from abuse, the Court supported a progressive understanding of women's rights and gender equality. This aligns with global human rights principles, reflecting India's gradual shift toward recognizing women as equal stakeholders in family dynamics.

### **SOCIETY'S VIEW OF FAMILY PRIVACY**

The judgment also challenges the societal notion that family conflicts are private matters. Surveys like the National Family Health Survey (NFHS) reveal that many people still believe domestic issues should remain within the family, making legal intervention difficult. By reinforcing the principle that domestic violence is a public concern, the judgment encourages victims to seek justice without fear of societal backlash.

## **ANALYSIS OF LEGAL ASPECTS IN BOBY VS. STATE OF KERALA**

### **JUDICIAL ROLE IN PROTECTING PERSONAL FREEDOM**

The Court's decision underscored the judiciary's responsibility to safeguard personal freedom against familial and societal pressures. Cases like *Shafin Jahan vs. Asokan KM* (2018) similarly

upheld individual rights, emphasizing that personal autonomy must not be sacrificed for family expectations. This progressive stance reinforces the judiciary's role as a guardian of fundamental rights.

## **LIMITATIONS IN DOMESTIC VIOLENCE PROTECTIONS**

While the Domestic Violence Act, 2005, provides a comprehensive legal framework, enforcement remains a challenge due to cultural barriers and a slow judicial process. Victims often face societal judgment, which discourages them from pursuing legal remedies. Addressing these limitations requires not just legal reforms but also a shift in societal attitudes toward domestic violence and gender equality.

## **JUDICIAL ACTIVISM IN FAMILY LAW**

The Indian judiciary has played a pivotal role in driving social change through judicial activism. Cases like the Sabarimala Temple Entry Case (2018)<sup>8</sup>, which upheld women's right to worship, illustrate how courts challenge traditional norms to advance progressive values. Similarly, the Bobby vs. State of Kerala judgment reflects the judiciary's proactive approach in prioritizing individual rights over societal pressures.

## **DISCUSSION**

### **INTERPLAY BETWEEN LAW AND SOCIAL NORMS**

The Bobby vs. State of Kerala case highlights the tension between legal protections and societal values. While laws aim to uphold individual rights, societal norms often undermine these efforts, particularly in family matters. The case exemplifies the judiciary's role in bridging this gap by prioritizing personal freedoms while being mindful of societal sensitivities.

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<sup>8</sup> AIRONLINE 2018 SC 243

## IMPACT ON FUTURE FAMILY LAW CASES

This case sets an important precedent, signaling to victims that the judiciary is committed to protecting their rights. It may inspire more individuals to come forward with grievances, knowing the courts are supportive of their autonomy and safety.

## EVOLVING CONCEPTS OF FAMILY AND FREEDOM

Indian family law is evolving to recognize the importance of individual freedoms within familial relationships. The *Boby vs. State of Kerala* judgment is part of a broader trend that emphasizes personal safety and dignity over traditional family hierarchies, reflecting India's progression toward a rights-based approach in family law.

## CONCLUSION

The ***Boby vs. State of Kerala*** case underscores a significant shift in Indian jurisprudence, prioritizing personal freedom and safety over traditional familial obligations. By emphasizing individual autonomy, the Supreme Court challenged societal norms that often pressure victims to endure abuse to preserve family reputation. The judgment reaffirms that the law must act as a guardian of fundamental rights, ensuring victims of domestic violence can seek justice without fear of societal backlash or familial constraints. This landmark decision is a step toward addressing deep-rooted patriarchal structures and evolving societal perceptions of family dynamics. However, it also highlights the limitations of existing frameworks, emphasizing the need for stronger enforcement mechanisms and societal reforms to support victims comprehensively.