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Aano Bhadra Krtavo Yantu Vishwatah.(RIG VEDAM)
"Let Noble Thoughts Come To Me From All Directions"

स्वस्त्यस्तु ते कुशलम अस्तु चिरायरस्तु,
गोत्राभिवृद्धि धन-धान्य समृद्धिरस्तु ।
ऐश्वर्यमस्तु बलमस्तु रिपुक्ष्योस्तु,
वंशे सदैव भवताम हरि - भक्तिरस्तु।।

It means, Fortune be on you, may you be happy and be good on you, may you live long life, may your family goodwill spread across and earn you name and fame, may you be wealthy, prosperous and have sufficient supplies of food, cereals, may you be prosperous, gain opulence, may you gain strength, power, and all your enemies vanish, may your family-name and generations always be devoted to the almighty and do good things always.... Jai Ho !!!

HAPPY NEW YEAR

CITATIONS

"forthwith," under Section 3(4), does not mean instantaneous, but without undue delay and within reasonable time. Whether the authority passing the detention order reported the detention to the State Government within reasonable time and without undue delay, is to be ascertained from the facts of the case.
Any delay between the date of detention and the date of submitting the report to the State Government, must be due to unavoidable circumstances beyond the control of the authority and not because of administrative laxity.
2018 0 AIR(SC) 3419; 2018 3 Crimes(SC) 191; 2018 7 JT 141; 2018 2 KLD 327; 2018 3 LawHerald(SC) 1903; 2018 3 RCR(Cri) 838; 2018 9 Scale 56; 2018 9 SCC 562; 2018 3 SCC Cri 801; 2018 3 SCC(Cri) 801; 2018 6 Supreme 693; 2018 0 Supreme(SC) 727; 2018(3) ALT (Crl) 322(SC); https://indiankanoon.org/doc/60836732/; HETCHIN HAOKIP VS STATE OF MANIPUR & ORS.

Any opinion of the doctor that such injury could be caused by a fall, does not establish the injury as due to fall, as a fact but remains a mere expression of an opinion.
The serologist report was an expert opinion under Section 45 of the Evidence Act,1872 and was therefore admissible in evidence without being marked an exhibit formally or having to be proved by oral evidence.
It would indeed be a travesty of justice in the peculiar facts of the present case if the appellant were to be acquitted merely because the prosecutrix turned hostile and failed to identify the appellant in the dock, in view of the other overwhelming evidence available.
2018 0 AIR(SC) 4760; 2018 3 GLH 450; 2018 0 Supreme(SC) 957; 2018(3) ALT (Crl) 328(SC); 2018(2) ALD(Crl) 946(SC); https://indiankanoon.org/doc/171003922/; HEMUDAN NANBHA GADHVI Vs STATE OF GUJARAT.

There is no dispute that Section 55 of the FSS Act provides for penalty to be imposed for non compliance of the requirements of the Act, Rules or Regulations or orders issued thereunder by the Food Safety Officer. But, we are afraid that we cannot agree with the conclusion of the High Court that non compliance of the provisions of the Act, Rules or Regulations or orders cannot be subject matter of a prosecution under IPC unless expressly or impliedly barred. The High Court is clearly wrong in holding that action can be initiated against defaulters only under Section 55 of FSS Act or proceedings under Section 68 for adjudication have to be taken. A further error was committed by the High Court in interpreting the scope of Section 188 of the IPC. Section 188 of the IPC does not only cover breach of law and order, the disobedience of which is punishable. Section 188 is attracted even in cases where the act complained of causes or tends to cause danger to human life, health or safety as well. We do not agree with the High Court that the prohibitory order of the Commissioner, Food and Safety is not an order contemplated under Chapter X of the IPC. We are also not in a position to accept the findings of the High Court that Section 55 of the FSS Act is the only provision which can be resorted to for non compliance of orders passed under the Act as it is a special enactment.

There is no bar to a trial or conviction of an offender under two different enactments, but the bar is only to the punishment of the offender twice for the offence. Where an act or an omission constitutes an offence under two enactments, the offender may be prosecuted and punished under either or both enactments but shall not be liable to be punished twice for the same offence [T.S. Baliah v. T.S. Rengachari, (1969) 3 SCR 65]. The same set of facts, in conceivable cases, can constitute offences under two different laws. An act or an omission can amount to and constitute an offence under the IPC and at the same time, an offence under any other law [State of Bihar v. Murad Ali Khan, (1988) 4 SCC 655].

2018 0 AIR(SC) 5348; 2018 4 KHC 647; 2018 2 KLD 470; 2018 0 Supreme(SC) 907; 2018(3) ALT (Crl) 365(SC) ; https://indiankanoon.org/doc/162989021/; STATE OF MAHARASHTRA VS SAYYED HASSAN SAYYED SUBHAN & ORS

We strongly feel that it is high time for the Police to refrain from floating such fanciful theories and taking the Courts for a ride. They cannot be permitted to come out with incredulous versions with the sole aim of securing convictions at any cost without carrying out methodical and scientific investigation.

2018 0 Supreme(AP) 409; 2018(3) ALT (Crl) 413(DB); UMMADABOINA NAGAIAH AND OTHERS VS STATE OF A.P.

The Special Public Prosecutor relies on a notification, which was issued in the year 2009, subsequent to the above decision, which is dated 18.11.2009 to contend that the entire material consisting traces of Alorazolam has to be treated as Alprazolam. The notification is as under:

> "(4) The quantities shown in column 5 and column 6 of the Table relating to the respective drugs shown in column 2 shall apply to the entire mixture or any solution or any one or more narcotic drugs or psychotropic substances of that particular drug in dosage from or isomers, esters, ethers and salts of these drugs, including salts of esters/ ethers and isomers, wherever existence of such substance is possible and not just its pure drug content. "

The notification specifies that the quantities shown in column 5 and column 6 relating to respective drugs shown in column 2 shall apply to the entire mixture of that particular drug in dosage form or isomers, esters, ethers and salts of these drugs, including salts of esters, ethers and isomers, wherever existence of such substance is possible and not just its pure drug content. This Court understands that the said notification as meaning that mixture, which is in dosage form etc. and the existence of psychotropic substance is possible. The definition of dosage form, isomers, esters, ethers and salts of drugs is not given in the Act but the definition s,f those terms in the dictionary can be borrowed and the case facts do not show that the substance i.e. Alprazolam was mixed with any of the above material.

BANDARU HANUMANTH REDDY VS SENIOR INTELLIGENCE OFFICER, DRI, HYD.; http://distcourts.tap.nic.in/hcorders/2018/202100014092018_1.pdf; 2018(3) ALT(Crl) 404;

It is settled law that, even if chemical examiner is not examined, his report is admissible in evidence and no formal proof is required under Section 293(4)(a) of Cr.P.C.

It cannot be disputed that a statement, which merely explains the production of material and which does not lead to its discovery, is not admissible under the provisions of Section 27 of the Evidence Act. The Court must distinguish between the cases where discovery is made in consequence of information given and a disclosure by an accused accompanying a statement. The information permitted to be admitted in evidence is confined to that portion of information which distinctly relates to the fact thereby discovered. The recovery of ornaments from A-2 does not come under Section 27 of Evidence Act, as initially, the Police chased and caught hold of A-2, who was holding one bag in his hand. After confession made by A-2, the Inspector of Police seized the said bag and observed the said bag in the presence of mediators. Therefore, recovery from A-2 is admissible under Section 27 of Evidence Act.
It is necessary to prove that, at the time of committing robbery, the offender was armed with deadly weapons.
2018(3) ALT (Crl) 442(DB)(HC); Dakkata Balaramreddy & Anr Vs State of A.P.; http://distcourts.tap.nic.in/hcorders/2016/crla/crla_915_2016.pdf;

Very often we see that the learned Advocates who appear in matters entrusted by the Supreme Court Legal Services Committee, do not have the advantage of having had a dialogue with either the accused or those who are in the know of the details about the case. This at times seriously hampers the efforts on part of the learned Advocates. All such attempts to facilitate dialogue between the counsel and his client would further the cause of justice and make legal aid meaningful. We, therefore, direct all Legal Services Authorities/Committees in every State to extend similar such facility in every criminal case wherever the accused is lodged in jail. They shall extend the facility of video conferencing between the counsel on one hand and the accused or anybody in the know of the matter on the other, so that the cause of justice is well served.
2018 4 KHC 878; 2018 2 KLD 615; 2018 9 SCC 160; 2018 3 SCC Cri 721; 2018 0 Supreme(SC) 812; IMTIYAZ RAMZAN KHAN VS STATE OF MAHARASHTRA; https://indiankanoon.org/doc/177710565/;

Evidence of a witness is not to be disbelieved simply because he has not reacted in a particular manner.
Relationship with deceased cannot be the reason for doubting the testimony of a witness.
Omission of names in FIR not fatal to prosecution story.
Truthfulness of eye witness evidence corroborated by medical evidence warrants conviction.
In an appeal against acquittal the appellate court is duty bound to reappreciate the evidence.
2018 0 AIR(SC) 3245; 2018 3 Crimes(SC) 208; 2018 3 JLJR(SC) 314; 2018 6 JT 511; 2018 9 SCC 429; 2018 3 SCC Cri 738; 2018 0 Supreme(SC) 711; MOTIRAM PADU JOSHI AND OTHERS Vs STATE OF MAHARASHTRA; http://www.advocatekhoj.com/library/judgments/announcement.php?WID=10253 ;
This Court in the case of Udai Shankar Awasthy v. the State of U.P. [(2013) 2 scc 435, para 30] has observed that “the law does not prohibit filing or entertaining of the second complaint even on the same facts provided the earlier complaint has been

decided on the basis of insufficient material or the order has been passed without understanding the nature of the complaint or the complete facts could not be placed before the Court, or where the complainant came to know certain facts after disposal of the first complaint which could have tilted the balance in his favour. However, the second complaint would not be maintainable wherein the earlier complaint has been disposed on full consideration of the case of the complainant on merit".

2018 0 AIR(SC) 3242; 2018 3 Crimes(SC) 214; 2018 0 CrLJ 3909; 2018 3 JLJR(SC) 311; 2018 6 JT 507; 2018 2 KLD 296; 2018 9 SCC 440; 2018 0 Supreme(SC) 712; https://indiankanoon.org/doc/93109141/; OM PRAKASH SINGH Vs. THE STATE OF BIHAR & ORS.

The materials on record also indicate that the prosecutrix remained in the company of the accused appellant for about 12 days until she was recovered and that she had freely moved around with the accused appellant in the course of which movement she had come across many people at different points of time. Yet, she did not complain of any criminal act on the part of the accused appellant.

The Certificate issued by school authorities basing on the entries in the admission form made by parents is not conclusive proof of the age, unless the age certificate source of such declaration is exhibited in the court.

the evidence of Dr. Neelam Gupta (P.W.8) a Radiologist working in the Civil Hospital, Nalagarh had given an opinion that the age of the prosecutrix was between 17 to 18 years. The benefit was given in favour of the accused, by holding that the prosecutrix was a major.

2018 9 SCC 248; 2018 3 SCC Cri 753; 2018 0 Supreme(SC) 1124; RAJAK MOHAMMAD VS STATE OF HIMACHAL PRADESH; https://indiankanoon.org/doc/60816700/;

A. Preventive Measures

(i) The State Governments shall designate, a senior police officer, not below the rank of **Superintendent of Police, as Nodal Officer in each district.** Such Nodal Officer shall be assisted by one of the DSP rank officers in the district for taking measures to prevent incidents of mob violence and lynching. They shall constitute a special task force so as to procure intelligence reports about the people who are likely to commit such crimes or who are involved in spreading hate speeches, provocative statements and fake news.

(ii) The State Governments shall forthwith identify Districts, Sub-Divisions and/or Villages where instances of lynching and mob violence have been reported in the recent past, say, in the last five years. **The process of identification should be done within a period of three weeks from the date of this judgment,** as such time period is sufficient to get the task done in today's fast world of data collection.

(iii) The Secretary, Home Department of the concerned States shall issue directives/advisories to the Nodal Officers of the concerned districts for ensuring that the Officer In-charge of the Police Stations of the identified areas are extra cautious if any instance of mob violence within their jurisdiction comes to their notice.

(iv) The Nodal Officer, so designated, shall hold regular meetings (at least once a month) with the local intelligence units in the district along with all Station House

Officers of the district so as to identify the existence of the tendencies of vigilantism, mob violence or lynching in the district and take steps to prohibit instances of dissemination of offensive material through different social media platforms or any other means for inciting such tendencies. The Nodal Officer shall also make efforts to eradicate hostile environment against any community or caste which is targeted in such incidents.

(v) The Director General of Police/the Secretary, Home Department of the concerned States shall take regular review meetings (at least once a quarter) with all the Nodal Officers and State Police Intelligence heads. The Nodal Officers shall bring to the notice of the DGP any inter-district co-ordination issues for devising a strategy to tackle lynching and mob violence related issues at the State level.

(vi) It shall be the duty of every police officer to cause a mob to disperse, by exercising his power under Section 129 of CrPC, which, in his opinion, has a tendency to cause violence or wreak the havoc of lynching in the disguise of vigilantism or otherwise.

(vii) The Home Department of the Government of India must take initiative and work in co-ordination with the State Governments for sensitising the law enforcement agencies and by involving all the stake holders to identify the measures for prevention of mob violence and lynching against any caste or community and to implement the constitutional goal of social justice and the Rule of Law.

(viii) The Director General of Police shall issue a circular to the Superintendents of Police with regard to police patrolling in the sensitive areas keeping in view the incidents of the past and the intelligence obtained by the office of the Director General. It singularly means that there should be seriousness in patrolling so that the anti-social elements involved in such crimes are discouraged and remain within the boundaries of law thus fearing to even think of taking the law into their own hands.

(ix) The Central and the State Governments should broadcast on radio and television and other media platforms including the official websites of the Home Department and Police of the States that lynching and mob violence of any kind shall invite serious consequence under the law.

(x) It shall be the duty of the Central Government as well as the State Governments to take steps to curb and stop dissemination of irresponsible and explosive messages, videos and other material on various social media platforms which have a tendency to incite mob violence and lynching of any kind.

(xi) The police shall cause to register FIR under Section 153A of IPC and/or other relevant provisions of law against persons who disseminate irresponsible and explosive messages and videos having content which is likely to incite mob violence and lynching of any kind.

(xii) The Central Government shall also issue appropriate directions/advisories to the State Governments which would reflect the gravity and seriousness of the situation and the measures to be taken.

B. Remedial Measures

(i) Despite the preventive measures taken by the State Police, if it comes to the notice of the local police that an incident of lynching or mob violence has taken place, the jurisdictional police station shall immediately cause to lodge an FIR, without any undue delay, under the relevant provisions of IPC and/or other provisions of law.

(ii) It shall be the duty of the Station House Officer, in whose police station such FIR is registered, to forthwith intimate the Nodal Officer in the district who shall, in turn, ensure that there is no further harassment of the family members of the victim(s).

(iii) Investigation in such offences shall be personally monitored by the Nodal Officer who shall be duty bound to ensure that the investigation is carried out effectively and the charge-sheet in such cases is filed within the statutory period from the date of registration of the FIR or arrest of the accused, as the case may be.

(iv) The State Governments shall prepare a lynching/mob violence victim compensation scheme in the light of the provisions of Section 357A of CrPC within one month from the date of this judgment. In the said scheme for computation of compensation, the State Governments shall give due regard to the nature of bodily injury, psychological injury and loss of earnings including loss of opportunities of employment and education and expenses incurred on account of legal and medical expenses. The said compensation scheme must also have a provision for interim relief to be paid to the victim(s) or to the next of kin of the deceased within a period of thirty days of the incident of mob violence/lynching.

(v) The cases of lynching and mob violence shall be specifically tried by designated court/Fast Track Courts earmarked for that purpose in each district. Such courts shall hold trial of the case on a day to day basis. The trial shall preferably be concluded within six months from the date of taking cognizance. We may hasten to add that this direction shall apply to even pending cases. The District Judge shall assign those cases as far as possible to one jurisdictional court so as to ensure expeditious disposal thereof. It shall be the duty of the State Governments and the Nodal Officers in particular to see that the prosecuting agency strictly carries out its role in appropriate furtherance of the trial.

(vi) To set a stern example in cases of mob violence and lynching, upon conviction of the accused person(s), the trial court must ordinarily award maximum sentence as provided for various offences under the provisions of the IPC.

(vii) The courts trying the cases of mob violence and lynching may, on application by a witness or by the public prosecutor in relation to such witness or on its own motion, take such measures, as it deems fit, for protection and for concealing the identity and address of the witness.

(viii) The victim(s) or the next of kin of the deceased in cases of mob violence and lynching shall be given timely notice of any court proceedings and he/she shall be entitled to be heard at the trial in respect of applications such as bail, discharge, release and parole filed by the accused persons. They shall also have the right to file written submissions on conviction, acquittal or sentencing.

(ix) The victim(s) or the next of kin of the deceased in cases of mob violence and lynching shall receive free legal aid if he or she so chooses and engage any advocate of his/her choice from amongst those enrolled in the legal aid panel under the Legal Services Authorities Act, 1987.

C. Punitive Measures

(i) Wherever it is found that a police officer or an officer of the district administration has failed to comply with the aforesaid directions in order to prevent and/or investigate and/or facilitate expeditious trial of any crime of mob violence and lynching, the same shall be considered as an act of deliberate negligence and/or misconduct for which appropriate action must be taken against him/her and not limited

to departmental action under the service rules. The departmental action shall be taken to its logical conclusion preferably within six months by the authority of the first instance.

(ii) In terms of the ruling of this Court in Arumugam Servai v. State of Tamil Nadu, (2011) 6 scc 405, the States are directed to take disciplinary action against the concerned officials if it is found that (i) such official(s) did not prevent the incident, despite having prior knowledge of it, or (ii) where the incident has already occurred, such official(s) did not promptly apprehend and institute criminal proceedings against the culprits.

41. The measures that are directed to be taken have to be carried out within four weeks by the Central and the State Governments. Reports of compliance be filed within the said period before the Registry of this Court.

42. We may emphatically note that it is axiomatic that it is the duty of the State to ensure that the machinery of law and order functions efficiently and effectively in maintaining peace so as to preserve our quintessentially secular ethos and pluralistic social fabric in a democratic set-up governed by rule of law. In times of chaos and anarchy, the State has to act positively and responsibly to safeguard and secure the constitutional promises to its citizens. The horrendous acts of mobocracy cannot be permitted to inundate the law of the land. Earnest action and concrete steps have to be taken to protect the citizens from the recurrent pattern of violence which cannot be allowed to become “the new normal”. The State cannot turn a deaf ear to the growing rumblings of its People, since its concern, to quote Woodrow Wilson, “must ring with the voices of the people.” The exigencies of the situation require us to sound a clarion call for earnest action to strengthen our inclusive and all-embracing social order which would, in turn, reaffirm the constitutional faith. We expect nothing more and nothing less.

43. Apart from the directions we have given hereinbefore and what we have expressed, we think it appropriate to recommend to the legislature, that is, the Parliament, to create a separate offence for lynching and provide adequate punishment for the same. We have said so as a special law in this field would instill a sense of fear for law amongst the people who involve themselves in such kinds of activities. There can be no trace of doubt that fear of law and veneration for the command of law constitute the foundation of a civilized society.

2018 0 AIR(SC) 3354; 2018 7 JT 9; 2018 2 KLD 308; 2018 3 KLT(SN) 47; 2018 3 SCC Cri 770; 2018 9 SCC 501; 2018 6 Supreme 551; 2018 0 Supreme(SC) 719; TEHSEEN S. POONAWALLA VS. UNION OF INDIA AND OTHERS; https://indiankanoon.org/doc/71965246/;

When PW-2 resiled from his earlier statement, his statement recorded by PW-22 (Judicial Magistrate) under Section 164 CrPC may not be of any relevance; nor can it be considered as substantive evidence to base the conviction.

2018 0 AIR(SC) 3993; 2018 9 SCC 614; 2018 3 SCC(Cri) 809; 2018 0 Supreme(SC) 1057; STATE OF KARNATAKA VS P.RAVIKUMAR ALIAS RAVI AND ANOTHER.; http://www.advocatekhoj.com/library/judgments/announcement.php?WID=10436

The appellant’s illicit relation with another woman would have definitely created the psychological imbalance to the deceased which led her to take the extreme step of

committing suicide. It cannot be said that the appellant's act of having illicit relationship with another woman would not have affected to negate the ingredients of Sections 306 I.P.C.
2018 3 SCC Cri 812; 2018 9 SCC 621; 2018 0 Supreme(SC) 1274; SIDDALING VS. THE STATE, THROUGH KALAGI POLICE STATION; https://www.supremecourtofindia.nic.in/supremecourt/2008/25833/25833_2008_Judgement_09-Aug-2018.pdf;

the ingredients under Section 3 (1)(x) have not been made out. There was not even a whisper of allegation of harassment based on caste. That is why the first chargesheet was only under Sections 323, 504 and 506 of the IPC. It is over two years later that the Respondent No. 2 appears to have complained to the Commission. Under Rule 7.5.2(vi), the Commission is empowered to conduct an inquiry to "whether proper charge sheet has been filed mentioning the relevant sections of IPC together with the PCR Act, 1955 and SCs & STs (POA) Act, 1989 in Court". This is not a power to dictate the course of the investigation. The Commission is competent to point out any lapses or laches in the investigation. The Commission could only have brought to notice of the Police the need for a proper or further investigation and it was for the Police to take a call.
A charge sheet can be quashed in part too.
The Supplementary charge sheet filed on the direction of the commission (issued without any enquiry or notice to appellant), is quashed.
https://www.sci.gov.in/supremecourt/2015/27125/27125_2015_Judgement_28-Nov-2017.pdf; 2018 3 SCC Cri 818; 2018 13 SCC 612; ISHWAR PRATAP SINGH AND OTHERS VS STATE OF UTTAR PRADESH AND ANOTHER.

It is fairly well-settled that in the absence of external injury on the person of the prosecutrix, it cannot be concluded that the incident had taken place with the consent of the prosecutrix. It depends upon the facts and circumstances of each case
the approach of the trial court was not correct. In each and every case the prosecution cannot be expected to examine the person who has admitted a student in the school. The school registers are the authentic documents being maintained in the official course, entitled to credence of much weight unless proved otherwise.
2018 0 Supreme(SC) 1290; 2018 (2) ALD (Crl) 881(SC); STATE OF M.P VS PREETAM; https://indiankanoon.org/doc/17301708/;

Though the stick wielded by the appellant has been marked as MO1, there is no material to show that the stick that was wielded by the appellant was a dangerous weapon. Conviction of the teacher, who beat student with stick and caused injury to eye of the child, under Sec 326 IPC converted to Sec 325 IPC.
The evidence of PW-2 injured-child witness in his cross examination stated that the admitted suggestions put to him by the defence counsel that he was tutored, in our considered view, the same cannot be the reason for discarding the evidence of PW-2. When PW-2 was examined in the Court some time after the occurrence, being a child witness (PW-2) who is not conversant with the court's proceedings, has to be necessarily apprised about the court's proceedings and that he has to speak about the

occurrence. It cannot be said that he was tutored about the occurrence itself to depose against the appellant.

2018 0 AIR(SC) 4312; 2018 (2) ALD (Crl) 884(SC); 2018 0 Supreme(SC) 1041; https://indiankanoon.org/doc/43757353/; C.R.KARIYAPPA VS STATE OF KARNATAKA.

while declaring the directions pertaining to Family Welfare Committee and its constitution by the District Legal Services Authority and the power conferred on the Committee is impermissible. Therefore, we think it appropriate to direct that the investigating officers be careful and be guided by the principles stated in Joginder Kumar (supra), D.K. Basu (supra), Lalita Kumari (supra) and Arnesh Kumar (supra). It will also be appropriate to direct the Director General of Police of each State to ensure that investigating officers who are in charge of investigation of cases of offences under Section 498-A IPC should be imparted rigorous training with regard to the principles stated by this Court relating to arrest.

RAJESH SHARMA JUDGMENT	MODIFICATIONS AND ADJUDICATION BY THE PRESENT JUDGMENT
"**19.i)** (a) In every district one or more Family Welfare Committees be constituted by the District Legal Services Authorities preferably comprising of three members. The constitution and working of such committees may be reviewed from time to time and at least once in a year by the District and Sessions Judge of the district who is also the Chairman of the District Legal Services Authority. (b) The Committees may be constituted out of para legal volunteers/social workers/retired persons/ wives of working officers/other citizens who may be found suitable and willing. (c) The Committee members will not be called as witnesses. 12 (d) Every complaint under Section 498A received by the police or the Magistrate be referred to and looked into by such committee. Such committee may have interaction with the parties personally or by means of telephone or any other mode of communication including electronic communication. (e) Report of such committee be given to the Authority by whom the complaint is referred to it latest within one month from the date of receipt of complaint. (f) The committee may give its brief report about the factual aspects and its opinion in the matter. (g) Till report of the committee is received, no arrest should normally be effected. (h) The report may be then considered by the Investigating Officer or the Magistrate on its own merit. (i) Members of the committee may be given such basic minimum training as may be considered necessary by the Legal Services Authority from time to time. (j) The Members of the committee may be given such honorarium as may be considered viable. (k) It will be open to the District and Sessions Judge to utilize the cost fund wherever considered necessary and proper.	the direction contained in paragraph 19(i) as a whole is not in accord with the statutory framework
ii) Complaints under Section 498A and other connected offences may be investigated only by a designated Investigating Officer of the area. Such designations may be made within one month from today. Such designated officer may be required to	the direction issued in paragraph 19(ii) shall be read in conjunction with the direction given hereinabove.

undergo training for such duration (not less than one week) as may be considered appropriate. The training may be completed within four months from today;	
iii) In cases where a settlement is reached, it will be open to the District and Sessions Judge or any other senior Judicial Officer nominated by him in the district to dispose of the proceedings including closing of the criminal case if dispute primarily relates to matrimonial discord;	Direction No. 19(iii) is modified to the extent that if a settlement is arrived at, the parties can approach the High Court under Section 482 of the Code of Criminal Procedure and the High Court, keeping in view the law laid down in Gian Singh (supra), shall dispose of the same.
iv) If a bail application is filed with at least one clear day"s notice to the Public Prosecutor/complainant, the same may be decided as far as possible on the same day. Recovery of disputed dowry items may not by itself be a ground for denial of bail if maintenance or other rights of wife/minor children can otherwise be protected. Needless to say that in dealing with bail matters, individual roles, prima facie truth of the allegations, requirement of further arrest/ custody and interest of justice must be carefully weighed; **v)** In respect of persons ordinarily residing out of India impounding of passports or issuance of Red Corner Notice should not be a routine; **vi)** It will be open to the District Judge or a designated senior judicial officer nominated by the District Judge to club all connected cases between the parties arising out of matrimonial disputes so that a holistic view is taken by the Court to whom all such cases are entrusted; and **vii)** Personal appearance of all family members and particularly outstation members may not be required and the trial court ought to grant exemption from personal appearance or permit appearance by video conferencing without adversely affecting progress of the trial.	As far as direction Nos. **19(iv), 19(v) and 19(vi) and 19(vii)** are concerned, they shall be governed by what we have stated in paragraph 35. the directions pertaining to Red Corner Notice, clubbing of cases and postulating that recovery of disputed dowry items may not by itself be a ground for denial of bail would stand on a different footing. They are protective in nature and do not sound a discordant note with the Code. When an application for bail is entertained, proper conditions have to be imposed but recovery of disputed dowry items may not by itself be a ground while rejecting an application for grant of bail under Section 498-A IPC. That cannot be considered at that stage. Therefore, we do not find anything erroneous in direction Nos. 19(iv) and (v). So far as direction No. 19(vi) and 19(vii) are concerned, an application has to be filed either under Section 205 CrPC or Section 317 CrPC depending upon the stage at which the exemption is sought.

2018 0 AIR(SC) 4273; 2018 3 Crimes(SC) 503; 2018 3 GLH 140; 2018 3 ILR(Ker) 955; 2018 2 KLD 435; 2018 10 SCC 443; 2018 0 Supreme(SC) 877; 2018(2) ALD (Crl) 909(SC); SOCIAL ACTION FORUM FOR MANAV ADHIKAR AND ANOTHER VS. UNION OF INDIA MINISTRY OF LAW AND JUSTICE AND OTHERS; https://www.sci.gov.in/supremecourt/2014/40984/40984_2014_Judgement_14-Sep-2018.pdf;

an offence of “criminal conspiracy” is a separate and distinct offence. Therefore, in order to constitute a criminal conspiracy and to attract its rigor, two factors must be present in the case on facts: first, involvement of more than one person and second, an agreement between/among such persons to do or causing to be done an illegal act or an act which is not illegal but is done or causing to be done by illegal means.

Therefore, in order to constitute a conspiracy, meeting of mind of two or more persons to do an illegal act or an act by illegal means is a must. In other words, it is sine qua non for invoking the plea of conspiracy against the accused. However, it is not necessary that all the conspirators must know each and every detail of the conspiracy, which is being hatched and nor it is necessary to prove their active part/role in such meeting.

In other words, their presence and participation in such meeting alone is sufficient. It is well known that a criminal conspiracy is always hatched in secrecy and is never an open affair to anyone much less to public at large.
It is for this reason, its existence coupled with the object for which it was hatched has to be gathered on the basis of circumstantial evidence, such as conduct of the conspirators, the chain of circumstances leading to holding of such meeting till the commission of offence by applying the principle applicable for appreciating the circumstantial evidence for holding the accused guilty for commission of an offence.
2018 0 AIR (SC) 4780; 2018 0 Supreme(SC) 978; 2018 (2) ALD (Crl) 937(SC); BILAL HAJAR @ ABDUL HAMEED VS. STATE; http://www.advocatekhoj.com/library/judgments/announcement.php?WID=10632

In a criminal trial, normally the evidence of the wife, husband, son or daughter of the deceased, is given great weightage on the principle that there is no reason for them not to speak the truth and shield the real culprit. We see no reason why the same principle cannot be applied when such a witness deposes against a closely related accused
While appreciating the evidence of a witness, the approach must be whether the evidence of the witness read as a whole inspires confidence. Once that impression is formed, it is undoubtedly necessary for the court to scrutinise the evidence more particularly keeping in view the deficiencies, drawbacks and infirmities pointed out in the evidence as a whole and evaluate them to find out whether it is against the general tenor of the evidence and whether the earlier evaluation of the evidence is shaken as to render it unworthy of belief. Minor discrepancies on trivial matters not touching the core of the case, hypertechnical approach by taking sentences torn out of context here or there from the evidence, attaching importance to some technical error without going to the root of the matter would not ordinarily permit rejection of the evidence as a whole. Minor omissions in the police statements are never considered to be fatal. **The statements given by the witnesses before the police are meant to be brief statements and could not take place of evidence in the court.** Small/Trivial omissions would not justify a finding by court that the witnesses concerned are liars. The prosecution evidence may suffer from inconsistencies here and discrepancies there, but that is a shortcoming from which no criminal case is free. The main thing to be seen is whether those inconsistencies go to the root of the matter or pertain to insignificant aspects thereof. In the former case, the defence may be justified in seeking advantage of incongruities obtaining in the evidence. In the latter, however, no such benefit may be available to it.
Each criminal trial is but a quest for search of the truth. **The duty of a judge presiding over a criminal trial is not merely to see that no innocent person is punished, but also to see that a guilty person does not escape.** One is as important as the other. Both are public duties which the Judge has to perform.
2018 0 AIR(SC) 4529; 2018 10 SCC 509; 2018 0 Supreme(SC) 893; 2018(2) ald (CRL) 982(SC); Smt SHAMIM VS STATE(GNCT OF DELHI); https://indiankanoon.org/doc/155320323/;

A.1 and A.2 started a new business in Gold with the financial support and aid of the complainant and his brother. A.1 and A.2 took two Gold Biscuits and cash of

Rs.32,00,000/- from the complainant's brother. In that connection, they issued some cheques in the name of the complainant and his brother along with some pro-notes and promised to repay the said amounts within a short period. Inspite of repeated demands, A.1 and A.2 failed to repay the said amount and it was revealed that they are not maintaining any Bank Account since the date of transaction. A.1 and A.2 with a malafide intention and motivation with the aid and support of A.3 and A.4 have transferred some amounts and property for their own business. Thus, they have misappropriated the said amounts and failed to repay the same to the complainant and his brother. Further, A.1 and A.2 took the signature of the brother of the complainant as a surety to one of the chits with Margadarsi Chit and A.1, having become the successful bidder of the said chit and received the prize amount, did not repay the chit instalments, due to which the Margadarsi Chit authorities issued notice to the brother of the complainant, being one of the surety, thus A.1 and A.2 have cheated the complainant. With these allegations, the 2nd respondent/complainant has lodged a private complaint against A.1 to A.4.
Transaction purely civil in nature-quashed.
2018(2) ALD(Crl) 1030; MALLAVARAPU SRINIVAS RAO AND OTHERS VS STATE OF A.P.; http://distcourts.tap.nic.in/hcorders/2011/crlp/crlp_7122_2011.pdf;

With the introduction of Clause (e) to Section 17 of the Control Order, the activity of purchasing the rice supplied through Public Distribution System either from the card holder or from the dealer or from any other source is treated as an offence and a person indulging in such activities is liable for criminal action. Therefore, as rightly submitted by the learned Government Pleader, in view of such amendment, the Judgment in Maimuna Begum (2016 2 ALD(Cri) 684; 2016 5 ALT 280; 2017 0 CrLJ 289; 2016 0 Supreme(AP) 282;) is of no help to the petitioner.
2018(2) ALD(Crl) 1033; 2018 0 Supreme(AP) 350; PULLURI VIJAY VS STATE OF TELANGANA AND OTHERS

Police to Desist from parading the suspects/accused before media.
the Police have no right to violate the personal dignity of any citizen, be it an accused or a convict. The right to privacy having been recognized as a fundamental right, we are of the prima facie opinion that the Police have no authority whatsoever to parade the suspects in public and allow the press to publish their photographs and electronic channels to telecast such an event.
2018(2) ALD(Crl) 1036; 2018 0 Supreme(AP) 340; KAVATI SAGAR VS STATE OF A.P. AND OTHERS

The fact that the material and evidence collected in the course of investigation into a criminal complaint, cannot become the subject matter of another complaint especially at the instance of the accused, even before such material is tested for its evidentiary value, was not even considered by the Additional Chief Metropolitan Magistrate.
The overt and covert acts attributed by the petitioner against the Police Officers and the de facto complainants are that all of them are planting and fabricating evidence against the petitioner in the criminal complaints lodged against him. These allegations actually constitute the defence of the petitioner to the criminal complaints lodged against him. The defence of an accused in a criminal case cannot become the subject

matter of another criminal complaint against the prosecution. If the evidence on which the prosecution relies to prove the guilt of an accused in a criminal case is fabricated, the accused should first get a finding recorded to the said effect from the Trial Court in that case. It is only thereafter that a complaint of fabrication of evidence can be made by the accused in a criminal case against the Police Officers and the de facto complainant.

2018 2 ALD Crl 1042; 2018 4 ALT 542; 2018 0 Supreme(AP) 254; B.SAILESH SAXENA S/O LATE B.P.C. SAXENA VS. THE UNION OF INDIA

The Drugs and Cosmetics Act,1940 was mainly intended to curtail the menace of adulteration of drugs and also of production, manufacture, distribution and sale of spurious and substandard drugs. On the other hand, the N.D.P.S Act is a special law enacted by the Parliament with an object to control and regulate the operations relating to narcotic drugs and psychotropic substances. After analyzing the objectives of both the Acts, we can safely conclude that while the Drugs and Cosmetics Act deals with drugs which are intended to be used for therapeutic or medicinal usage, on the other hand the N.D.P.S Act intends to curb and penalize the usage of drugs which are used for intoxication or for getting a stimulant effect.

Section 80 of the N.D.P.S Act, clearly lays down that application of the Drugs and Cosmetics Act is not barred, and provisions of N.D.P.S. Act can be applicable in addition to that of the provisions of the Drugs and Cosmetics Act.

2018 0 Supreme(SC) 1202; https://indiankanoon.org/doc/194731955/; State of Punjab Vs Rakesh Kumar.

the minor discrepancies in the recorded timings and sequence of events pertaining to the recovery of the body, and articles including the victim's schoolbag, as evident through the First Information Statement (Exh. 63), the testimony of the I.O., PW14, and the spot panchanama (Ex. 23), are not fatal to the prosecution version and may be explained due to all the events happening in quick succession,

In a given case, the accused may confess ten or fifteen days after his arrest and as such the recovery cannot be suspected on this ground alone.

the non-seizure of the sandal of the victim and the stone used to hide the victim's clothes, also does not strike at the root of the matter.

2018 0 Supreme(SC) 1221; Viran Gyanlal Rajput Vs. The State of Maharashtra; http://www.advocatekhoj.com/library/judgments/announcement.php?WID=10831

(i) This Court has given its imprimatur to the Scheme prepared by respondent No.1 which is approved hereby. It comes into effect forthwith.

(ii) The Union of India as well as States and Union Territories shall enforce the Witness Protection Scheme, 2018 in letter and spirit.

(iii) It shall be the 'law' under Article 141/142 of the Constitution, till the enactment of suitable Parliamentary and/or State Legislations on the subject.

2018 0 Supreme(SC) 1225; Mahender Chawla & Ors. Vs. Union of India & Ors. https://www.sci.gov.in/supremecourt/2016/34388/34388_2016_Judgement_05-Dec-2018.pdf

Sometime there may be minor contradictions. However, unless those contradictions are such material contradictions which may destroy the case of the prosecution, the benefit of such contradictions cannot be given to the accused.
2018 0 Supreme(SC) 1213; Farida Begum Vs. State of Uttarakhand; https://www.sci.gov.in/supremecourt/2012/32405/32405_2012_Judgement_04-Dec-2018.pdf

“identification of stolen articles". This was held proved with the aid of evidence of PWs 3 and 8. It was proved that the items recovered at the instance of the appellants were got tallied with the stolen items with the aid of these two witnesses.
As there was neither any defense evidence and nor any explanation given by the appellants under Section 313 Cr.P.C. proceedings, the two Courts below were justified in holding the fourth circumstance as proved. It was undoubtedly one of the relevant circumstances to prove the chain of the event in proving the commission of crime by the appellants.
The ocular evidence and the discovery of articles at the instance of the accused, proved the chain of circumstances.
2018 0 Supreme(SC) 1223; Surendra Singh & Anr.Vs. State of Uttarakhand; https://www.sci.gov.in/supremecourt/2010/9005/9005_2010_Judgement_04-Dec-2018.pdf

The plaintiffs in order to substantiate their claims furthers placed on record documentary evidences comprising of permissions granted by the municipality, property tax assessment papers, tax receipts and extract of the Book of Endowments of Ram Mandir. After perusing evidence on record, we observe that, the respondents-plaintiffs. in order to prove their title has relied upon several permissions of the municipality and tax receipts to prove his title. But while, the aforesaid documents might imply possession but they cannot be relied to confer title upon the holder.
2018 0 Supreme(SC) 1233; CHAIRMAN, BOARD OF TRUSTEE, SRI RAM MANDIR JAGTIAL KARIMNAGAR DISTRICT, A.P Vs. S. RAJYALAXMI (DEAD) & ORS.

In view of the aforesaid discussion, we issue the following directions:-
1. No person can print or publish in print, electronic, social media, etc. the name of the victim or even in a remote manner disclose any facts which can lead to the victim being identified and which should make her identity known to the public at large.
2. In cases where the victim is dead or of unsound mind the name of the victim or her identity should not be disclosed even under the authorization of the next of the kin, unless circumstances justifying the disclosure of her identity exist, which shall be decided by the competent authority, which at present is the Sessions Judge.
3. FIRs relating to offences under Sections 376, 376A, 376AB, 376B, 376C, 376D, 376DA, 376DB or 376E of IPC and offences under POCSO shall not be put in the public domain.
4. In case a victim files an appeal under Section 372 CrPC, it is not necessary for the victim to disclose his/her identity and the appeal shall be dealt with in the manner laid down by law.
5. The police officials should keep all the documents in which the name of the victim is disclosed, as far as possible, in a sealed cover and replace these documents by

identical documents in which the name of the victim is removed in all records which may be scrutinised in the public domain.
6. All the authorities to which the name of the victim is disclosed by the investigating agency or the court are also duty bound to keep the name and identity of the victim secret and not disclose it in any manner except in the report which should only be sent in a sealed cover to the investigating agency or the court.
7. An application by the next of kin to authorise disclosure of identity of a dead victim or of a victim of unsound mind under Section 228A(2)(c) of IPC should be made only to the Sessions Judge concerned until the Government acts under Section 228A(1)(c) and lays down a criteria as per our directions for identifying such social welfare institutions or organisations.
8. In case of minor victims under POCSO, disclosure of their identity can only be permitted by the Special Court, if such disclosure is in the interest of the child.
9. All the States/Union Territories are requested to set up at least one 'one stop centre' in every district within one year from today.
2018 0 Supreme(SC) 1238; NIPUN SAXENA & ANR. Vs. UNION OF INDIA & ORS. http://www.advocatekhoj.com/library/judgments/announcement.php?WID=10864

Direction by Executive Magistrate to police to register FIR is without jurisdiction.
2018 0 Supreme(SC) 1249; NAMAN SINGH ALIAS NAMAN PRATAP SINGH AND ANOTHER Vs. STATE OF UTTAR PRADESH AND OTHERS; http://www.advocatekhoj.com/library/judgments/announcement.php?WID=10871

The dispute between the parties at the most can be said to be the civil dispute and it is tried to be converted into the criminal dispute. Therefore, we are also of the opinion that continuing the criminal proceedings against the Accused will be an abuse of process of law and, therefore, the High Court has rightly quashed the criminal proceedings. Merely because the original accused might not have paid the amount due and payable under the agreement or might not have paid the amount in lieu of one month Notice before terminating the agreement by itself cannot be said to be a cheating and/or having committed offence under Sections 406 and 420 of the IPC as alleged. We are in complete agreement with the view taken by the High Court.
2018 0 Supreme(SC) 1244; Vinod Natesan Vs. State of Kerala & Ors; https://indiankanoon.org/doc/67919724/

Having advanced the money to the deceased, the appellant-accused might have uttered some abusive words; but that by itself is not sufficient to constitute the offence under Section 306 I.P.C.
2018 0 Supreme(SC) 1269; M. Arjunan Vs. The State; http://www.advocatekhoj.com/library/judgments/announcement.php?WID=10873

There is no provision in the Criminal Procedure Code or any other statute which debars a complainant from making a second complaint on the same allegations, when the first complaint did not lead to conviction, acquittal or discharge.
The failure to mention the first complaint in the subsequent one is also inconsequential as held, in effect, in Jatinder Singh (supra). Mentioning of reasons for withdrawal of an earlier complaint is also not a condition precedent for maintaining a second complaint.

2018 0 Supreme(SC) 1255; V. Ravi Kumar Vs. State, https://indiankanoon.org/doc/26597954/;

There is no provision to review or recall the order under the Code of Criminal Procedure, 1973 by the Criminal Court/Sessions Court.
There is no bar on proceeding against an accused under sec 319 CrPC, who was discharged earlier.
2018 0 Supreme(SC) 1263; Deepu @ Deepak Vs. State of Madhya Pradesh; https://indiankanoon.org/doc/136776715/

Corrigendum

Patrons are kindly requested to bear with us and note that It was inadvertently mentioned in our October,2018 part that the SC &ST POA Amendment act, 2018 has not been notified.
The Said notification has been issued in gazette dated 20/08/2018 and the same has come into force on 20/08/2018.
The inconvenience caused is highly regretted.
Special Thanks to Sri Sheshiah Sir, Retired Joint-Director of Department of Prosecutions, A.P, for bringing the same to our notice, along with a request to keep contributing for the benefit of all legal practitioners and interpreters.

NOSTALGIA

In Bidya Deb Barma v D.M. Tripura, Agartala, 1969 (1) SCR 562 a Constitution Bench of this court held that:
"When a statute requires something to be done 'forthwith,' or 'immediately' or even 'instantly,' it should probably be understood as allowing a reasonable time for doing it."

In Prakash vs. State of Karnataka, (2014) 12 SCC 133 it was observed as follows :
"16.... Even so, the failure of a victim or a witness to identify a suspect is not always fatal to the case of the prosecution. In Visveswaran v. State it was held:
11. ... The identification of the accused either in a test identification parade or in court is not a sine qua non in every case if from the circumstances the guilt is otherwise established. Many a time, crimes are committed under the cover of darkness when none is able to identify the accused. The commission of a crime can be proved also by circumstantial evidence."

NEWS

- GOVERNMENT OF TELANGANA - Public Services – Prosecuting Officers – Smt. T.Rajyalakshmi, Additional Public Prosecutor Grade.II working as LA-cum-Special Public Prosecutor in the Office of the Director General, Anti-Corruption Bureau, Hyderabad on Foreign Service Deputation – Extension of deputation for a further period of two years beyond (5) years i.e., from 06-12-2017 to 05-12-2019 as a Special Case in relaxation of rules – Orders – Issued- G.O.Rt.No. 1606 HOME (COURTS.A1) DEPARTMENT Dated: 19-12-2018

- GOVERNMENT OF TELANGANA- Public Services – Prosecuting Officers – Promotion of certain Additional Public Prosecutors Grade-II (Category-5) to the post of Additional Public Prosecutors Grade-I/Deputy Directors of Prosecutions (Category-4) on temporary basis –

Posting orders – Issued- G.O.Rt.No. 1592 HOME (COURTS.A1) DEPARTMENT Dated: 15-12-2018

Sl. No	Name and Designation S/Sri	Place of posting on promotion
(1)	(2)	(3)
1	Ms D.Srivani, Addl. Public Prosecutor Grade-II, Asst. Sessions Court, Narayanpet, Mahaboobnagar District	Additional Public Prosecutor Grade-I/ Deputy Director of Prosecutions, II Addl. Sessions Court, Jagtial, Karimnagar District
2	V.Venkateswarlu, Addl. Public Prosecutor Grade-II, Asst. Sessions Court, Kothagudem, Khammam District	Additional Public Prosecutor Grade-I/ Deputy Director of Prosecutions, I Addl. Sessions Court, Karimnagar
3	M.Satyanarayana, Addl. Public Prosecutor Grade-II, Asst. Sessions Court, Suryapet, Nalgonda District	Additional Public Prosecutor Grade-I/ Deputy Director of Prosecutions, I Addl. Sessions Court, Warangal
4	S.Sambasiva Reddy, Addl. Public Prosecutor Grade-II, Asst. Sessions Court, Huzurabad, Karimnagar District	Additional Public Prosecutor Grade-I/ Deputy Director of Prosecutions, IV Addl. Metropolitan Sessions Court, Hyderabad.

- A.P. Gazette- PART I EXTRAORDINARY No.929 AMARAVATI, MONDAY , DECEMBER 3, 2018 G.868 NOMINATION OF HON'BLE JUSTICE RAGHVENDRA SINGH CHAUHAN, JUDGE, HIGH COURT OF JUDICATURE AT HYDERABAD FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH, AS EXECUTIVE CHAIRMAN OF THE ANDHRA PRADESH STATE LEGAL SERVICES AUTHORITY WITH EFFECT FROM THE FORENOON OF 22-11-2018. *[G.O.Rt.No. 1077, Law (L, LA & J - Home.Courts-A), 03rd December, 2018.]*

- GOVERNMENT OF TELANGANA- Public Services – Prosecuting Officers – Promotion and postings to certain Senior Assistant Public Prosecutors as Additional Public Prosecutors Grade-II on temporary basis - Orders – Issued- G.O.Rt.No. 1596 HOME (COURTS.A1) DEPARTMENT Dated: 17-12-2018.

Sl. No.	Name and Designation Smt./Sri	Place of posting on promotion
01	D.Raghu, Senior Assistant Public Prosecutor, Judicial Magistrate of First Class Court, Medak	Additional Public Prosecutor Grade-II, Assistant Sessions Court, Sangareddy, Medak District
02	A.Rami Reddy, Senior Assistant Public Prosecutor, Judicial Magistrate of First Class Court, Karimnagar	Additional Public Prosecutor Grade-II, Assistant Sessions Court, Nizamabad District
03	K.Srivani, Senior Assistant Public Prosecutor, Judicial Magistrate of First Class Court, Mahaboobnagar	Additional Public Prosecutor Grade-II, Asst. Sessions Court, Nalgonda.
04	T.Jyothi, Senior Assistant Public Prosecutor, Prl. Judicial Magistrate of First Class Court, Jagtial, Karimnagar District	Additional Public Prosecutor Grade-II, Principal Assistant Sessions Court, Warangal.

- GOVERNMENT OF TELANGANA - Home Department – Zonal Transfer of Smt. B.Premalatha, Assistant Public Prosecutor, I Additional Judicial First Class Magistrate Court, Kothagudem, Khammam District of Zone-V to Zone-VI on spouse grounds – Orders – Issued- G.O.Rt.No. 1595 HOME (COURTS.A) DEPARTMENT Dated: 17-12-2018

- GOVERNMENT OF ANDHRA PRADESH - Law Officers - Prosecutions Department – Conduct of prosecution in the criminal cases filed against elected MPs and MLAs in the Special Court at Vijayawada – Entrustment of cases to Sri V.Raghuram - Joint Director of Prosecutions, O/o the Director of Prosecutions, A.P., Vijayawada - Orders – Issued- G.O.RT.No. 1076 HOME (COURTS.A) DEPARTMENT Dated: 03-12-2018

- Security and Intelligence Agencies empowered for the purposes of interception, monitoring and decryption of any information generated, transmitted, received or stored in any computer resource under the information Technology Act. Gazette of India –no. 4993 - EXTRAORDINARY- PART II—Section 3—Sub-section (ii) dated 20/12/2018.

- GOVERNMENT OF TELANGANA- Public Services – Director of Prosecutions – Continuation of Sri A.Prabhakar Rao, Retired Administrative Officer (Legal), O/o. the Director of Prosecutions as Officer on Special Duty in the Director of Prosecutions, Telangana on contract basis for a further period of one year i.e., from 24-12-2017 to 23-12-2018 - Orders – Issued- G.O.Rt.No. 1597 HOME (COURTS.A) DEPARTMENT Dated: 17-12-2018

- GOVERNMENT OF TELANGANA-Budget Estimates 2018-19 – Budget Release Order for Rs.42,53,000/- to the Director of Prosecutions, Telangana State, Hyderabad – Administrative Sanction - Orders – Issued- G.O.Rt.No. 717 LAW (LA, LA&J-HOME-COURTS-B2) DEPARTMENT Dated: 27-12-2018.

- GOVERNMENT OF TELANGANA- Public Services – Prosecuting Officers – Promotion and posting of Sri N.Srinivas, Senior Assistant Public Prosecutor as Additional Public Prosecutor Grade-II on temporary basis and retention at the Office of the Director General, Anti Corruption Bureau, Telangana, Hyderabad as Legal Advisor-cum-Special Public Prosecutor in relaxation of rules - Orders – Issued- G.O.Rt.No. 1670 HOME (COURTS.A1) DEPARTMENT- Dated: 27-12-2018.

- GOVERNMENT OF ANDHRA PRADESH- Public Services – A.P.State Prosecution Services- Prosecuting Officers – Promotions – Certain Additional Public Prosecutors Grade- II (Cat.5) promoted to the post of Additional Public Prosecutors Grade-I / Deputy Director of Prosecutions (Cat.4) on temporary basis – Posting Orders – Issued- G.O.RT.No. 1178 HOME (COURTS.A) DEPARTMENT Dated: 27-12-2018.

Sl. No	Name of the Officer	Place of posting proposed on promotion as Additional Public Prosecutor Grade-I
1	S/Sri/Smt. 2	3
1	S.Bharathi, Additional Public Prosecutor Grade-II, ASJ Court, Ongole, Prakasam District.	Additional Public Prosecutor Grade-I Special Public Prosecutor, Special Court for SC & ST (POA) Act 1989-Cum–V Additional District & Sessions Court Nellore
2	JH.Josephine, Additional Public Prosecutor Grade-II, ASJ Court, Bapatla, Guntur District	Additional Public Prosecutor Grade-I, I Additional District & Sessions Court, Ongole, Prakasam District.
3	M.Sailaja, Additional Public Prosecutor Grade-II, ASJ Court, Nandyal, Kurnool District	Additional Public Prosecutor Grade-I/Dy. Director of Prosecutions, I Additional District & Sessions Judge Court–Cum-Metropolitan Sessions Judge Court, Visakhapatnam

4	K.Lakshma Naik, Additional Public Prosecutor Grade-II, Principal Assistant Sessions Judge Court, Ananthapuramu.	Additional Public Prosecutor Grade-I/Dy. Director of Prosecutions, I Additional District & Sessions Court, Eluru
5	Md.Barkat Ali Khan, Additional Public Prosecutor Grade-II/Faculty Member, RBVR Police Academy at Hyderabad	Additional Public Prosecutor Grade-I, IV Additional District & Sessions Court, Visakhapatnam
6	SVLNSRV.Prasad, Additional Public Prosecutor Grade-II, Principal Assistant Sessions Judge Court, Vijayawada, Krishna District.	Additional Public Prosecutor Grade-I/Dy. Director of Prosecutions, VIII Additional District & Sessions Judge Court, Nellore
7	Y.Prasanthi Kumari, Additional Public Prosecutor Grade-II, Prl. ASJ Court, Guntur	Additional Public Prosecutor Grade-I/Dy. Director of Prosecutions, IV Additional District & Sessions Court, Kakinada
8	M.Lakshmana Rao, Additional Public Prosecutor Grade-II, working on OD as Legal Advisor, CID, AP, Vijayawada.	Additional Public Prosecutor Grade-I, retained as Legal Advisor, CID, AP, Vijayawada
9	M. Khajana Rao, Additional Public Prosecutor Grade-II, Prl. ASJ Court, Kurnool.	Additional Public Prosecutor Grade-I/Dy. Director of Prosecutions, I Additional District & Sessions Court, Vizianagaram
10	PVN. Jayalakshmi, Additional Public Prosecutor Grade-II, ASJ Court, Yelamanchali, Visakhapatnam District.	Additional Public Prosecutor Grade-I /Special Public Prosecutor, Special Court for SC & ST (POA) Act 1989-Cum-IV Additional District & Sessions Judge Court, Vizianagaram
11	Shaik Mubena Begum, Additional Public Prosecutor Grade-II, ASJ Court, Rajampet, Kadapa District.	Additional Public Prosecutor Grade-I /Special Public Prosecutor, Special Court for SC & ST (POA) Act 1989-Cum-IV Additional District & Sessions Court, Kadapa
12	GSNV.Prasada Rao, Additional Public Prosecutor Grade-II, Additional ASJ Court, Kakinada, East Godavari District.	Additional Public Prosecutor Grade-I, I Additional District & Sessions Court, Rajahmundry, East Godavari District.
13	M.Malleswara Rao, Additional Public Prosecutor Grade-II, Additional ASJ Court, Rajahmundry, East Godavari District.	Additional Public Prosecutor Grade-I /Special Public Prosecutor, Special Court for SC & ST (POA) Act 1989-Cum-IV ADJ Court/Dy. Director of Prosecutions, Srikakulam

- GOVERNMENT OF TELANGANA- Budget Estimates 2018-19 – Budget Release Order for Rs.105,00,000/- to the Director of Prosecutions, Telangana State, Hyderabad – Administrative Sanction - Orders – Issued- G.O.Rt.No. 718 LAW (LA, LA&J-HOME-COURTS-B2) DEPARTMENT Dated: 27-12-2018.

- PROSECUTION REPLENISH CONGRATULATES ALL THE PROMOTEE PROSECUTORS OF TELANGANA AND ANDHRA PRADESH AND WISHES THEM ALL THE BEST.
- Gazette of India EXTRAORDINARY PART II—Section 3—Sub-section (ii) No. 5089] MINISTRY OF LAW AND JUSTICE (Department of Justice) ORDER New Delhi, the 27th December, 2018 S.O. 6330(E), constituting separate high courts for Telangana and Andhra Pradesh.

ON A LIGHTER VEIN

Billy Graham once told about the time in a small town when he asked a boy how to get to the post office. After getting directions, Mr. Graham invited him to come to his Crusade that evening.

"You can hear me telling everyone how to get to heaven," he told the boy.

The boy's response? "I don't think I'll be there. You don't even know your way to the post office."

—*The Leadership Secrets of Billy Graham* by Harold Myra

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While due care is taken while preparing this information. The patrons are requested to verify and bring it to the notice of the concerned regarding any misprint or errors immediately, so as to bring it to the notice of all patrons. Needless to add that no responsibility for any result arising out of the said error shall be attributable to the publisher as the same is inadvertent.

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Vol- VIII
Part-2

Prosecution Replenish

An Endeavour for Learning and Excellence

February, 2019

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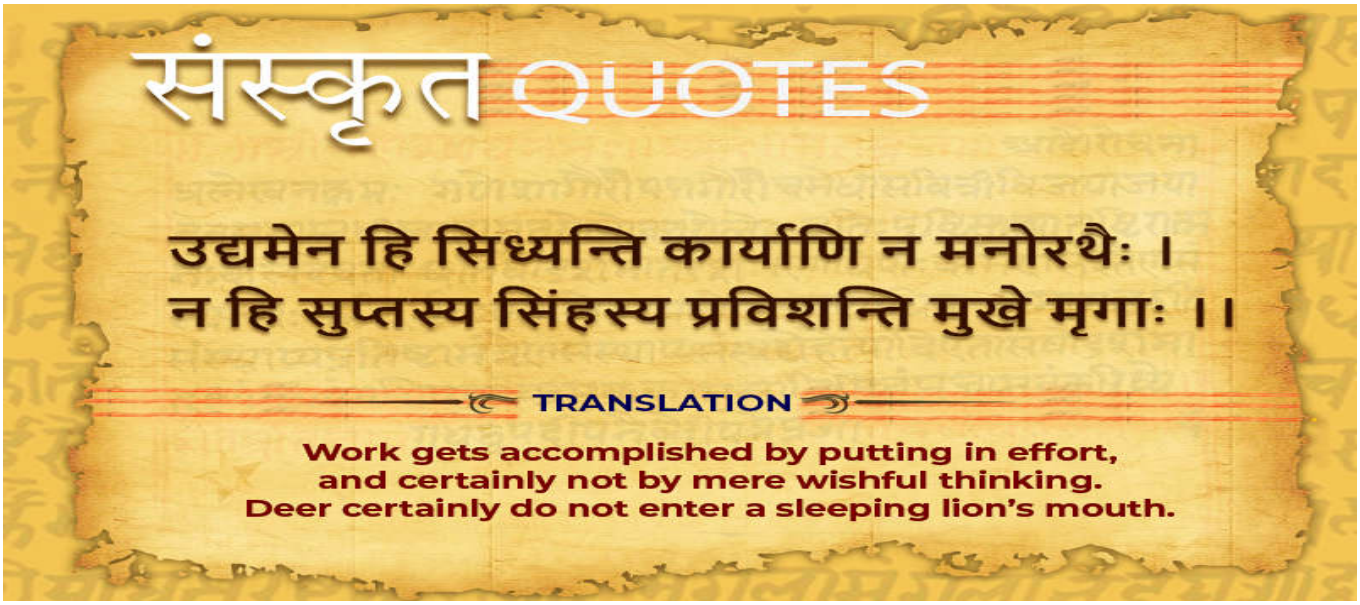
"Let Noble Thoughts Come To Me From All Directions"



CITATIONS

The provisions of Section 377 will continue to govern non-consensual sexual acts against adults, all acts of carnal intercourse against minors, and acts of bestiality.

Transformative constitutionalism not only includes within its wide periphery the recognition of the rights and dignity of individuals but also propagates the fostering and development of an atmosphere wherein every individual is bestowed with adequate opportunities to develop socially, economically and politically.

Constitutional morality embraces within its sphere several virtues, foremost of them being the espousal of a pluralistic and inclusive society. The concept of constitutional morality urges the organs of the State, including the Judiciary, to preserve the heterogeneous nature of the society and to curb any attempt by the majority to usurp the rights and freedoms of a smaller or minuscule section of the populace.

Sexual orientation is one of the many biological phenomena which is natural and inherent in an individual and is controlled by neurological and biological factors.

the right to privacy has been raised to the pedestal of a fundamental right.

Under the autonomy principle, the individual has sovereignty over his/her body. He/she can surrender his/her autonomy wilfully to another individual and their intimacy in privacy is a matter of their choice.

Section 375 IPC is not subject to Section 377 IPC.

Section 377 IPC is liable to be partially struck down for being violative of Article 14 of the Constitution.

Section 377 IPC in its present form violates Article 19(1)(a) of the Constitution.

The decision in Suresh Koushal (supra), not being in consonance with what we have stated hereinabove, is overruled.

Navtej Singh Johar and others Vs UOI; 2018 0 AIR(SC) 4321; 2018 3 Crimes(SC) 233; 2018 0 CrLJ 4754; 2018 4 KLT 1; 2018 5 RCR(Cri) 547; 2018 10 Scale 386; 2018 10 SCC 1; 2018 6 Supreme 577; 2018 0 Supreme(SC) 869; 2019 1 SCC Cri 1; https://www.sci.gov.in/supremecourt/2016/14961/14961_2016_Judgement_06-Sep-2018.pdf.

the bail application has to be tested on the touchstone of relevant factors propounded by the Apex Court. The first among them is about the existence of prima facie accusation against the AO.

The second factor to be considered is the nature and gravity of charge and severity of punishment in the event of conviction.

The next factor to be considered is the possibility of AO meddling with investigation and tampering the evidence.

The ill-health of the petitioner/AO is concerned, the bail order in Crl.M.P.No.215 of 2018 would show that on the direction of Principal Special Judge for SPE and ACB Cases, Hyderabad the AO was shifted to NIMS from gandhi Hospital wherein after conducting all tests the authorities discharged him finding him fit. Therefore, the trial Court considering the discharge summary issued by NIMS, which revealed his fit condition, did not accede to grant bail on the health grounds. I find no reason to come to a different conclusion.
It is not out of place here to mention that each time a Judicial Officer is accused of committing bribery or other related offence, the reputation of judicial institution itself stands for trial. The judicial edifice is built not with bricks and cement but with belief and confidence reposed by the public on the institution. That is why absolute honesty and integrity are regarded as the minimum qualifications for a Judicial Officer to hold the mace of justice. A minutest impious deed of even a single individual will bring disrepute to the majesty of justice.
Mallampati Gandhi Vs. State of Telangana, 2018 2 Crimes(HC) 357; 2018 2 ALT(Cri) 1; 2018 0 Supreme(AP) 131; https://indiankanoon.org/doc/150405050/

As per the Copyright Act, the original owner has to give a complaint to the competent authority not to the police. The police has no power or authority to register the crime at the instance of the unauthorized person. The said fact is also proved based on the report dated 30.11.2015 submitted by the Deputy Superintendent of Police, Toopran Sub Division. As per the said report and the Act, any party aggrieved by any dispute in respect of broadcasting of cable network, ought to have filed complaint before the Telecom Distributor Settlement and Appellate Tribunal, New Delhi (TDSAT). As per Section 11 of the Cable Television Networks (Regulation) Act, 1995, the competent authority is the Commissioner of Police. The de facto complainant is not the aggrieved person and the original owner of the network is Star India, so it cannot be looked into. The petitioner is running a cable network having licence granted by Star India and the licence is valid upto 30.06.2018. Ultimately, the petitioner prayed to quash the impugned proceedings.
All the contentions raised on behalf of the petitioner do fail. The petition is devoid of merit and it is liable to be dismissed.
Subhodaya Digital Entertainment Private Limited Vs State of Telangana; 2019 (1) ALD (Crl)34 (HC); 2018 3 Crimes(HC) 359; 2018 2 ALT(Cri) 101; 2018 0 Supreme(AP) 134; https://indiankanoon.org/doc/186468255/;

Though the defence sought to elicit some discrepancy in the door number forming part of the scene of offence, no suggestion was put to any of the prosecution witnesses that the alleged offences did not occur at the place projected by the prosecution and that it deliberately shifted the scene of offence. In the absence of such suggestion, the alleged discrepancy in the door number has no relevance at all and that it does not, in any manner, weaken the case of the prosecution. The evidence of the injured eyewitnesses regarding the scene of offence remained unshaken.
the testimony of the injured witness is accorded a special status in law. This is as a sequence of the fact that the injury to the witness is an inbuilt guarantee of his presence at the scene of the crime and because the witness will not want to let his actual assailant go unpunished merely to falsely implicate a third party for the commission of the offence.
mere delay in lodging the F.I.R. is not by itself fatal to the case of the prosecution.
Padala Ramu and others Vs State of A.P.; 2019 1 ALD Crl 41 (HC); 2018 2 ALT(Cri) 409; 2018 0 Supreme(AP) 38; https://indiankanoon.org/doc/145059990/;

even if the trial Court has not framed charge under Section 306 of IPC, still, the appellant can be convicted for the aforementioned offence keeping in view the dictum of Hon'ble Supreme Court in the case of Dalbir Singh ((2004) 5 SCC 334).
Bandala Saya Goud Vs State of A.P; 2018 0 Supreme(AP) 111; 2018 (2) ALT (Crl) 107 (DB); 2019 (1) ALD (Crl) 70.

the presence of alcohol content in the petitioner was at 214 mg/100 ml, which is exceeding the permissible BAC level of 30 mg/ml as mentioned in Section 185 of the Act i.e., seven times more than the permissible level. Though the petitioner has violated the mandatory procedure as

contemplated under the provisions of the Act, more particularly, Section 185 of the Act and though no untoward incident has taken place even he was under the high influence of liquor, it cannot be said that the petitioner is not guilty of the offence nor a lenient view can be taken. In fact, the petitioner has committed the same offence within two years. The drunken driving has become a menace for our society. In many cases it is leading to many casualties. The innocent pedestrians are losing their lives and families are being shattered. The punishment to be awarded to a drunken driver at least should act as a deterrent for others, who are resorting to such type of violations.
D.Chandra Sekhar Vs State of Telangana; 2019(1) ALD (Crl) 75; 2018 0 Supreme(AP) 283;
https://indiankanoon.org/doc/128752701/

The case sheet, which was produced by the accused, at the time of her examination, under Section 313 Cr.P.C., allegedly containing the signature, was appreciated well by the lower Court. That apart, the statement of the deceased itself shows that the accused also tried to put off the flames. But, however, her effort to put off the flames or her admitting the deceased in the hospital does not in any manner reduce the gravity of the offence committed by her. The lower Court, by appreciating the case law, has rightly arrived at a conclusion that the act of the accused falls under Section 304 Part II IPC but not under Section 302 IPC. When the statement of the deceased is free from any doubt, the law is well settled, that it can form sole basis for the guilt of the accused. Accordingly, this Court opines that the statement of the deceased does not suffer from any legal infirmities and placing reliance on the same by the trial Court is not erroneous.
Bathula Swarana Kumari Vs State of A.P.; 2019 1 ALD Crl 83;

The failure of the accused to explain as to what happened to the deceased after they were taken by him, would also form one of the strong links in the chain of circumstances
statements of witnesses cannot be discarded merely on the ground of delay, more so, when no explanation was sought from the Investigating Officer regarding delay.
Motive, in this case is well proved. Whether it is sufficient enough to drive the accused to commit such a heinous offence or not, is a question, the answer for which is lodged in the mind of the accused. When the circumstances, proving the guilt of the accused are so cogent, pointing unerringly to the guilt of the accused, brushing aside all those circumstances, on the mere ground of inadequacy of motive, would not be in the interest of justice.
Ajjada Balakrishna vs State of A.P.; 2018 2 Crimes(HC) 554; 2018 2 ALT(Cri) 9; 2018 0 Supreme(AP) 112; 2019 1 ALD Crl 87; https://indiankanoon.org/doc/152729122/;

when A.1 took the plea that since the tainted money was found from A.2 and not from him his complicity shall be ruled out, the Apex Court held that the tainted money was meant to be passed on to A.1 as bribe and as the A.2 took the tainted money on the directions of A.1, it was as good as if A.1 had taken the money and passed on to A.2.
The Plea of A1 that he was transferred as such there was no occasion to demand and accept the bribe, has been brushed aside on the ground that the said transfer was not within the knowledge of the complainant and further the file of the complainant was recovered from the personal chambers of the AO1.
O.Yellamanda Raju Vs State of A.P; 2018 2 ALT(Cri) 446; 2018 0 Supreme(AP) 260; 2019 1 ALD Crl 94; https://indiankanoon.org/doc/74884791/;

In every case of rape, semen need not be found on the genital organ of the victim. Mere penetration even without discharge of semen on the female genitals, would constitute rape.
the appellant had exclusive knowledge of the whereabouts of the deceased and the burden lies on him under Section 106 of the Indian Evidence Act, to explain as to how the deceased might have been killed. The appellant failed to discharge this burden.
The Courts should not take lenient view in sexual assault cases. The investigating Agencies and the Prosecuting agencies should shoulder their responsibility for making the society safe.
Gaddamidi Bikshapathi Vs State of A.P.; 2018 3 ALT(Cri) 240; 2018 0 Supreme(AP) 132; 2019 1 ALD Crl 142; https://indiankanoon.org/doc/96067688/;

It may be that many people are set free because of poor investigation and on account of indifferent prosecution. At the same time, it is not uncommon for individuals to file false cases. In fact, this Court has noted the misuse of Section 498A of Indian Penal Code, 1860 in the case of Rajesh Sharma v. State of U.P., 2017 SCC Online SC 821 and of Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 in the case of Dr. Subhash Kashinath Mahajan v. State of Maharashtra, (2018) 6 SCC 454. Therefore, while interpreting the law one cannot shut one's eyes to the fact that a large number of false cases are filed and appeals will more likely than not be filed in such cases when the acquittal of the accused is ordered.

The right of the victim to file an appeal is not taken away or in any manner weakened only because he has to seek leave to appeal. If Sections 378(3), 378(4) and 372 of CrPC are read together, it is clear that the victim is also required to apply for leave to appeal before his appeal can be entertained.

Though the victim has rights, one cannot forget that a victim who may have suffered, may also seek revenge. Therefore, an obligation has been cast upon the State to prosecute the accused. In fact, even now a trial under the CrPC has to be conducted by the Public Prosecutor or Assistant Public Prosecutor. No private lawyer can be engaged to conduct the trial under Section 301(2) of CrPC. A private person including the victim, can only instruct a pleader to act on his behalf in court but the prosecution has to be conducted either by the Public Prosecutor or Assistant Public Prosecutor and the pleader engaged by the private person can only act as per the directions of the Public Prosecutor or Assistant Public Prosecutor. The reason behind this is that the victim may fabricate evidence or hide true facts whereas the Public Prosecutor or Assistant Public Prosecutor is expected to be fair to the court, to the accused and to the victim.

Mallikarjun Kodagali (Dead) Through L.Rs Vs State of Karnataka; 2018 0 AIR(SC) 5206; 2018 3 GLH 609; 2018 5 KHC 362; 2018 2 KLD(SN) 825; 2018 4 KLT 682; 2018 0 Supreme(SC) 983; 2019 1 ALD Crl 165(SC); https://indiankanoon.org/doc/111899692/;

Offence u/s 307 being non-compoundable the proceedings cannot be quashed on compromise between the accused and the complainant.

State of Madhya Pradesh Vs. Kalyan Singh & Ors.; 2019 0 Supreme(SC) 9; https://indiankanoon.org/doc/104046110/;

Admittedly, death in the instant case took place within seven years of the marriage which was solemnised on 19.4.1988 and the incident of death had occurred on 6-7.12.1994. Though the defence had tried to prove otherwise, namely, that death had occurred beyond seven years of marriage, no concrete evidence in this regard has been forthcoming. Demands for dowry by the accused-appellants as well as the husband and ill-treatment/cruelty on failure to meet the said demands is evident from the evidence of PW-6. From the evidence of PW-1, it is clear that the death was on account of burn injuries suffered by the deceased which injuries were caused by use of kerosene. In the light of the aforesaid evidence, this Court has no hesitation in holding that all the three ingredients necessary to draw the presumption of commission of the offence under Section 304-B IPC have been proved and established by the prosecution. Consequently, the presumption under Section 113-B of the Indian Evidence Act has to be drawn against the accused and in the absence of any defence evidence to rebut the same, the Court has to hold the accused guilty of the offence under Section 304-B IPC. On the basis of the same consideration, the offence under Section 498-A must also be held to be proved against the accused persons. We, therefore, have no hesitation in dismissing the appeal and in affirming the conviction and sentence imposed by the High Court.

JAGDISH CHAND AND ANOTHER Vs. STATE OF HARYANA; 2019 0 Supreme(SC) 10; http://www.advocatekhoj.com/library/judgments/announcement.php?WID=10942;

It is no doubt true that Arvind committed suicide on 23.02.2002. He left a suicide note which was found by his family members on 01.03.2002. There is also no dispute that Arvind blamed his father-in-law (Laxmi Narayan), his sister-in-law (Indera) and the Appellant for harassment and threats that he would be implicated in a false case of demand of dowry. Admittedly, a Panchayat was held in

September, 2001 during which the accused leveled allegations of demand of dowry by Arvind. More than five months thereafter, Arvind committed suicide on 23.02.2002.
There is no proximity between the Panchayat held in September, 2001 and the suicide committed by Arvind on 23.02.2002. The incident of slapping by the Appellant in September, 2001 cannot be the sole ground to hold him responsible for instigating the deceased to commit suicide.
We are not in agreement with the findings of the Trial Court that the deceased (Arvind) committed suicide in view of the continuous threats by the accused regarding his being implicated in a false case of demand of dowry. The evidence does not disclose that the Appellant instigated the deceased to commit suicide. There was neither a provocation nor encouragement by the Appellant to the deceased to commit an act of suicide. Therefore, the Appellant cannot be held guilty of abetting the suicide by the deceased.
Rajesh vs State of Haryana; 2019 0 Supreme(SC) 41; http://www.advocatekhoj.com/library/judgments/announcement.php?WID=10967

The evidence of four prosecution witnesses which we have detailed above fully proves the case of the prosecution. In this view of the matter, even if, some witnesses might have turned hostile, yet it would be of no significance and nor it would adversely affect the case of the prosecution. It is more so when the witnesses which we have referred above did not turn hostile and were, therefore, rightly believed by the High Court.
Mahadevappa Vs State of Karnataka ; 2019 0 Supreme(SC) 45; https://indiankanoon.org/doc/56053397/;

the marriage of a Muslim man with an idolater or fireworshipper is neither a valid (sahih) nor a void (batil) marriage, but is merely an irregular (fasid) marriage. Any child born out of such wedlock (fasid marriage) is entitled to claim a share in his father's property. It would not be out of place to emphasise at this juncture that since Hindus are idol worshippers, which includes worship of physical images/statues through offering of flowers, adornment, etc., it is clear that the marriage of a Hindu female with a Muslim male is not a regular or valid (sahih) marriage, but merely an irregular (fasid) marriage.
The position that a marriage between a Hindu woman and Muslim man is merely irregular and the issue from such wedlock is legitimate has also been affirmed by various High Courts.
MOHAMMED SALIM (D) THROUGH LRS. & ORS. Vs. SHAMSUDEEN (D) THROUGH LRS. & ORS; 2019 0 Supreme(SC) 49; http://www.advocatekhoj.com/library/judgments/announcement.php?WID=10972;

As we perceive, this case deserves to fall in the category of rarest of the rare cases. It is inconceivable from the perspective of the society that a married man aged about two scores and seven make a four year minor innocent girl child the prey of his lust and deliberately causes her death. A helpless and defenceless child gets raped and murdered because of the acquaintance of the appellant with the people of the society. This is not only betrayal of an individual trust but destruction and devastation of social trust. It is perversity in its enormity. It irrefragably invites the extreme abhorrence and indignation of the collective. It is an anathema to the social balance. In our view, it meets the test of rarest of the rare case and we unhesitatingly so hold."
A three Judge Bench of the Supreme Court in Sunil vs. State of Madhya Pradesh, (2017) 4 SCC 393 has considered an argument that if DNA testing is not proved by the prosecution; therefore, it has failed to prove its case beyond reasonable doubt. It was held that positive result of DNA test would constitute clinching evidence against the accused. If, however, result of test is negative the weight of other material evidence on record will still have to be considered.
The accused, in his examination under Section 313 CrPC, had denied the prosecution case completely, but the prosecution has succeeded in proving the guilt beyond reasonable doubt. Often, false answers given by the accused in Section 313 CrPC statement may offer an additional link in the chain of circumstances to complete the chain. See Anthony D'souza v. State of Karnataka (2003) 1 SCC 259.

The Supreme Court in Phool Kumar vs. Delhi Administration, AIR 1975 SC 905, has held that the report of an expert is admissible in evidence under Section 293 of the CrPC and can be doubted only by cross-examination of the witness. In a judgment reported as Bhagwan Das and another vs. State of Rajasthan, AIR 1957 SC 589, the Supreme Court held that the opinion of an expert cannot be discarded on the basis of books on Medical Jurisprudence unless the passages which are sought to be discredited in the opinion of the expert are put to him.
Vinod alias Rahul Chouhtha and Anr. Vs. State of Madhya Pradesh & others; 2018 3 Crimes(HC) 545; https://indiankanoon.org/doc/180137627/;

Thus it is clear that sub-section (3) of section 242 casts a mandatory duty on the Magistrate to take all such evidence as may be produced in support of the prosecution. The word "produced" in sub-section (3) also cannot be given a restrictive meaning to hold that only the materials collected during investigation could be permitted to be produced in evidence. Such a construction would defeat the very purpose of trial. If the main object of criminal trial is to discover truth, necessarily all and every piece of evidence while could help the court to arrive at a just decision should be allowed to come on record. Therefore, it is immaterial whether the "evidence" sought to be produced during trial was either collected in the course of investigation or subsequent thereto. Section 91 Cr.P.C. no doubt empowers the court or the officer in charge of the Police Station to ensure the production of any 'document or other thing' 'necessary or desirable' for the purpose of any investigation, enquiry or other proceedings by issuing summons or written order to the person in whose possession or power such document or thing is; but section 242(3) Cr.P.C. requires the court to take all such evidence which the prosecution desires to produce including the documents which are not mentioned in sub-section (5) of section 173 Cr.P.C. subject of course furnishing to the accused a copy thereof and providing him a reasonable opportunity to meet the same. The only safeguard or restriction that could be thought of in view of the provisions of the Evidence Act is that such evidence must relate to the matters of fact in enquiry. In other words, as long as the proposed evidence, either oral or documentary, is relevant and in support of the prosecution case, the Magistrate cannot refuse to receive it.
B L Udaykumar and Ors. Vs. State of Karnataka; 2018 3 Crimes(HC) 469; https://www.casemine.com/judgement/in/5b815e279eff430e1391dd07;

This Court in its judgment dated 05.05.2017 has held after marshalling evidence of PW.1 and other evidences including scientific evidences that Mukesh was driving the bus. The issue whether he had a driving licence for driving the bus or not has no relevance.
Another contention raised by accused No.2-Mukesh is that he could not have been present in the bus on 16.12.2012 at 08.55 p.m. as seen from Call Details Record (CDR) and that his phone number was giving the location of Lajpat Nagar. This issue has been elaborately argued and dealt with as overlapping of signals in close proximity is common.
All the contentions raised regarding the three dying declarations have been considered in detail in paras (148) to (192) and paras (395) to (417). Considering all the three dying declarations, in the light of well-settled principles, this Court held that all the three dying declarations are true, voluntary and consistent. Insofar as third dying declaration, this Court, in paras (408) to (412) held that the dying declaration made through signs, gestures or by nods are admissible as evidence and that proper care was taken by PW-30 Pawan Kumar, Metropolitan Magistrate and the third dying declaration recorded by in response to the multiplechoice questions by signs, gestures made by the victim are admissible as evidence.
Review is not an appeal in disguise.
MUKESH Vs. STATE OF NCT OF DELHI; 2018 0 AIR(SC) 3220; 2018 3 BomCR(Cri) 628; 2018 3 ILR(Ker) 181; 2018 6 JT 546; 2018 4 KLT(SN) 29; 2018 8 SCC 149; 2018 0 Supreme(SC) 704; 2019 (1) ALT (Crl) 1 (SC); https://indiankanoon.org/doc/164573856/;

In Sessions Case No.58/98 against A-16 and A-17, no evidence was recorded independently. On the other hand, the evidence recorded in Sessions Case No.118/1992 was marked as evidence in Sessions Case No.58/1998. The Indian Evidence Act, 1872 does not permit such a mode of proof of any fact barring in exceptional situations contemplated in Section 33. There is no material on record

to warrant the procedure adopted by the Sessions Court. On that single ground, the entire trial of Sessions Case No.58/98 is vitiated and is not in accordance with procedures established by law.

By definition of the offences covered under Sections 147 and 148, [Section 146 IPC defines the offence of rioting. Section 147, IPC prescribes punishment for offence of rioting. Section 148, IPC prescribes punishment for offence of rioting armed with deadly weapons.] a person cannot be charged simultaneously with both the offences by the very nature of theses offences. A person can only be held guilty of an offence punishable either under Section 147 or Section 148.

a person is (i) guilty of any one of the offences under Sections 143, 146 or 148 or (ii) vicariously liable under Section 149 for some other offence, it must first be proved that such person is a member of an 'unlawful assembly' consisting of not less than five persons irrespective of the fact whether the identity of each one of the 5 persons is proved or not.

This case, in our opinion, is a classic illustration of how the State failed in its primary constitutional responsibility of maintaining law and order by its ineffectiveness in the enforcement of criminal law. In our opinion, the reasons for such failure are many. Some of them are (i) inefficiency arising out of either incompetence or lack of proper training in the system of criminal investigation; (ii) corruption or political interference with the investigation of crime; (iii) less than the desirable levels of efficiency of the public prosecutors to correctly advise and guide the investigating agencies contributing to the failure of the proper enforcement of criminal law; and (iv) inadequate efficiency levels of the bar and the members of the Judiciary (an offshoot of the bar) which contributed to the overall decline in the efficiency in the dispensation of criminal justice system.

Over a period of time lot of irrelevant and unwarranted considerations have crept into the selection and appointment process of Public Prosecutors all over the country. If in a case like the one on hand where three people were killed and more than five people were injured, if charges are not framed in accordance with the mandate of law, the blame must be squarely taken by both the bar and the bench. Another distressing feature of the record in this case is the humungous cross examination of the witnesses by the defense which mostly is uncalled for.

an erroneous or irregular or even absence of a specific charge shall not render the conviction recorded by a court invalid unless the appellate court comes to a conclusion that failure of justice has in fact been occasioned thereby.

The following prophetic words of Justice V.R. Krishna Iyer [In Shivaji Sahabrao Bobade & Anr. v. State of Maharashtra, (1973) 2 SCC 793, para 6] deserve to be etched on the walls of every criminal court in this country:

> "6. … The cherished principles or golden thread of proof beyond reasonable doubt which runs through the web of our law should not be stretched morbidly to embrace every hunch, hesitancy and degree of doubt. The excessive solicitude reflected in the attitude that a thousand guilty men may go but one innocent martyr shall not suffer is a false dilemma. Only reasonable doubts belong to the accused. Otherwise any practical system of justice will then break down and lose credibility with the community. The evil of acquitting a guilty person light heartedly as a learned Author [Glanville Williams in 'Proof of Guilt'.] has sapiently observed, goes much beyond the simple fact that just one guilty person has gone unpunished. If unmerited acquittals become general, they tend to lead to a cynical disregard of the law, and this in turn leads to a public demand for harsher legal presumptions against indicted "persons" and more severe punishment of those who are found guilty. Thus, too frequent acquittals of the guilty may lead to a ferocious penal law, eventually eroding the judicial protection of the guiltless. …"

Vinubhai Ranchhodbhai Patel Vs. Rajivbhai Dudabhai Patel & Others; 2019(1) ALT (Crl) 12(SC); 2018 0 AIR(SC) 2472; 2018 7 JT 78; 2018 7 SCC 743; 2018 0 Supreme(SC) 484; http://www.advocatekhoj.com/library/judgments/announcement.php?WID=10148;

Cancellation of bail application by Complainant.

Manoj Kumar Vs State of U.P.; 2018 0 Supreme(SC) 1148; 2019(1) ALT (Crl) 28(SC); http://www.advocatekhoj.com/library/judgments/announcement.php?WID=10747;

in order to constitute a conspiracy, meeting of mind of two or more persons to do an illegal act or an act by illegal means is a must. In other words, it is sine qua non for invoking the plea of conspiracy

against the accused. However, it is not necessary that all the conspirators must know each and every detail of the conspiracy, which is being hatched and nor it is necessary to prove their active part/role in such meeting.
it was not necessary for the appellant to remain present at the time of actual commission of the offence on 05.09.1991 with accused (A1 to A5) for killing/eliminating Siva.
Bilal Hajar @ Abdul Hameed Vs. State Rep. by the Inspector of Police; 2019(1) ALT(Crl)31(SC); 2018 0 AIR(SC) 4780; 2018 0 Supreme(SC) 978; https://indiankanoon.org/doc/31194569/;

If the extra judicial confession inspires confidence, is voluntary and corroborated by independent evidence, convictio0n can be based on such confession. However, each and every circumstance mentioned in the confession need not be separately and independently corroborated.
RAM LAL Vs. STATE OF HIMACHAL PRADESH; 2019(1) ALT (Crl) 39(SC); 2018 0 AIR(SC) 4616; 2018 0 Supreme(SC) 964; https://indiankanoon.org/doc/123334260/;

At one time it was held that the expression 'fact discovered' in the section is restricted to a physical or material fact which can be perceived by the senses, and that it does not include a mental fact (see Sukhan v. Emperor, AIR 1929 Lah 344; Ganu Chandra Kashid v. Emperor, AIR 1932 Bom 286). Now it is fairly settled that the expression 'fact discovered' includes not only the physical object produced, but also the place from which it is produced and the knowledge of the accused as to this (see Pulukuri Kotayya v. King Emperor, (Supra); Udai Bhan v. State of U.P., AIR 1962 SC 1116 ; (1962) 2 CrLJ 251 ; 1962 Supp (2) SCR 830)."
it is well settled that confession of the coaccused by itself cannot be the basis to proceed against the other accused unless something more is produced to indicate their involvement in the commission of the crime.
Asar Mohammad Vs State of U.P.; 2019(1) ALT(Cri) 49(SC); 2018 0 AIR(SC) 5264; 2018 0 Supreme(SC) 1075; https://indiankanoon.org/doc/28788694/;

It cannot be said that the appellant's act of having illicit relationship with another woman would not have affected to negate the ingredients of Sections 306 I.P.C.
the High Court has rightly maintained the conviction of the appellant under Sections 498-A and 306 I.P.C.
Siddaling Vs State;2019(1) ALT(Crl) 71(SC); 2018 CrLJ 4212; 2018 9 SCC 621; 2018 3 SCC(Cri) 812; http://www.advocatekhoj.com/library/judgments/announcement.php?WID=10385;

Even in cases where there is some material to show that the victim was habituated to sexual intercourse, no inference like the victim being a woman of 'loose moral character" is permissible to be drawn from that circumstance alone. A woman of easy virtue also could not be raped by a person for that reason.
It is well-settled by a catena of decisions of this Court that there is no rule of law or practice that the evidence of the prosecutrix cannot be relied upon without corroboration and as such it has been laid down that corroboration is not a sine qua non for conviction in a rape case. If the evidence of the victim does not suffer from any basic infirmity and the 'probabilities factor' does not render it unworthy of credence, as a general rule, there is no reason to insist on corroboration except from medical evidence, where, having regard to the circumstances of the case, medical evidence can be expected to be forthcoming.
Insofar as the direction to initiate the prosecution under Sections 193, 195 and 211 IPC is concerned, Section 340 Cr.P.C. provides the procedure for offences enumerated in Section 195(1) (b) Cr.P.C. The object of Section 340 Cr.P.C. is to ascertain whether any offence affecting administration of justice has been committed in relation to any document produced or evidence given in court during the time when the document or evidence was in custodian legis and whether it is also expedient in the interest of justice to take such action as required under Section 340 Cr.P.C.
Before directing the prosecution to be initiated under Section 195 Cr.P.C., the court has to follow the procedure under Section 340 Cr.P.C. and record a finding that "it is expedient in the interest of justice……..". Though wide discretion is given to court under Section 340 Cr.P.C., the same has to be exercised with care and caution. To initiate prosecution under Section 195 Cr.P.C too readily that too

against the police officials who were conducting the investigation may not be a correct approach. Contention of the learned counsel for the police officials is that before passing the direction to initiate the prosecution for the offences under Sections 193, 195 and 211 IPC, the High Court ought to have followed the procedure contemplated under Section 340(1) Cr.P.C.

State (Govt. of NCT of Delhi) Vs. Pankaj Chaudhary & Others ; 2019 (1) ALT (Cri) 73 (SC); 2018 AIR (SC) 5412; 2018 Supreme (SC) 1103; http://www.advocatekhoj.com/library/judgments/announcement.php?WID=10705;

The bar under Section 23 of RTI Act is only to question the orders passed under the Act by the authorities concerned. But the contention urged by the learned counsel for the petitioners did not find place in any of the provisions of the RTI Act and no bar is created from using such information collected under RTI Act in criminal prosecution. In the absence of any bar against using of information collected under RTI Act as evidence in prosecution, the contention of the learned counsel for the petitioners cannot be upheld. The provision, he referred during argument i.e. Section 23 of RTI Act, has no application to the present facts of the case and since the bar is only against entertaining any suit, application or other proceeding in respect of any order made under the RTI Act. Therefore, the contention of the learned counsel for the petitioners is turned down and the proceedings against the petitioners cannot be quashed.

Sangaraju Sandeep Kumar Raju Vs State of A.P; 2019(1) ALT (Crl) 1(HC);

Unless the accused pleaded guilty, it is incumbent upon the prosecution to examine the investigating officer, who plays a critical role from the start to the end of the investigation. It is more so in case of this nature, where the charge is that the death was caused by poisoning. Unless the investigating officer has collected the evidence of source of procurement of poison by the accused and the same is placed before the Court with proof , it is not possible for convicting the accused on such charge. Unfortunately, the lower Court has completely lost sight of this rudimentary aspect and proceeded in a rather casual manner and convicted the accused, defeating the ends of justice. Such an approach on the part of a Sessions Court, is wholly undesirable. We must also observe that the Public Prosecutor has equally acted with negligence, firstly by not ensuring the presence of LWs.27 to 29 and secondly by not requesting the Court to adjourn the case to secure the presence of the said witnesses. At least after 12.05.2011 when the evidence was closed, the Public Prosecutor has not filed any Memo. before the Court to re-open the evidence to examine the investigating officers. The Director of Prosecutions, shall examine the conduct of the Public Prosecutor concerned and initiate steps against him, if he is still in service.

It is stated that every trial is a voyage of discovery in which truth is the quest. Such being the case, there is no justification for the court to act in undue haste by proceeding with the case, without examining the most crucial witnesses whose evidence constitutes the bedrock of the whole case of the prosecution.

Mandade Rajender & Ors.Vs. The State of Andhra Pradesh; 2018 0 Supreme(AP) 546;

even according to the complaint, marriage took place in Tadepalligudem, and all the alleged incidents of harassment took place at Tanuku, where the couple resided. The complaint also shows that they have started their marital life in Tanuku. The learned counsel for the petitioners relies on two judgments; one in Manish Ratan v. State of M.P.((2007) 1 SCC 262) , wherein it was held by the Hon'ble Supreme Court that considering the fact that the Court and the Police Station which registered the crime did not have jurisdiction, transferred the case to the concerned police; and other in Y. Abraham Ajith v. Inspector of Police, Chennai((2004) 8 SCC 100) , wherein the Apex Court directed the complaint be returned to respondent No.2 for being filed before the appropriate Court if she so chooses. But, however, in Manish Ratan , the Apex court has ordered for transfer of the case to the concerned police station. Hence, in view of the principle laid down in Manish Ratan , the Magistrate is directed to return the charge sheet and other material to Station House Officer, Mogalthur Police Station, so as to enable the police to transfer the same to the Station House Officer, Tanuku Police Station, for investigation and appropriate action.

Bandela Atchuta Ramakrishna Vs State of A.P.; 2019(1) ALT(Crl) 24(HC); http://distcourts.tap.nic.in/hcorders/2011/crlp/crlp_9386_2011.pdf;

it can be understood that approaching the Magistrate Court or the Sessions Court, as the case may be, before approaching the Court under Section 439 Cr.P.C., is only an advice given as a rule of caution and it is not mandatory that the accused should approach the lower Court, before approaching this Court.
Kaladindi Sanyasi Raju Vs. State of A.P.; 2018 0 Supreme(AP) 531; 2019(1) ALT (Crl) 51(HC); http://distcourts.tap.nic.in/hcorders/2018/crlp/crlp_1932_2018.pdf;

though all the witnesses turned hostile except Official witnesses however PW.1 admitted his signature on Ex.P1 complaint and also claimed amount of Rs. 8 lakhs recovered from the appellants. Moreover PW.1 has identified the appellants/A-1 to A-5 in the Test Identification Parade conducted by PW.9-I Additional Junior Civil Judge.
It is pertinent to mention here that the learned trial Court observed in the impugned order and judgment that PWs.5 and 6, who are Government employees, being Village Revenue Officers, turned hostile in the case, very peculiarly. Accordingly, the learned trial Court observed the conduct of witnesses while giving evidence that they are frightening on seeing the accused, who are in the Court dock, because accused are seeing the witnesses with piercing eyes. It is further observed by the trial Court that even though PWs.5 and 6 are Public servants, they turned hostile, because of the threat made by the accused by the visible representations through their eyes from the Court dock. Accordingly, the trial Court opined that PWs.5 and 6, who are consisting abundant family members, even though they are Government employees, got fear to their bodies or to their beloved with the barbarous acts of the accused, due to which, they might have turned hostile.
Though there is no direct evidence about dacoity with stabbing, various circumstances projected by the prosecution as discussed about complete the chain of link and established the offence in all probability that the act must have been done by the accused. Moreover, the circumstantial evidence lead by the prosecution is also of a clinching nature.
Alavala Nagi Reddy and others Vs. State of Andhra Pradesh; 2018 0 Supreme(AP) 578; 2019(1) ALT (Crl) 54(DB)(HC); https://indiankanoon.org/doc/14584976/;

a private complaint may not be entertained unless the complainant has produced prima facie evidence before the Court in the form of a credible opinion given by another competent doctor to support the charge of rashness or negligence on the part of the accused doctor. The investigating officer should, before proceeding against the doctor accused of rash or negligent act or omission, obtain an independent and competent medical opinion preferably from a doctor in government service, qualified in that branch of medical practice who can normally be expected to give an impartial and unbiased opinion applying the test laid down in Bolam Vs. Friern Hospital Management Committee((1957) 1 WLR 582).
Dr. A. Padmaja Vs State of Telangana; 2019(1) ALT (Crl) 71(HC); http://distcourts.tap.nic.in/hcorders/2018/crlp/crlp_2065_2018.pdf;

it can be understood that not only Section 42(2), but also Section 42(1) is not mandatory and the non-compliance of the same would not vitiate the trial. When section 42(2) permits an officer without authorisation to conduct search after complying with the conditions laid therein, it goes without saying that section 42(1) is not a mandatory provision.
The other contention of the petitioners' counsel that the other accused in this case were already enlarged on bail also cannot entitle him for bail,
Jajimoggala Apparao Vs. Munivel Balakrishnan; **2019(1) ALT (Crl) 75(HC); http://distcourts.tap.nic.in/hcorders/2018/crlp/crlp_20_2018.pdf;**

In the recent judgment, the Apex Court in Krishna Veni Nagam Vs. Harish Nagam((2017) 4 SCC 150) , had an occasion to deal with the similar situation of **recording evidence by video conference or skype**, and on the basis of the guidelines issued by the Apex Court, though reviewed to certain extent by the Full Bench, the High Court framed certain guidelines for recording of evidence by video conference or skype, which are extracted hereunder:
1. "GENERAL:

1) In these guidelines, reference to the 'court point' means the Courtroom or other place where the Court is sitting or the place where Commissioner appointed by the Court to record the evidence by video conference is sitting and the 'remote point' is the place where the person to be examined via video conference is located, for example, a prison.

2) Person to be examined includes a person whose deposition or statement is required to be recorded or in whose presence certain proceedings are to be recorded.

3) Wherever possible, proceedings by way of video conference shall be conducted as judicial proceedings and the same courtesies and protocols will be observed. All relevant statutory provisions applicable to judicial proceedings including the provisions of the Information Technology Act, 2000 and the Indian Evidence Act, 1872 shall apply to the recording of evidence by video conference.

4) Video conferencing facilities can be used in all matters including remands, bail applications and in civil and criminal trials where a witness is located intrastate, interstate, or overseas. However, these guidelines will not apply to proceedings under Section 164 of Cr.P.C.

5) The guidelines applicable to a Court will mutatis mutandis apply to a Local Commissioner appointed by the Court to record the evidence.

2. APPEARANCE BY VIDEO CONFERENCE:

A Court may either suo moto or on application of a party or a witness, direct by a reasoned order that any person shall appear before it or give evidence or make submissions to the Court through video conference.

3. PREPARATORY ARRANGEMENTS FOR VIDEO CONFERENCE.

1) There shall be Coordinators both at the court point as well as at the remote point.

2) In the High Court, Registrar (LT-cum-Central Project Coordinator) shall be the coordinator at the court point.

3) In the District Courts, official-in-charge of the Video Conferencing Facility (holding the post of Senior Assistant/Senior Personal Assistant/District System Administrator or above) nominated by the District Judge shall be the coordinator at the court point.

4) The Coordinator at the remote point may be any of the following:-

i. Where the person to be examined is overseas, the Court may specify the coordinator out of the following:

(a) The official of Consulate/Embassy of India,

(b) Duly certified Notary Public/ Oath Commissioner,

ii. Where the person to be examined is in another State/U.T, a judicial Magistrate as may be deputed by the District Judge concerned.

iii. Where the person to be examined is in custody, the concerned Jail Superintendent or any other responsible official deputed by him,

iv. Where the person to be examined is in a hospital, public or private, whether run by the Central Government, the State Government, local bodies or any other person, the Medical Superintendent or In-charge of the said hospital or any other responsible official deputed by him,

v. Where the person to be examined is a juvenile or a child who is an inmate of an Observation Home/Special Home/Children's Home/ Shelter Home, the Superintendent/Officer In-charge of that Home or any other responsible official deputed by him,

vi. Where the person to be examined is in women rescue homes, the Superintendent / Officer In-charge of the women rescue homes or any other responsible official deputed by him/her.

vii. Wherever a coordinator is to be appointed at the remote point under Clause 3(4) Sub-Clause (ii); (iii), (iv), (v) & (vi), the Court concerned will make formal request through the District Judge concerned to concerned official.

viii. In case of any other person, as may be ordered by the Court.

5) The coordinators at both the points shall ensure that the minimum requirements as mentioned in the Guidelines No.4 are in position at the court point and the remote point and shall conduct a test between both the points well in advance, to resolve any technical problem so that the proceedings are conducted without interruption.

6) It shall be ensured by the coordinator at the remote point that:-

(i) The person to be examined or heard is available and ready at the room earmarked for the video conference at least 30 minutes before the schedule time.

(ii) No other recording device is permitted except the one installed in the video conferencing room.

(iii) Entry into the video conference room is regulated.

7. It shall be ensured by the coordinator at the court point that the coordinator at the remote point has certified copies or soft copies of all or any part of the court record in a sealed cover directed by the Court sufficiently in advance of the scheduled video conference.

8. The court shall order the coordinator at the remote point or at the court point where it is more convenient, to provide:-

(i) a translator in case the person to be examined is not conversant with Court language;

(ii) an expert in sign language in case the person to be examined is speech and/or hearing impaired;

(iii)for reading of documents in case the person to be examined is visually challenged;

(iv) an interpreter or special educator, as the case may be, in case the person to be examined is temporarily or permanently mentally or physically disabled.

4 . MINIMUM REQUISITES FOR VIDEO CONFERENCE

1) A desktop or laptop with internet connectivity and printer

2) Device ensuring uninterrupted power supply

3) Video camera

4) Microphones and speakers

5) Display unit 6) Document visualize

7) Comfortable sitting arrangements ensuring privacy

8) Adequate lighting

9) Insulations as far as possible / proper acoustics

10) Digital signatures from licensed certifying authorities for the coordinators at the court point and at the remote point.

5. COST OF VIDEO CONFERENCING:

1) In criminal cases, the expenses of the video conference facility including expenses of preparing soft copies/certified copies of the court record for sending to the coordinator at the remote point and fee payable to translator/interpreter/special educator, as the case may be, and to the coordinator at the remote point shall be borne by such party as the court directs taking into account the Criminal Rules of Practice and Circular orders 1990.

2) In civil cases, as general rule, the party making the request for recording evidence by video conference shall bear the expenses.

3) In other cases, the court may make an order as to expenses as it considers appropriate taking into account rules/instructions regarding payment of expenses to complainant and witnesses as may be prevalent from time to time.

6. PROCEDURES GENERALLY:

1) The identity of the person to be examined shall be confirmed by the court with the assistance of the coordinator at remote point at the time of recording of the evidence

2) In civil cases, party requesting for recording statement of the person to be examined by video conferencing shall confirm to the court location of the person, his willingness to be examined by video conferencing, place and facility of such video conferencing.

3) In criminal cases, where the person to be examined is a prosecution witness or court witness, the prosecution and where person to be examined is a defence witness, the defence counsel will confirm to the court his location, willingness to be examined by video conferencing, place and facility of such video conferencing.

4) In case person to be examined is an accused, prosecution will confirm his location at remote point.

5) Video conference shall ordinarily take place during the court hours. However, the Court may pass suitable directions with regard to timings of the video conferencing as the circumstances may dictate.

6) The record of proceedings including transcription of statement shall be prepared at the court point under supervision of the court and accordingly authenticated. The soft copy of the transcript digitally signed by the coordinator at the court point shall be sent by e-mail through NIC or any other Indian service provider to the remote point where printout of the same will be taken and signed by the deponent. A scanned copy of the statement digitally signed by coordinator at the remote point would be sent by e-mail through NIC or any other Indian service provider to the court point. The hard copy would also be sent subsequently, preferably within three days of the recording, by the coordinator at the remote point to the court point by courier/mail.

7) The court may, at the request of a person to be examined, or on its own motion, taking into account the best interests of the person to be examined, direct appropriate measures to protect his privacy keeping in mind his age, gender and physical condition.

8) Where a party or a lawyer requests that in the course of video conferencing some privileged communication may have to take place, Court will pass appropriate directions in that regard.

9) The audio-visual shall be recorded at the court point. An encrypted master copy with hash value shall be retained in the court as part of the record. Another copy shall also be stored at any other safe location for backup in the event of any emergency. Transcript of the evidence recorded by the Court shall be given to the parties as per applicable rules. A party may be allowed to view the master copy of the audio video recording retained in the Court on application which shall be decided by the Court consistent with furthering the interests of justice.

10) The coordinator at the remote point shall be paid such amount as honorarium as may be decided by the Court in consultation with the parties.

11) In case any party or his/her authorized person is desirous of being physically present at the remote point at the time of recording of the evidence, it shall be open for such party to make arrangements at party's own costs including for appearance/representation at the remote point subject to orders to the contrary by the Court.

7) PUTTING DOCUMENTS TO A PERSON AT REMOTE POINT:

If in the course of examination of a person at a remote point by video conference, it is necessary to put a document to him, the court may permit the document to be put in the following manner:

1) If the document is at the court point, by transmitting a copy of it to the remote point electronically including through a document visualize and the copy so transmitted being then put to the person;

2) If the document is at the remote point, by putting it to the person and transmitting a copy of it to the court point electronically including through a document visualize. The hard copy would also be sent subsequently to the court point by courier/mail.

8. PERSONS UNCONNECTED WITH THE CASE:

1) Third parties may not be allowed to be present during video conferencing subject to orders to the contrary, if any, by the Court.

2) Where, for any reason, a person unconnected with the case is present at the remote point, then that person shall be identified by the coordinator at the remote point at the start of the proceedings and the purpose for his being present explained to the court.

9. CONDUCT OF PROCEEDINGS:

1) Establishment and disconnection of links between the court point and the remote point would be regulated by orders of the court.

2) The court shall satisfy itself that the person to be examined at the remote point can be seen and heard clearly and similarly that the person to be examined at the remote point can clearly see and hear the court.

10. CAMERAS:

1) The Court shall at all times have the ability to control the camera view at the remote point so that there is an unobstructed view of all the persons present in the room.

2) The court shall have a clear image of each deponent to the extent possible so that the demeanour of such person may be observed.

11. RESIDUARY CLAUSE:

Such matters with respect to which no express provision has been made in these guidelines shall be decided by the Court consistent with furthering the interests of justice."

MUNNURU SHOBHA Vs S.MOHAN RAO; 2019 (1) ALT (Crl) 78; http://distcourts.tap.nic.in/hcorders/2018/crlp/crlp_8290_2018.pdf;

The 1st respondent, who belongs to Scheduled Caste, was appointed as Professor and working as such in the Department. Taking advantage that he belongs to the Scheduled Caste community, to achieve his object of getting promotion to the higher cadre, he resorted to this litigation against the Superior Officers of the department. The cause of taking cognizance of such offences even by the Courts even though it relates to service conditions of an employee, it creates lot of apprehension in the minds of the Superior or controlling authorities to take any action against the employee who belongs to scheduled caste, and thereby it leads to anarchy in the administration of the department. Some times the controlling authorities are unable to control the subordinates, who belong to scheduled caste, on account of such atrocious threats against the superior authorities by the employees belonging to the scheduled castes or scheduled tribes, in view of heavy penalties prescribed under the provisions of the SC & ST (PoA) Act and the accused are not entitled to claim benefit under Section 438 Cr.P.C., in view of Section 18 of the Act i.e. they are not entitled to claim a prearrest bail if any person allegedly committed offence under the provisions of the SC & ST (PoA) Act. Sometimes, the employees belonging to Scheduled Caste and Scheduled Tribes are forcing the higher authorities to come to their terms though they are not discharging their duties, under the threat of lodging a complaint against them for various offences as per the provisions of the SC & ST (PoA) Act. If such acts are encouraged, it would harshly effect the administrative capacity of the higher authorities, reduces administrative or controlling capacity since they are always working in hostile atmosphere under the threat of lodging complaints against them by the subordinate employees belonging to the Scheduled Caste and Scheduled Tribe. If the provisions of those acts are applied to the acts done in connection to their employment while discharging their duties, it is difficult for any officer to have control over the subordinate employees in any department. Therefore, keeping in view of the ill effects of such complaints and the administration, the Courts must weigh balance between the alleged acts committed by the employees belonging to the higher caste against the interests of the employees belonging to Scheduled Caste and Scheduled Tribe and decide those cases with sense of responsibility while taking cognizance since taking of cognizance is a matter having serious consequences as held by the Apex Court in Pepsi Foods Limited Vs. Special Judicial Magistrate and Ors.[1998 (5) SCC 749]

K.Ratna Kishore Vs Dr.Yerkula Kiran Kumar and another; 2019(1) ALT(Crl) 92(HC); http://distcourts.tap.nic.in/hcorders/2017/crlp/crlp_8685_2017.pdf;

it is clear that there are no fetters on the power under Section 391 Cr.P.C. of the Appellate Court. All powers are conferred on the Court to secure ends of justice. The ultimate object of judicial administration is to secure ends of justice. Court exists for rendering justice to the people.

Brig. Sukhjeet Singh (Retd.) MVC Vs. The State of Uttar Pradesh & Others; 2019 0 Supreme(SC) 72; https://indiankanoon.org/doc/162563694/;

It is well settled that merely because the prosecution has failed to explain injuries on the accused persons, ipso facto the same cannot be taken to be a ground for throwing out the prosecution case, especially when the same has been supported by eyewitnesses, including injured ones as well, and their evidence is corroborated by medical evidence as well as objective finding of the investigating officer.

a common object does not always require a prior concert and it may form even on the spur of the moment.

Munishamappa & Ors. Vs State of Karnataka; 2019 0 Supreme(SC) 63; http://www.advocatekhoj.com/library/judgments/announcement.php?WID=11004

MOTIVE

In a catena of decisions, the Supreme Court held that even if the absence of motive as alleged is accepted, that is of no consequence and it pales into insignificance when direct evidence establishes the crime. Therefore, in case there is direct trustworthy evidence of witnesses as to the commission of an offence, the motive part loses its significance and if the genesis of the motive of the occurrence is not proved, the ocular testimony of the witnesses as to the occurrence could not be discarded only by the reason of the absence of motive, if otherwise the evidence is worthy of reliance (Hari Shanker v. State of U.P.,(1996) 9 SCC 40, Bikau Pandey and others v. State of Bihar, (2003) 12 SCC 616 and Abu Thakir and others v. State of Tamil Nadu,(2010) 5 SCC 91).

In Suresh Chandra Bahri v. State of Bihar,1999 SCC (1) Supp. 80 the Supreme Court held that motive is something which prompts a person to form an opinion or intention to do certain illegal act or even a legal act but with illegal means with a view to achieve that intention, that in a case where there is clear proof of motive for the commission of the crime, it affords added support to the finding of the court that the accused was guilty of the offence charged with, but it has to be remembered that the absence of proof of motive does not render the evidence bearing on the guilt of the accused nonetheless becomes untrustworthy and unreliable because most often it is only the perpetrator of the crime alone who knows as to what circumstances prompted him to adopt a certain course of action leading to the commission of the crime. In Ujagar Singh v. State of Punjab,(2007) 13 SCC 90, the Supreme Court reiterated its view that motive is in the mind of the accused and can seldom be fathomed with any degree of accuracy.

In Subedar Tewari v. State of Uttar Pradesh,1989 Supp (1) SCC 91, the Supreme Court observed that the evidence regarding existence of motive which operates in the mind of an assassin is more often than not within the reach of others and that the motive may not even be known to the victim of the crime.

EVIDENCE OF AN INJURED WITNESS

In criminal jurisprudence, the testimony of an injured witness has high evidentiary value, for, ordinarily a person who suffered injuries at the hands of another would not shield the real offender and falsely implicate an innocent. This view of ours is supported by a catena of judgments (Vide Ramlagan Singh v. State of Bihar,(1973) 3 SCC 881, Malkan Singh v. State of U.P., (1975) 3 SCC 311, Machhi Singh v. State of Punjab,(1983) 3 SCC 470, Appabhai v. State of Gujarat,1988 Supp SCC 241, Bonkya v. State of Maharashtra, (1995) 6 SCC 447, Bhag Singh v. State of Punjab, (1997) 7 SCC 712, Mohar v. State of U.P., (2002) 7 SCC 606, Dinesh Kumar v. State of Rajasthan,(2008) 8 SCC 270, Vishnu v. State of Rajasthan,(2009) 10 SCC 477, Annareddy Sambasiva Reddy v. State of A.P.,(2009) 12 SCC 546, and Balraje v. State of Maharashtra,(2010) 6 SCC 673).

In State of Madhya Pradesh v. Mansingh and others, (2003) 10 SCC 414,the Supreme Court held that the evidence of injured witnesses has greater evidentiary value and unless compelling reasons exist, their statements are not to be discarded lightly.

In B.K. Channappa v. State of Karnataka,(2006) 12 SCC 57 though the Supreme Court found certain contradictions in the evidence of the material witnesses, it has placed heavy

reliance on the testimony of injured witnesses despite some improvements, contradictions and omissions therein. After referring to relevant case law on this aspect, the Supreme Court in Abdul Sayeed v. State of M.P.,(2010) 10 SCC 259 succinctly summarized the law as under:

The law on the point can be summarized to the effect that the testimony of the injured witness is accorded a special status in law. This is as a sequence of the fact that the injury to the witness is an inbuilt guarantee of his presence at the scene of the crime and because the witness will not want to let his actual assailant go unpunished merely to falsely implicate a third party for the commission of the offence. Thus, the deposition of the injured witness should be relied upon unless there are strong grounds for rejection of his evidence on the basis of major contradictions and discrepancies therein.

DELAY IN LODGING FIR

The law is well settled that mere delay in lodging the F.I.R. is not by itself fatal to the case of the prosecution (See Ashok Kumar Chaudhary v. State of Bihar,(2008) 12 SCC 173). In State of Himachal Pradesh v. Gian Chand,(2001) 6 SCC 71 a three-Judge Bench of the Supreme Court had observed thus:

Delay in lodging the FIR cannot be used as a ritualistic formula for doubting the prosecution case and discarding the same solely on the ground of delay in lodging the first information report. Delay has the effect of putting the Court in its guard to search if any explanation has been offered for the delay, and if offered, whether it is satisfactory or not. If the prosecution fails to satisfactorily explain the delay and there is a possibility of embellishment in prosecution version on account of such delay, the delay would be fatal to the prosecution. However, if the delay is explained to the satisfaction of the Court, the delay cannot by itself be a ground for disbelieving and discarding the entire prosecution case.

NEWS

- The Central Government hereby appoints the 14th January, 2019 as the date on which the provisions of the Constitution (One Hundred and Third Amendment) Act, 2019, shall come into force.
- The Muslim Women (Protection of Rights on Marriage) Ordinance, 2019 (re)promulgated on 12/01/2019.
- **GOVERNMENT OF ANDHRA PRADESH-** General Administration (SC.F) Dept. – Anti Corruption Bureau – Sanction of (5) additional posts namely, two (2) Legal Advisors-cum-Special Public Prosecutors, two (2) Junior Stenos / Typists and one (1) Office Subordinate to the legal wing of Anti-Corruption Bureau in the newly created Special Court for trial of SPE & ACB cases at Rajahmundry, East Godavari District - Orders – Issued vide GORT 208 General Administration SC-F dated 29/01/2019.
- **GOVERNMENT OF ANDHRA PRADESH-** - Public Services - Prosecuting Officers – Transfers – Sri V.Raghuram - Joint Director of Prosecutions – Transferred to the Principal District & Sessions Judge Court - Vizianagaram - and Sri Ajoy Prem Kumar Lam- Legal Advisor-cum- Public Prosecutor- A.P.State Disaster & Fire Services – withdrawn services – and posted as Joint Directorate of Prosecutions in the Directorate of Prosecutions - in relaxation of ban on transfers - Orders – Issued vide GORT 117 Home Courts A Dept. dated 1/2/2019.
- **GOVERNMENT OF ANDHRA PRADESH-** Public Services – A.P. State Prosecution Services - Promotion of Sri P.Seshaiah, Additional Public Prosecutor Grade-I to the

post of Public Prosecutors/Joint Director of Prosecutions – Posting – Orders – Issued vide GORT 112 Home Courts A Dept. dated 1/2/2019.

- **GOVERNMENT OF ANDHRA PRADESH-** Public Services - AP State Prosecution Services – Relaxation of ad hoc rule of two years minimum service for promotion in favour of Sri B.Rama Koteswara Rao, Joint Director of Prosecutions for inclusion of his name in the panel for promotion to the post of Additional Director of Prosecutions - for the panel year 2018-19 – Orders – Issued vide GORT 107 Home Courts A Dept. dated 31/1/2019.
- **GOVERNMENT OF ANDHRA PRADESH-** Public Services - Prosecuting Officers – Smt.K.Latha - Assistant Public Prosecutor- Special Judicial First Class Magistrate (Excise) Court - Srikakulam – Transfer – to the Court of Special Judicial Magistrate of First Class (Mobile) for trial of cases under PCR Act-cum-II Additional Junior Civil Judge - Vizianagaram - on medical grounds - Orders – Issued vide GORT 67 Home Courts A Dept. dated 22/1/2019.
- **GOVERNMENT OF ANDHRA PRADESH-** Public Services - Prosecuting Officers – Smt.D.Sreevani Bai, Addl. Public Prosecutor Grade-I / Spl.Public Prosecutor, Special Court of trial of offences under SC & ST (POA) Act, 1989, Anantapuramu – Transfer - to the SC & ST (POA) Act Cases 1989-Cum- VIII Addl. District & Sessions Judge Court, Eluru, West Godavari District, in the present existing vacancy, on spouse grounds - Orders – Issued vide GORT 35 Home Courts A Dept. dated 9/1/2019.
- **GOVERNMENT OF ANDHRA PRADESH-** Public Services – A.P.State Prosecution Services- Prosecuting Officers – Promotions – Certain Senior Assistant Public Prosecutors (Cat.6) promoted to the post of Additional Public Prosecutors Grade-II (Cat.5) on temporary basis – Posting - Orders –Issued. GORT No.1 HOME (COURTS.A) DEPARTMENT Dt 1/1/2019.

SI. No	Name of the Officer	Place of posting on promotion as Additional Public Prosecutor Grade-II
1	S/Sri/Smt. 2	3
1	L.Balaji, Senior Assistant Public Prosecutor, working on deputation as Faculty Member PTC, Ananthapuramu.	Additional Public Prosecutor Grade-II, Assistant Sessions Judge Court, Rajampet, YSR Kadapa District.
2	K.V.Srinivasa Rao, Senior Assistant Public Prosecutor, Addl. JFCM Court, Markapuramu, Prakasam District.	Additional Public Prosecutor Grade-II, Assistant Sessions Judge Court, Bapatla, Guntur District.
3	P.Padmaja, Senior Assistant Public Prosecutor, I Addl. JFCM Court, Proddatur, YSR Kadapa District.	Additional Public Prosecutor Grade-II, Principal Assistant Sessions Judge Court, Kurnool.
4	K.Srinivasa Rao, Senior Assistant Public Prosecutor, Chief Metropolitan Magistrate Court, Visakhapatnam	Additional Public Prosecutor Grade-II, Assistant Sessions Judge Court, Yelamanchili, Visakhapatnam District.
5	I.Neeraja, Senior Assistant Public Prosecutor, II AJFCM Court, Ongole, Prakasam District.	Additional Public Prosecutor Grade-II, Addl. Assistant Sessions Judge Court, Nellore, SPSR Nellore District.

6	B.V.A. Narasimha Murthy, Senior Assistant Public Prosecutor working on OD as LA-Cum-Special Public Prosecutor, ACB, Visakhapatnam.	On promotion as Additional Public Prosecutor Grade-II, retained on deputation as LA-cum-Spl. PP, ACB, Visakhapatnam.
7	K. Charumathi, Senior Assistant Public Prosecutor, I Addl. JFCM Court, Narasaraopet, Guntur District.	Additional Public Prosecutor Grade-II, Principal Assistant Sessions Judge Court, Guntur.
8	G.V.Ratnam Babu, Senior Assistant Public Prosecutor, II Addl. JFCM Court, Eluru, W.G.District.	Additional Public Prosecutor Grade-II, Addl. Assistant Sessions Judge Court, Rajahmahendravaram, East Godavari District.
9	K. Ramakrishna, Senior Assistant Public Prosecutor, II Addl. JFCM Court, Madanapalle, Chittoor District	Additional Public Prosecutor Grade-II, Addl. Assistant Sessions Judge Court, Ananthapuramu
10	K.V.Satyanarayana, Senior Assistant Public Prosecutor working on deputation as LA-cum-Special Public Prosecutor, ACB, Vijayawada. (presently repatriated to Department of Prosecutions, A.P., for posting)	Additional Public Prosecutor Grade-II on deputation as Legal Advisor, CID Mangalagiri, AP, Guntur District.
11	Motilal, Senior Assistant Public Prosecutor, JFCM Court, Dharmavaram, Ananthapuramu District.	Additional Public Prosecutor Grade-II, Assistant Sessions Judge Court, Adoni, Kurnool District.

ON A LIGHTER VEIN

A man goes to the doctor and says, "Doctor, wherever I touch, it hurts."
The doctor asks, "What do you mean?"
The man says, "When I touch my shoulder, it really hurts. If I touch my knee - OUCH! When I touch my forehead, it really, really hurts."
The doctor says, "I know what's wrong with you - you've broken your finger!"

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SAVE PAPER SAVE TREES.

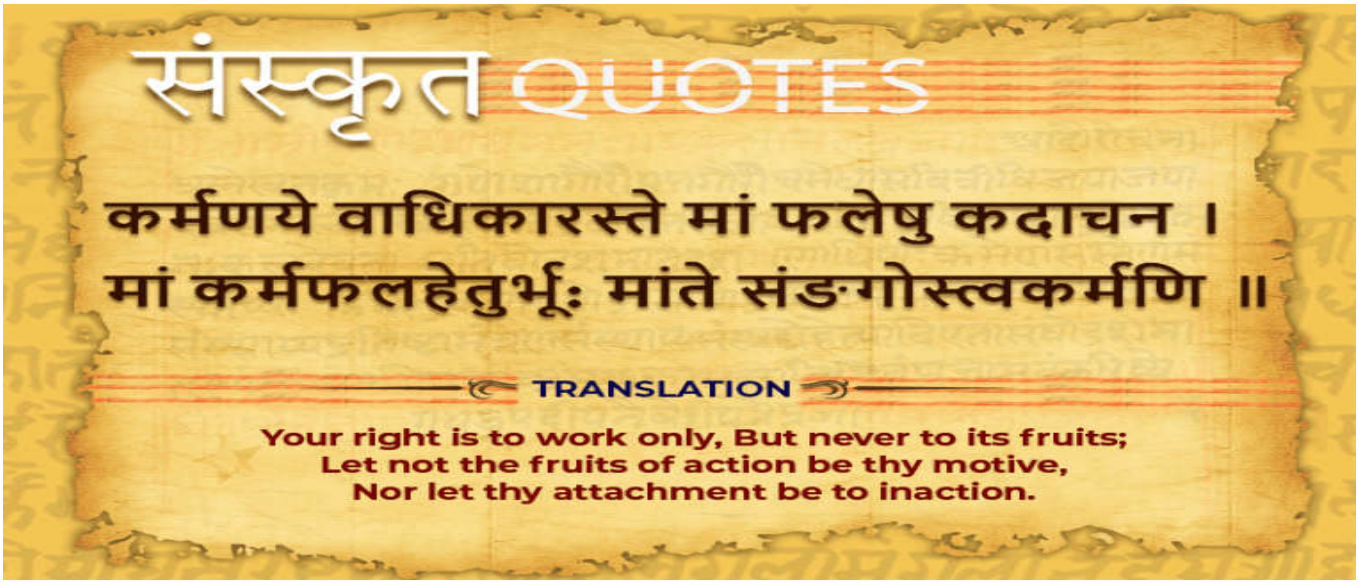
Vol- VIII
Part-3

Prosecution Replenish

An Endeavour for Learning and Excellence

March, 2019

Aano Bhadra Krtavo Yantu Vishwatah.(RIG VEDAM)
"Let Noble Thoughts Come To Me From All Directions"



CITATIONS

The use of the electronic media by the investigating arm of the State to influence public opinion during the pendency of an investigation subverts the fairness of the investigation. The police are not adjudicators nor do they pronounce upon guilt.
The Court also observed that the petitioner had not come to the Court with clean hands and that no relief could be granted to an individual who came to the Court with "unclean hands."
Romila Thapar and Ors. Vs. Union of India and Ors; 2018 0 AIR(SC) 4683; 2018 0 Supreme(SC) 958; https://indiankanoon.org/doc/52834611/; 2019(1) ALT (Crl) 86(SC)(THREE JUDGE BENCH)

As regards the claim of appellant that non-identification of the accused by the witness would not substantiate the prosecution case, admittedly no prosecution witness has identified the accused—appellant which does not mean that the prosecution case against the accused is on false footing. As a general rule, identification tests do not constitute substantive evidence. The purpose of identification test is only to help the investigating agency as to whether the investigation into the offence is proceeding in a right direction or not.
Failure to hold a test identification parade would not make inadmissible the evidence of identification in Court. The weight to be attached to such identification should be a matter for the Courts of fact. In appropriate cases it may accept the evidence of identification even without insisting on corroboration [See : Kanta Prashad v. Delhi Administration, 1958 CriLJ 698 and Vaikuntam Chandrappa and Ors. v. State of Andhra Pradesh, AIR 1960 SC 1340].
Undoubtedly, 'motive' plays significant role in a case based on circumstantial evidence where the purpose would be to establish this important link in the chain of circumstances in order to connect the accused with the crime. But, for the case on hand, proving motive is not an important factor when abundant direct evidence is available on record. The confessional statement of the appellant itself depicts the motive of the team of accused in pursuit of which they committed the robbery at the house of informant and the appellant being part of it.
RAJU MANJHI Vs. STATE OF BIHAR; 2018 0 AIR(SC) 3592; 2018 3 BomCR(Cri)(SC) 581; 2018 3 CGLJ(SC) 443; 2018 3 Crimes(SC) 477; 2018 0 CrLJ 4342; 2018 0 Supreme(SC) 757; 2019(1) ALT (Crl) 144 (SC); https://indiankanoon.org/doc/198713922/;

The courts are not to quash or stay the proceedings under the Act merely on the ground of an error, omission or irregularity in the sanction granted by the authority unless it is satisfied that such error, omission or irregularity has resulted in failure of justice.
The judgment in Babu Thomas was referred to with approval in Nanjappa v. State of Karnataka (2015) 14 SCC 186. After referring to number of judgments and observing that despite invalidity attached to the sanction order, upon grant of a fresh valid sanction is not forbidden, in para (22) of Nanjappa case, it was held as under:-

> *22. The legal position regarding the importance of sanction under Section 19 of the Prevention of Corruption Act is thus much too clear to admit equivocation. The statute forbids taking of cognizance by the court against a public servant except with the previous sanction of an authority competent to grant such sanction in terms of clauses (a), (b) and (c) to Section 19(1). The question regarding validity of such sanction can be raised at any stage of the proceedings. The competence of the court trying the accused so much depends upon the existence of a valid sanction. In case the sanction is found to be invalid the court can discharge the accused relegating the parties to a stage where the competent authority may grant a fresh sanction for the prosecution in accordance with law. If the trial court proceeds, despite the invalidity attached to the sanction order, the same shall be deemed to be non est in the eyes of law and shall not forbid a second trial for the same offences, upon grant of a valid sanction for such prosecution.*

the order of discharge dated 12.09.2013 passed by the Special Court was only due to invalidity attached to the prosecution. When the respondent/accused was so discharged due to lack of proper sanction, the principles of "double jeopardy" will not apply. There was no bar for filing fresh/supplementary charge sheet after obtaining a valid sanction for prosecution. The Special Court once it found that there was no valid sanction, it should have directed the prosecution to do the needful. The Special Court has not given sufficient opportunities to produce valid prosecution sanction from the competent authority. The Special Court erred in refusing to take cognizance of the case even after production of valid prosecution sanction obtained from the competent authority and the High Court was not right in affirming the order of the Special Court. The Special Court and the High Court were not right in holding that the filing of the fresh charge sheet with proper sanction order for prosecution was barred under the principles of "double jeopardy".
State of Mizoram Vs. Dr. C. Sangnghina; 2018 0 AIR(SC) 5342; 2019 (1) ALD (Crl) 217 (SC); 2018 4 KLT 853; 2018 0 Supreme(SC) 1102; 2019(1) ALT (Crl) 150(SC); https://indiankanoon.org/doc/198940183/;

a child witness (PW-2) who is not conversant with the court's proceedings, has to be necessarily apprised about the court's proceedings and that he has to speak about the occurrence. It cannot be said that he was tutored about the occurrence itself to depose against the appellant.
Though the stick wielded by the appellant has been marked as MO1, there is no material to show that the stick that was wielded by the appellant was a dangerous weapon. In the absence of such evidence, in our view, the conviction of the appellant under Section 326 may not be warranted; but the offence would fall under Section 325 IPC,
C.R. Kariyappa Vs. State of Karnataka; 2018 0 AIR(SC) 4312; 2018 0 Supreme(SC) 1041; 2019(1) ALT(Crl) 155(SC); https://indiankanoon.org/doc/43757353/;

The Karnataka High Court in Shamoon Ahmed Sayed & Anr. v. Intelligence Officer, 2009 Cri LJ 1215 : ILR 2008 Karnataka 4378 delivered by Shantanagoudar, J. (as he then was), had observed that Section 231(2) as well as Section 242(3) of the Cr.P.C. must be interpreted in light of the legislative intent behind the enactment of Section 251-A of the Code of Criminal Procedure, 1898.
While deciding an Application under Section 231(2) of the Cr.P.C., a balance must be struck between the rights of the accused, and the prerogative of the prosecution to lead evidence.
The following factors must be kept in consideration:

- possibility of undue influence on witness(es);
- possibility of threats to witness(es);
- possibility that non-deferral would enable subsequent witnesses giving evidence on similar facts to tailor their testimony to circumvent the defence strategy;
- possibility of loss of memory of the witness(es) whose examination-in-chief has been completed;
- occurrence of delay in the trial, and the non-availability of witnesses, if deferral is allowed, in view of Section 309(1) of the Cr.P.C. ["309. Power to postpone or adjourn proceedings.–(1) In every inquiry or trial the proceedings shall be continued from daytoday until all the witnesses in attendance have been examined, unless the Court finds the adjournment of the same beyond the following day to be necessary for reasons to be recorded…"
  See also Vinod Kumar v. State of Punjab, (2015) 3 SCC 220; and, Lt. Col. S.J. Chaudhary v. State (Delhi Administration), (1984) 1 SCC 722].

These factors are illustrative for guiding the exercise of discretion by a Judge under Section 231(2) of the Cr.P.C.
the request for deferral under Section 231(2) of the Cr.P.C. must be preferably made before the preparation of the case-calendar;
State of Kerala Vs. Rasheed; 2018 4 KLT 783; 2018 0 Supreme(SC) 1100; 2019(1) ALT(Crl) 157(SC); http://www.advocatekhoj.com/library/judgments/announcement.php?WID=10709;

In view of the Full Bench Judgment of Apex Court in "Pampapathy v. State of Mysore" and the judgment of this Court rendered in "P.Kalpana v. State of Telangana" (referred supra), there is eminent threat to the society in the event the bail is not cancelled and in the public interest, such bail can be cancelled by exercising power under Section 389 (1) proviso (ii) of Cr.P.C.
Even if the contention of the petitioner No.1 is accepted that he did not involve in any criminal case post conviction and after his release on bail suspending substantive sentence of imprisonment, still he is a man having lot of criminal background and became threat to the society and in such case, the Court can cancel the bail granted in Crl.M.P.No.357 of 2018 in Crl.A.No.744 MSM, to maintain public peace and tranquility and to protect the innocent public from the hands of such hardcore criminal allegedly.
Difference between 439(2) CrPC and Sec 389 CrPC explained.
Ayub Khan @ Ayub Pahelwan and another Vs State of Telangana; 2019(1) ALT(Crl) 139(HC); http://distcourts.tap.nic.in/hcorders/2018/crlp/crlp_9898_2018.pdf;

The crime registered by the Inspector of Police, Santoshnagar. There is no bar for registration of the crime under Rule 7 of the Rules 1995, but for investigation. It is after registration of the crime by the Inspector of Police-LW.14-Sri K.V.M. Prasad, on 25.03.2013, the statement of the de facto complainant-S.Sjanti was recorded. However, it contains the signature of the Assistant Commissioner of Police, Santoshnagar Division, on 25.03.2013. He cannot put the signature on 25.03.2013 for not even appointed by then, for his appointment was only on 26.03.2013 and that order of appointment reached their office as per the tappal section only on 28.03.2013, same is also the position so far as LW.2-S.Sakru, LW.3-M.Gopal, LW.4-B.Arjun and LW.5-Harinath Rao. However, so far as the other witnesses i.e., LWs. 6 to 13 concerned,

their statements show recorded by the Assistant Commissioner of Police on 10.04.2013 and subsequently. Thus, so far as the recording of the statements LWs.1 to 5 concerned, it is contrary to the Rule 7 of the Rules 1995 made under Act, for the Inspector of Police cannot conduct investigation, that too the Assistant Commissioner of Police, who was appointed on 26.03.2013 cannot put his signature with anti date on 25.03.2013. Suffice to say, from that part of the investigation is not sustainable. However, that cannot be a sole ground to quash, though it is one of the inherent defects in the investigation to the above extent. Thereby, the Sessions Case number allotted including in taking cognizance under Section 190 by the committal Magistrate read with 193 Cr.P.C. by the learned Sessions Judge, if any, set aside and directed to be return to the police for further investigation by the said Assistant Commissioner of Police to examine and record the statements of LWs.1 to 5 and then file the charge sheet with proper representation, for the committal Magistrate to take cognizance thereafter.

5. Further, the 30 days mandate no way fatal, as the Investigating Officer's latches, as per the settled law, will not invalidate the investigation much less to the sufferance of the victim.

K. Yugender Reddy Vs State of Telangana; 2019(1) ALT(Crl) 149(HC); http://distcourts.tap.nic.in/hcorders/2014/crlp/crlp_7156_2014.pdf;

persuaded by various judgments of other High Courts, followed by the judgment of this Court in M/s.Gaba Pharmaceuticals case (supra), I am of the considered view that G.O.Ms.No.98, dated 06.09.2011, does not confer any jurisdiction on the Special Sessions Judge to try the offences punishable under Sections 27 (b) and 27 (d) of the Act and the Special Judge erroneously assumed jurisdiction though the alleged violation of Section 18 (a)(vi), 18 (c) and 18 (b) are under the offences punishable under Sections 27 (b) and (d) and on the other hand, the G.O., conferred power on the Special Sessions Judge to try certain offences referred in the G.O., but not the offences punishable under Sections 27 (b) and (d) and consequently, the First Additional District and Sessions Judge cum Special Sessions Judge lacks jurisdiction to try the offences by virtue of G.O.Ms.No.98, dated 06.09.2011. In such case, the course open to the Special Sessions Judge is to frame charge and transfer the case to any Chief Judicial Magistrate or Judicial Magistrate of First Class, asking the parties to appear on a specified date before such Court for trial and dispose of the case, in accordance with law. The Sessions Judge instead of following the procedure under Section 228 of Cr.P.C., erroneously assumed jurisdiction and consequently, the First Additional District and Sessions Judge-cum-Special Sessions Judge for Trial of Cases is directed to frame charge strictly adhering to Sections 228 and 229 of Cr.P.C. and transfer the case to Additional Judicial Magistrate of First Class, Jaggaiahpet, directing the parties to appear on a specified dated, before the Magistrate concerned, with a direction to the Magistrate to try and dispose of the case, in accordance with law.

M/s.R A Chem Pharma Limited and another Vs. The State of A.P., 2019(1) ALT(Crl) 152(HC); http://distcourts.tap.nic.in/hcorders/2018/crlp/crlp_8092_2018.pdf;

the submission of the learned Counsel for the appellant that PW.5 has categorically stated that there was no electricity at the time of the alleged occurrence, the said statement having been made by him during his cross-examination by the appellant, no legal sanctity could be attached to it, as it was evidently mentioned by the defence after making him turn hostile. The said version spoken to by PW.5 was not even carried forward by the defence by putting any suggestions to any of the witnesses among PWs.1 to 4 and 6.

Merely because the rough sketch has not shown the existence of an electrical pole, in the face of the evidence discussed above including the suggestion put to PW.1 that an electrical pole situated in the south-east corner of the house of K.Danayya, we cannot accept the submission of the learned Counsel that there was no light at the time of the alleged occurrence,

Though PWs.1 to 4 cannot be treated as direct eye witnesses, they are strong circumstantial witnesses, who witnessed everything except the actual act of stabbing. In the absence of failure of the appellant to explain his presence at the scene of offence, at the time of the occurrence, the evidence of PWs.1 to 4 is sufficient to hold that it is only the appellant, who caused the death of the deceased. These circumstances are incriminating enough to safely conclude that it is only the appellant, who has killed the deceased.

Pampana Verranna Vs. The State of A.P; 2019 (1) ALT (Crl) 159 (DB) (HC); http://distcourts.tap.nic.in/hcorders/2012/crla/crla_341_2012.pdf;

the Director General of Police of both the states of Andhra Pradesh and Telangana are also directed hereby to direct the Superintendents of Police or the Commissioner/Additional Commissioner/Assistant Commissioners concerned, to exercise their duty and power to the extent applicable from the police manual with Standing Orders and instructing and from Section 36 Cr.P.C. in every month coordinating meeting to see that where an accused is shown involved in a crime to cause verify if at all involved in more than one crime and if not produced in the other crimes, to see that they shall be cause produced if in jail on P.T. warrant under Section 267 Cr.P.C., leave about if enlarged on bail in any one or more cases and if not granted bail in other cases for their production in those other cases so that the accused may not loose the benefit of period of set off and period of entitlement to the default bail respectively under Section 428 and 167 Cr.P.C.

45. Coming to the expression of the Constitution of Bench of the Apex Court in Rakesh Kumar Paul vs. State of Assam ((2017) 15 SCC 67) on the scope of Section 167 Cr.P.C. it is in relation to the entitlement of the default bail, the majority expression says duty of the Magistrate or Court concerned to grant the default bail in recognition of the personal liberty, where also discussed the right of fair and speedy investigation and entitlement to default bail and right to legal aid as part of the rights enshrined under Article 21 of the Constitution of India to the accused involved in a crime. Thereby, the Sessions Judges or the Magistrates concerned in both the States and by virtue of this order and because of the settled position of law from the above particularly from the expressions in Tupakula Appa Rao supra(2002 (1) ALD (Crl.) 67 (AP)), Niranjan Singh supra(1980(2) SCC 559) reiterated in Sundeep Kumar Bafna supra(2014(16) SCC 623), entertain

the regular bail applications from the accused in deemed custody even not produced on P.T. warrant and not surrendered voluntarily, as the case may be.
in the said 9 cases covered by the preventive detention order of the District Executive Magistrate-cum-Collector, dated 24.04.2018, which shows the Superintendent as the Sponsoring Authority furnished the case details on 19.04.2018, the petitioner/accused is thus entitled to the benefit of set off under Section 428 Cr.P.C. in future and in the event of completion of investigation and filing of charge sheet from any framing of charges and conducting trial with conviction and sentence of imprisonment from finding of guilty if any and as the case may be. It is made clear that besides the above, the Superintendent of Police and the concerned S.H.Os. among the respondents and for that matter, the Director General of Police, State of A.P., by virtue of this order, shall see that the petitioner is to be produced on P.T. warrants immediately after receipt of the warrant in all the crimes where so far he was not produced irrespective of he is entitled to bail or not and granted bail or not, unless released on bail and not in judicial custody
Vishwanathan Vs State of A.P; 2019 (1) ALT (Crl) 169 (HC); http://distcourts.tap.nic.in/hcorders/2018/crlp/crlp_10318_2018.pdf;

In Trimukh Moroti Kirkan Vs. State of Maharashtra, (2006) 10 SCC 681 the Court explicated that if an offence takes place inside the privacy of a house where the accused have all the opportunity to plan and commit the offence at the time and in circumstances of their choice, it will be extremely difficult for the prosecution to lead evidence to establish the guilt of the accused if the strict principle of circumstantial evidence, is insisted upon.
It is a settled legal position that the facts need not be self-probatory and the word “fact” as contemplated in Section 27 of the Evidence Act is not limited to “actual physical material object”. The discovery of fact arises by reason of the fact that the information given by the accused exhibited the knowledge or the mental awareness of the informant as to its existence at a particular place. It includes a discovery of an object, the place from which it is produced and the knowledge of the accused as to its existence. It will be useful to advert to the exposition in the case of Vasanta Sampat Dupare v. State of Maharashtra, (2015) 1 SCC 253 in particular, paragraphs 23 to 29 thereof.
it is well settled that confession of the coaccused by itself cannot be the basis to proceed against the other accused unless something more is produced to indicate their involvement in the commission of the crime.
Acquittal of an accused u/s 302, when he was charged u/s 302 as well as 201 IPC, does not mean that he cannot be convicted u//s 201.
Yet another circumstance pointing accused finger at the appellants is that the appellants did not lodge any report about the missing of the deceased for about two months nor offered any explanation about their death in their statement under section 313 Cr.P.C
Asar Mohammad and Ors. Vs. The State of U.P.; 2018 0 AIR(SC) 5264; 2018 0 Supreme(SC) 1075; 2019 (1) ALD (Crl) 203 (SC); https://indiankanoon.org/doc/28788694/;

Section 188 IPC is not limited to punishable disobedience of law and order. It is attracted even in acts causing or tending to cause danger to human life, health or safety.
There is no bar on trial or conviction under two different enactments. Offender may be punished under either or both enactments but shall not be liable to be punished twice for the same offence.
The State of Maharashtra & Anr. Vs. Sayyed Hassan Sayyed Subhan & Ors. ;2018 0 AIR(SC) 5348; 2018 4 KHC 647; 2018 2 KLD 470; 2018 0 Supreme(SC) 907; 2019(1) ALD(Crl) 223(SC); https://indiankanoon.org/doc/162989021/;

Section 340 of Cr.P.C. makes it clear that a prosecution under this Section can be initiated only by the sanction of the court under whose proceedings an offence referred to in Section 195(1)(b) has allegedly been committed. The object of this Section is to ascertain whether any offence affecting administration of justice has been committed in relation to any document produced or given in evidence in court during the time when the document or evidence was in custodia legis and whether it is also expedient in the interest of justice to take such action. The court shall not only consider prima facie case but also see whether it is in or against public interest to allow a criminal proceeding to be instituted.
In Sachida Nand Singh (supra), this Court had dealt with Section 195(1)(b)(ii) of the Cr.P.C unlike the present case which is covered by the preceding clause of the Section. The category of offences which fall under Section 195(1)(b)(i) of the Cr.P.C. refer to the offence of giving false evidence and offences against public justice which is distinctly different from those offences under Section 195(1)(b)(ii) of Cr.P.C, where a dispute could arise whether the offence of forging a document was committed outside the court or when it was in the custody of the court.
The case in hand squarely falls within the category of cases falling under Section 195(1)(b)(i) of the Cr.P.C. as the offence is punishable under Section 193 of the IPC. Therefore, the Magistrate has erred in taking cognizance of the offence on the basis of a private complaint.
SH. NARENDRA KUMAR SRIVASTAVA Vs. THE STATE OF BIHAR & ORS.; 2019 0 Supreme(SC) 110;

In so far as taking cognizance based on the police report, the Magistrate has the advantage of the charge sheet, statement of witnesses and other evidence collected by the police during the investigation. Investigating Officer/SHO collects the necessary evidence during the investigation conducted in compliance with the provisions of the Criminal Procedure Code and in accordance with the rules of investigation. Evidence and materials so collected are sifted at the level of the Investigating Officer and thereafter, charge sheet was filed. In appropriate cases, opinion of the Public Prosecutor is also obtained before filing the charge sheet. The court thus has the advantage of the police report along with the materials placed before it by the police. Under Section 190 (1)(b) Cr.P.C., where the Magistrate has taken cognizance of an offence upon a police report and the Magistrate is satisfied that there is sufficient ground for proceeding,

the Magistrate directs issuance of process. In case of taking cognizance of an offence based upon the police report, the Magistrate is not required to record reasons for issuing the process. In cases instituted on a police report, the Magistrate is only required to pass an order issuing summons to the accused. Such an order of issuing summons to the accused is based upon subject to satisfaction of the Magistrate considering the police report and other documents and satisfying himself that there is sufficient ground for proceeding against the accused. In a case based upon the police report, at the stage of issuing the summons to the accused, the Magistrate is not required to record any reason. In case, if the charge sheet is barred by law or where there is lack of jurisdiction or when the charge sheet is rejected or not taken on file, then the Magistrate is required to record his reasons for rejection of the charge sheet and for not taking on file. In the present case, cognizance of the offence has been taken by taking into consideration the charge sheet filed by the police for the offence under Sections 420, 465, 467, 468, 471, 477A and 120B IPC, the order for issuance of process without explicitly recording reasons for its satisfaction for issue of process does not suffer from any illegality.
Under Section 190(1)(b) CrPC, the Magistrate has the advantage of a police report and under Section 190(1)(c) CrPC, he has the information or knowledge of commission of an offence. But under Section 190(1)(a) CrPC, he has only a complaint before him. The Code hence specifies that “a complaint of facts which constitute such offence”. Therefore, if the complaint, on the face of it, does not disclose the commission of any offence, the Magistrate shall not take cognizance under Section 190(1)(a) CrPC. The complaint is simply to be rejected.
The evidence and materials so produced by the prosecution cannot be brushed aside on the possible defence.
STATE OF GUJARAT Vs.AFROZ MOHAMMED HASANFATTA; 2019 0 Supreme(SC) 113;

Undoubtedly the request of an IO for extension of time is not a substitute for the report of the public prosecutor but since we find that there has been, as per the comparison of the two documents, an application of mind by the public prosecutor as well as an endorsement by him, the infirmities in the form should not entitle the respondents to the benefit of a default bail when in substance there has been an application of mind. The detailed grounds certainly fall within the category of “compelling reasons” as enunciated in Sanjay Kedia ((2009) 17 SCC 631) case.
THE STATE OF MAHARASHTRA Vs. SURENDRA PUNDLIK GADLING & ORS.; 2019 0 Supreme(SC) 158;

The courts cannot expect a victim like the deceased herein to state in exact words as to what happened during the course of the crime, inasmuch as it would be very difficult for such a victim, who has suffered multiple grievous injuries, to state all the details of the incident meticulously and that too in a parrot-like manner. The Trial Court assumed that the Investigation Officer in collusion with the doctor wilfully fabricated the dying declaration. It is needless to state that the Investigation Officer and the doctor are independent public servants and are not related either to the accused or the deceased. It is not open for the Trial Court to cast aspersions on the said public officers in relation to the dying declaration, more particularly when there is no supporting evidence to show such fabrication.

18. It cannot be laid down as an absolute rule of law that a dying declaration cannot form the sole basis of conviction unless it is corroborated by other evidence. A dying declaration, if found reliable, and if it is not an attempt by the deceased to cover the truth or to falsely implicate the accused, can be safely relied upon by the courts and can form the basis of conviction. More so, where the version given by the deceased as the dying declaration is supported and corroborated by other prosecution evidence, there is no reason for the courts to doubt the truthfulness of such dying declaration. The doctor PW-18, who recorded the statement of the deceased which was ultimately treated as his dying declaration, has fully supported the case of the prosecution by deposing about recording the dying declaration. He also deposed that the victim was in a fit state of mind while making the said declaration. We also do not find any material to show that the victim was tutored or prompted by anybody so as to create suspicion in the mind of the Court. Moreover, in this case the evidence of the eyewitnesses, which is fully reliable, is corroborated by the dying declaration in all material particulars. The High Court, on re-appreciation of the entire evidence before it, has come to an independent and just conclusion by setting aside the judgment of acquittal passed by the Trial Court. The High Court has found that there are substantial and compelling reasons to differ from the finding of acquittal recorded by the Trial Court. The High Court having found that the view taken by the Trial Court was not plausible in view of the facts and circumstances of the case, has on independent evaluation and by assigning reasons set aside the judgment of acquittal passed by the Trial Court. We concur with the judgment of the High Court, for the reasons mentioned supra.
LALTU GHOSH Vs. STATE OF WEST BENGAL; 2019 0 Supreme(SC) 181;

As regards the contention that all the eye-witnesses are close relatives of the deceased, it is by now well-settled that a related witness cannot be said to be an 'interested' witness merely by virtue of being a relative of the victim. This Court has elucidated the difference between 'interested' and 'related' witnesses in a plethora of cases, stating that a witness may be called interested only when he or she derives some benefit from the result of a litigation, which in the context of a criminal case would mean that the witness has a direct or indirect interest in seeing the accused punished due to prior enmity or other reasons, and thus has a motive to falsely implicate the accused.
Furthermore, though the counsel for the appellants tried to convince the Court with regard to minor discrepancies in the evidence of the six eye-witnesses with respect to the manner in which the assault took place, such attempt remains futile and cannot be accepted, inasmuch as minor variations in the evidence of the witnesses are bound to occur in a case like the one on hand, wherein a number of accused came in a group and assaulted a few persons suddenly and mercilessly, out of which a few died and others sustained injuries. We do not find any major contradiction in the evidence of the eye-witnesses. Their evidence is fully supported by the version of the doctors who conducted the post-mortem examinations.
Md. Rojali Ali And Others Vs. The State Of Assam; 2019 0 Supreme(SC) 182;

Section 50 of NDPS Act patently has no application since the recovery was not from the person of the appellant but the gunny bags carried on the scooter. PW-5 the independent witness who had signed the search and seizure documents but turned hostile, was duly confronted under Section 145 of the Evidence Act, 1872 with his earlier statements to the contrary under Section 161 Cr.P.C. and did not deny his signatures. The order sheet dated 08.11.1995 of the Trial Court reveals that independent witness Jeevan Kumar was present on that date to depose, but was bound down on objection from the defence side that he be examined on another date along with other witnesses. It is therefore very reasonable to conclude that the witness did not appear subsequently because he may have been won over by the appellant. There is no material to conclude that the witness was withheld or suppressed by the prosecution with any ulterior motive. There is no material for us to conclude that PW-5 and the other independent witness Jeevan Kumar were not respectable persons. Given the very short span of time in which events took place it is not possible to hold any violation of Section 100(4) Cr.P.C. In any event, no prejudice on that account has been demonstrated. Sections 52 and 57 of NDPS Act being directory in nature is of no avail to the appellant.

8. The appellant took a defence under Section 313 Cr.P.C. of false implication but failed to produce any evidence with regard to the complaint lodged by him against the C.I.D. department, a fact noticed by the Trial Court itself. We therefore find no reason to come to any different conclusion than that arrived at by the High Court.

Complainant and I.O. can be same person in some cases.

The criminal justice delivery system, cannot be allowed to veer exclusively to the benefit of the offender making it uni-directional exercise. A proper administration of the criminal justice delivery system, therefore requires balancing the rights of the accused and the prosecution, so that the law laid down in Mohan Lal (supra) is not allowed to become a spring board for acquittal in prosecutions prior to the same, irrespective of all other considerations. We therefore hold that all pending criminal prosecutions, trials and appeals prior to the law laid down in Mohan Lal (supra) shall continue to be governed by the individual facts of the case.

Prospective overruling is not only a part of constitutional policy but also an extended facet of stare decisis and not judicial legislation.

In Sonu alias Amar vs. State of Haryana, (2017) 8 SCC 570, it was observed as follows:

"37.....A large number of trials have been held during the period between 4.8.2005 and 18.9.2014. Electronic records without a certificate might have been adduced in evidence. **There is no doubt that the judgment of this Court in Anwar P.V. vs. P.K. Basheer, (2014) 10 SCC 473 has to be retrospective in operation unless the judicial tool of "prospective overruling" is applied. However, retrospective application of the judgment is not in the interest of administration of justice as it would necessitate the reopening of a large number of criminal cases.** Criminal cases decided on the basis of electronic records adduced in evidence without certification have to be revisited as and when objections are taken by the accused at the appellate stage. Attempts will be made to reopen cases which have become final."

VARINDER KUMAR Vs. STATE OF HIMACHAL PRADESH; 2019 0 Supreme(SC) 143;

A perusal of the complaint discloses that prima facie, offences that are alleged against the Respondents. The correctness or otherwise of the said allegations has to be decided only in the Trial. At the initial stage of issuance of process it is not open to the Courts to stifle the proceedings by entering into the merits of the contentions made on behalf of the accused. Criminal complaints cannot be quashed only on the ground that the allegations made therein appear to be of a civil nature. If the ingredients of the offence alleged against the accused are prima facie made out in the complaint, the criminal proceeding shall not be interdicted.

SAU. KAMAL SHIVAJI POKARNEKAR Vs. THE STATE OF MAHARASHTRA & ORS; 2019 0 Supreme(SC) 145;

Several judgments of this Court have interpreted Section 307 of the Penal Code. In State of Maharashtra v Balram Bama Patil, (1983) 2 SCC 28 this Court held that it is not necessary that a bodily injury sufficient under normal circumstances to cause death should have been inflicted:

THE STATE OF MADHYA PRADESH Vs. KANHA @ OMPRAKASH; 2019 0 Supreme(SC) 106;

It seems that after the appeal was filed, the order directing restoration of the possession was not given effect to. We may also make reference to Sub-Section 2 of Section 456 Cr.P.C. which provides that if the Court trying the offence has not made such an order, the Court of appeal, confirmation or revision can also make such an order while disposing of the proceedings pending before it. No limitation has been provided for the higher courts to make such order. In this behalf, reference may be made to the judgment of this Court in H.P. Gupta v. Manohar Lal AIR 1979 S.C. 443.

Mahesh Dube Vs. Shivbodh and Ors.; 2019 0 Supreme(SC) 155;

A case under Sections 406, 468, 120-B IPC came to be registered for encashing the insurance amounts through cheques, on a private complaint.

In view of the above and for the reasons stated above, we allow the parties to compound the offences, even though the offences alleged are non-compoundable, as the dispute between the parties predominantly or overwhelming seems to be of a civil nature and that the dispute is a private one and between the two private parties.

RINIVASAN IYENGER AND ANOTHER Vs. BIMLA DEVI AGARWAL AND OTHERS; 2019 0 Supreme(SC) 170;

It is held in the Gangadhar Behera's case ((2002) 8 SCC 381) that the words of a judgment cannot be treated as words in a legislative enactment. It is to be remembered that judicial orders are made in the setting of the facts of a particular case. Circumstantial flexibility, one additional or different fact may make a world of difference between conclusions in two cases,

Opinion of expert witness cannot be given preference over primary statement of witnesses in respect of manner of injuries suffered by them.
MAHENDRAN Vs. THE STATE OF TAMIL NADU; 2019 0 Supreme(SC) 192;

in a case which has its origin in the civil dispute between the parties; the parties have resolved the dispute; that the offence is not against the society at large and/or the same may not have social impact; the dispute is a family/matrimonial dispute etc. The aforesaid decision may not be applicable in a case where the offences alleged are very serious and grave offences, having a social impact like offences under Section 307 IPC and 25/27 of the Arms Act etc. Therefore, without proper application of mind to the relevant facts and circumstances, in our view, the High Court has materially erred in mechanically quashing the respective FIRs, by observing that in view of the compromise, there are no chances of recording conviction and/or the further trial would be an exercise in futility. The High Court has mechanically considered the aforesaid decision of this Court in the case of Shiji ((2011) 10 SCC 705), without considering the relevant facts and circumstances of the case.
It is not that in every case where complainant compromises with accused there will not be any conviction, particularly when dispute is not a commercial transaction and/or of a civil nature and/or is not a private wrong.
The State Of Madhya Pradesh Vs. Dhruv Gurjar And Another; 2019 0 Supreme(SC) 198;

As rightly held by the trial court that even if the allegations of the accused that the prosecutrix is of immoral character are taken to be correct, the same does not give any right to the accused persons to commit rape on her against her consent.
It is well-settled by a catena of decisions of this Court that there is no rule of law or practice that the evidence of the prosecutrix cannot be relied upon without corroboration and as such it has been laid down that corroboration is not a sine qua non for conviction in a rape case. If the evidence of the victim does not suffer from any basic infirmity and the 'probabilities factor' does not render it unworthy of credence, as a general rule, there is no reason to insist on corroboration except from medical evidence, where, having regard to the circumstances of the case, medical evidence can be expected to be forthcoming.
The High Court erred in taking into consideration the materials produced before the appellate court viz., the alleged complaints made against the prosecutrix and other women alleging that they were engaged in prostitution. Even assuming that the prosecutrix was of easy virtue, she has a right of refuse to submit herself to sexual intercourse to anyone.
Unfortunately, the High Court was swayed by the Departmental Enquiry Report (Ext.-DW6/A) prepared by Joint Commissioner of Police that was brought on record by Constable Dharamvir Singh (DW-6). Going through the entire report, we observe that the departmental enquiry was primarily based on the diary entries and the statements of one complainant Amod Shastri and statement of ASI Kamal Dev. In the report, Joint Commissioner of Police, inter-alia concluded that the rape incident could not have happened at 09.00 PM while SI Prem Chand (DW-3) indicated that quarrelling ladies including the prosecutrix were released at 08.50 PM. It is pertinent to note that neither S.K. Gautam, Deputy Commissioner of Police was examined nor the said complainant Amod Shastri and ASI Kamal Dev were examined. Yet the High Court relied on it to come to a conclusion that the rape incident could not have happened at the alleged time and manner.
State (Govt. of NCT of Delhi) Vs. Pankaj Chaudhary & Ors; 2018 0 AIR(SC) 5412; http://www.advocatekhoj.com/library/judgments/announcement.php?WID=10705; 2018 0 Supreme(SC) 1103; 2019(1) ALD (Crl) 246 (SC);

Be it simple or grievous, if the injury falls under the specified types under Section 326A on account of use of acid, the offence under Section 326A is attracted. Section 326B would be attracted in case the requirements specified are met on an attempted acid attack. Therefore, both the High Court of Rajasthan in Laddu Ram (CrlMP no. 681/2017 dated 6.2.2017) and High Court of Madras in M. Siluvai Murugan @ Murugan (2018 SCC OnLine Mad 2332) do not lay down the correct position of law and they are overruled.
The title to the provision need not invariably indicate the contents of the provision. If the provision is otherwise clear and unambiguous, the title pales into irrelevance. On the contrary, if the contents of the provision are otherwise ambiguous, an aid can be sought from the title so as to define the provision. In the event of a conflict between the plain expressions in the provision and the indicated title, the title cannot control the contents of the provision. Title is only a broad and general indication of the nature of the subject dealt under the provision.
Maqbool Vs. The State of UP & Anr; 2019(1) ALD(Crl) 268(SC); 2018 0 AIR(SC) 5101; https://www.sci.gov.in/supremecourt/2018/29074/29074_2018_Judgement_07-Sep-2018.pdf;

Admittedly, death in the instant case took place within seven years of the marriage which was solemnised on 19.4.1988 and the incident of death had occurred on 6-7.12.1994. Though the defence had tried to prove otherwise, namely, that death had occurred beyond seven years of marriage, no concrete evidence in this regard has been forthcoming. Demands for dowry by the accused-appellants as well as the husband and ill-treatment/cruelty on failure to meet the said demands is evident from the evidence of PW-6. From the evidence of PW-1, it is clear that the death was on account of burn injuries suffered by the deceased which injuries were caused by use of kerosene. In the light of the aforesaid evidence, this Court has no hesitation in holding that all the three ingredients necessary to draw the presumption of commission of the offence under Section 304-B IPC have been proved and established by the prosecution. Consequently, the presumption under Section 113-B of the Indian Evidence Act has to be drawn against the accused and in the absence of any defence evidence to rebut the same, the Court has to hold the accused guilty of the offence under Section 304-B IPC. On the basis of the same consideration, the offence under Section 498-A must also be held to be

proved against the accused persons. We, therefore, have no hesitation in dismissing the appeal and in affirming the conviction and sentence imposed by the High Court. (THREE JUDGE BENCH)
JAGDISH CHAND AND ANOTHER Vs. STATE OF HARYANA; 2019(1) ALD (Crl) 274 (SC); 2019 AIR(SC) 457; http://www.advocatekhoj.com/library/judgments/announcement.php?WID=10942;

FIR is not an encyclopaedia which is expected to contain all the minute details of the prosecution case, it may be sufficient if the broad effects of the prosecution case are stated in the FIR. The non-mention of accused-Chhaakki Lal throwing the child Rinku on the ground and jumping on his abdomen due to which the intestine came out cannot be regarded as fatal to the prosecution case.
The High Court acquitted the accused merely on the ground that the evidence of Kesar Bai (PW-1) is fraught with contradictions. Kesar Bai (PW-1) was a rustic villager and also aged. After seeing her own daughter and daughter in law and grandson being put to death, she must have been under tremendous shock. Kesar Bai (PW-1) was deposing in the court after some time. Naturally, there are bound to be variations from her earlier version. The trial court which had the opportunity to observe the demeanour of the witnesses found that the evidence of PWs is credible and trustworthy. While so, the High Court ought not to have recorded a finding raising doubts about the credibility of Kesar Bai (PW-1).
Discrepancies which do not shake the credibility of the witness and the basic version of the prosecution case are to be discarded. If the evidence of the witness as a whole contains the ring of truth, the evidence cannot be doubted.
Delay in setting the law in motion by lodging the complaint or registration of FIR is normally viewed by courts with suspicion because there is possibility of concoction of the case against the accused. But when there is proper explanation for the delay, the prosecution case cannot be doubted on the ground that there was delay in registration of FIR.
It is fairly well settled that it is not the number; but the quality of the evidence that matters. In terms of Section 134 of the Evidence Act, “no particular number ofwitnesses shall in any case be required for the proof of any fact”. The test whether the evidence has a ring of truth is cogent and trustworthy. Solitary Evidence is sufficient to convict the accused.
It appears that there is no 315 bore gun but only 0.315 bore gun. The description given by the police that the recovered gun from Chhaakki Lal was 315 bore gun is only a mistaken description.
Such delay in sending the recovered weapons to FSL could only be an omission or lapse on the part of the Investigating Officer. Such omissions or lapses in the investigation cannot be a ground to discard the prosecution case which is otherwise credible and cogent.
STATE OF MADHYA PRADESH Vs. CHHAAKKI LAL AND ANOTHER; 2019 0 AIR(SC) 381; 2018 4 Crimes(SC) 238; 2018 3 JLJ(SC) 309; 2018 4 MLJ(Cri) 502; 2018 0 Supreme(SC) 943; https://indiankanoon.org/doc/197028691/; 2019 (1) ALD (Crl) 276(SC)

Though PW-2 in his chief examination stuck to his version, when he was cross examined, he resiled from his earlier version and consequently PW-2 was treated hostile. When PW-2 resiled from his earlier statement, his statement recorded by PW-22 (Judicial Magistrate) under Section 164 CrPC may not be of any relevance; nor can it be considered as substantive evidence to base the conviction.
In any event extra judicial confession is a weak piece of evidence, which cannot form basis for conviction and unless supported by other substantive evidence,
State of Karnataka Vs. P. Ravikumar @ Ravi; 2019(1) ALD (Crl) 287(SC); 2018 0 AIR(SC) 3993; 2018 9 SCC 614; 2018 3 SCC(Cri) 809; http://www.advocatekhoj.com/library/judgments/announcement.php?WID=10436;

The very fact that the accused did not adduce any evidence nor did he explain when examined under Section 313 of the Code, touching the plea of alibi that he has gone to witness a movie and when he returned having witnessed the movie, he learnt that the deceased sustained burns, is sufficient to repel that plea. This apart, even when suggested to the witnesses by the learned counsel, it was not clear as to which movie the accused said to have witnessed and in which theatre he witnessed the said movie. It appears, only to wriggle himself out of the impending accusation and the conviction, he has come up with an artificial and unnatural defence theory putting forth the plea of alibi. We, therefore, do not have any hesitation in rejecting that plea of alibi.
even if there are minor discrepancies in the dying declarations, the Court can disregard the same as insignificant.
It is needless to mention that the law is well settled that dying declarations constitute an important piece of evidence which if found veracious and voluntary by the Court could be the sole basis for conviction.
all the three dying declarations are so consistent that they completely repel the theory put forth by the defence.
though, there are no direct witnesses to the incident, still, the dying declarations are sufficient to prove the guilt of the accused for the charge under Section 302 of IPC, beyond all reasonable doubt.
V.NARASIMHA ALUGADDA NARSIMHA JAHANGIRI Vs State of A.P.; 2019(1) ALD (Crl) 300(HC); http://distcourts.tap.nic.in/hcorders/2013/crla/crla_305_2013.pdf;

When the evidence of a witness, who was not declared hostile, was found mutually contradictory, the accused is entitled to take the benefit of the portion of evidence of the witness, which goes in his favour. Therefore, the deposition of PW.2 in the Cross- Examination, which has nullified what she has stated in her Chief-Examination, cannot be ignored. The Court below, in our opinion, committed a patent error in relying upon the Chief- Examination portion of PW.2 without considering her testimony in Cross-Examination. As the evidence of PW.2 considered as a whole is self- contradictory, the same cannot be given any credence at all. Once the evidence of PW.2 is eschewed, there is no other evidence, except Ex.P.12- the alleged confessional statement of the deceased and recovery of broken bangles to connect the accused with the death of the deceased.

Dudekula Rasool Vs. The State of Andhra Pradesh; 2019(1) ALD (Crl) 311(HC); 2018 0 Supreme(AP) 135; https://indiankanoon.org/doc/14602563/;

the direction contained in paragraph 19(i) as a whole is not in accord with the statutory framework and the direction issued in paragraph 19(ii) shall be read in conjunction with the direction given hereinabove.

40. Direction No. 19(iii) is modified to the extent that if a settlement is arrived at, the parties can approach the High Court under Section 482 of the Code of Criminal Procedure and the High Court, keeping in view the law laid down in Gian Singh (supra), shall dispose of the same.

41. As far as direction Nos. 19(iv), 19(v) and 19(vi) and 19(vii) are concerned, they shall be governed by what we have stated in paragraph 35.

42. With the aforesaid modifications in the directions issued in Rajesh Sharma (supra), the writ petitions and criminal appeal stand disposed of. There shall be no order as to costs.

Social Action Forum for Manav Adhikar and another Vs. Union of India Ministry of Law and Justice and others; 2018 0 AIR(SC) 4273; 2018 3 Crimes(SC) 503; 2018 3 GLH 140; 2018 3 ILR(Ker) 955; 2018 4 KHC 580; 2018 2 KLD 435; 2018 4 KLT 965; 2018 10 SCC 443; 2019 1 SCC Cri 276; 2018 7 Supreme 718; 2018 0 Supreme(SC) 877; (THREE JUDGE BENCH).

In a criminal trial, normally the evidence of the wife, husband, son or daughter of the deceased, is given great weightage on the principle that there is no reason for them not to speak the truth and shield the real culprit. We see no reason why the same principle cannot be applied when such a witness deposes against a closely related accused. According to normal human behavior and conduct, a witness would tend to shield and protect a closely related accused. It would require great courage of conviction and moral strength for a daughter to depose against her own mother who is an accused. There is no reason why the same reverse weightage shall not be given to the credibility of such a witness.

The evidence of an injured witness carries great weight as it is presumed that having been a victim of the same occurrence the witness was speaking the truth.

While appreciating the evidence of a witness, the approach must be whether the evidence of the witness read as a whole inspires confidence. Once that impression is formed, it is undoubtedly necessary for the court to scrutinise the evidence more particularly keeping in view the deficiencies, drawbacks and infirmities pointed out in the evidence as a whole and evaluate them to find out whether it is against the general tenor of the evidence and whether the earlier evaluation of the evidence is shaken as to render it unworthy of belief. Minor discrepancies on trivial matters not touching the core of the case, hypertechnical approach by taking sentences torn out of context here or there from the evidence, attaching importance to some technical error without going to the root of the matter would not ordinarily permit rejection of the evidence as a whole. Minor omissions in the police statements are never considered to be fatal. The statements given by the witnesses before the police are meant to be brief statements and could not take place of evidence in the court. Small/Trivial omissions would not justify a finding by court that the witnesses concerned are liars. The prosecution evidence may suffer from inconsistencies here and discrepancies there, but that is a shortcoming from which no criminal case is free. The main thing to be seen is whether those inconsistencies go to the root of the matter or pertain to insignificant aspects thereof. In the former case, the defence may be justified in seeking advantage of incongruities obtaining in the evidence. In the latter, however, no such benefit may be available to it.

Each criminal trial is but a quest for search of the truth. The duty of a judge presiding over a criminal trial is not merely to see that no innocent person is punished, but also to see that a guilty person does not escape. One is as important as the other. Both are public duties which the Judge has to perform.

This Court is of the firm opinion that it would be doing injustice to a child witness possessing a sharp memory to say that it is inconceivable for him to recapitulate facts in his memory witnessed by him long ago. A child of tender age is always receptive to abnormal events which take place in his life and would never forget those events for the rest of his life. The child would be able to recapitulate correctly and exactly when asked about the same in future.

Shamim Vs State (Government of NCT of Delhi); 2018 0 AIR (SC) 4529; 2018 10 SCC 509; 2018 0 Supreme(SC) 893; 2019 1 SCC Cri 319; http://www.advocatekhoj.com/library/judgments/announcement.php?WID=10515;

So far as examination of independent witnesses in support of the prosecution case is concerned all that would be necessary to say in this regard is that examination of independent witnesses is not an indispensable requirement and such non-examination is not necessarily fatal to the prosecution case.

The State of Himachal Pradesh Vs. Pardeep Kumar; 2018 185 AIC 230; 2018 0 AIR(SC) 1345; 2018 1 ALD(Cri)(SC) 574; 2018 103 AllCriC 639; 2018 0 AllMR(Cri)(SC) 2294; 2018 0 AllSCR(Cri) 369; 2018 2 ApexCJ(SC) 253; 2018 2 CriCC 666; 2018 3 Crimes(SC) 146; 2018 70 CriR(Ori) 184; 2018 360 ELT 200; 2018 2 JCC 117; 2018 4 JT 77; 2018 2 RCR(Cri) 315; 2018 3 Scale 144; 2018 13 SCC 808; 2018 6 Supreme 208; 2018 0 Supreme(SC) 391; 2019 1 SCC Cri 420.

the protection under Section 438, Cr.P.C. is available to the accused only till the court summons the accused based on the charge sheet (report under Section 173(2), Cr.P.C.). On such appearance, the accused has to seek regular bail under Section 439 Cr.P.C. and that application has to be considered by the court on its own merits. Merely because an accused was under the protection of anticipatory bail granted under Section 438 Cr.P.C. that does not mean that he is automatically entitled to regular bail under Section 439 Cr.P.C. The satisfaction of the court for granting protection under Section 438 Cr.P.C. is different from the one under Section 439 Cr.P.C. while considering regular bail.

It is unfortunate that the Sessions Court did not take note of the final order passed by the High Court. The Court should have enquired as to whether the matter had been finally disposed of, particularly after noticing the interim order. The casual approach adopted by the learned Sessions Judge has apparently led to the accused being released on regular bail, on the basis of the interim order passed by the High Court. When the application for anticipatory bail was the subject matter before the High Court, the accused had no business to go and surrender before the Sessions Court and seek regular bail on the basis of an interim order.

SATPAL SINGH Vs. THE STATE OF PUNJAB; 2018 2 ACR 1727; 2018 187 AIC 33; 2018 2 AICLR 909; 2018 0 AIR(SC) 2011; 2018 104 AllCriC 307; 2018 0 AllSCR(Cri) 990; 2018 2 ApexCJ(SC) 377; 2018 2 CGLJ(SC) 218; 2018 3 Crimes(SC) 81; 2018 71 CriR(Ori) 572; 2018 0 CrLJ 2843; 2018 360 ELT 791; 2018 2 JKJ(SC) 150; 2018 6 JT 253; 2018 2 LawHerald(SC) 5; 2018 2 LW(Cri) 137; 2018 2 MWN(Cri) 504; 2018 1 OLR 876; 2018 5 RCR(Cri) 152; 2018 5 Scale 519; 2018 13 SCC 813; 2018 5 Supreme 705; 2018 0 Supreme(SC) 504; 2019 1 SCC Cri 424;

NOSTALGIA

In Rajendran Chingaravelu v RK Mishra, (2010) 1 SCC 457 this **Court deprecated the tendency of the police to reveal details of an investigation to the media** even before the completion of the investigation. This Court observed:

"21. But the appellant's grievance in regard to media being informed about the incident even before completion of investigation, is justified. There is growing tendency among investigating officers (either police or other departments) to inform the media, even before the completion of investigation, that they have caught a criminal or an offender. Such crude attempts to claim credit for imaginary investigational breakthroughs should be curbed. Even where a suspect surrenders or a person required for questioning voluntarily appears, it is not uncommon for the Investigation Officers to represent to the media that the person was arrested with much effort after considerable investigation or a case. Similarly, when someone voluntarily declares the money he is carrying, media is informed that huge cash which was not declared was discovered by their vigilant investigations and thorough checking. Premature disclosures or 'leakage' to the media in a pending investigation will not only jeopardise and impede further investigation, but many a time, allow the real culprit to escape from law..." (emphasis supplied)

Grave Provocation:

In K.M. Nanavati Vs. State of Maharashtra(AIR 1962 SC 605) , the Supreme Court has considered the expression 'grave and sudden' within the meaning of Exception (1) to Section 300 IPC and held at para-19 as under :

> *"The position in the case at hand is no different. Between 1400 hrs when the appellant was given a grave provocation and 2130 hrs, the time when the appellant shot the deceased there were seven hours which period was sufficient for the appellant to cool down. A person who is under a grave and sudden provocation can regain his cool and composure. Grave provocation after all is a momentary loss of one's capacity to differentiate between what is right and what is not. So long as that critical moment does not result in any damage, the incident lapses into realm of memories to fuel his desire to take revenge and thus act as a motivation for the commission of a crime in future. But any such memory of a past event does not qualify as a grave and sudden provocation for mitigating the offence. The beating and humiliation which the accused had suffered may have acted as a motive for revenge against the deceased who had caused such humiliation but that is not what falls in Exception 1 to Section 300 IPC which is identical to Exception 1 to Section 300 of the Ranbir Penal Code applicable to the State of Jammu and Kashmir where the offence in question was committed by the appellant.*
>
> *We may, in this regard, extract the following passage from Mancini Vs. Director of Prosecutions: (1942 AC 1 : (1941) 3 All ER 272 (HL) – (AC p.9)*
>
> *"It is not all provocation that will reduce the crime of murder to manslaughter. Provocation, to have that result, must be such as temporarily deprives the person provoked of the power of selfcontrol as a result of which he commits the unlawful act which caused death. … The test to be applied is that of the effect of the provocation on a reasonable man, as was laid down by the Court of Criminal Appeal in R v. Lesbini (1914) 3 KB 1116 (CCA), so that an unusually excitable or pugnacious individual is not entitled to rely on provocation which would not have led an ordinary person to act as he did. In applying the test, it is of particular importance to (a) consider whether a sufficient interval has elapsed since the provocation to allow a reasonable man to cool, and (b) to take into the account the instrument with which the homicide was effected, for to retort, in the heat of passion induced by provocation, by a simple blow, is a very different thing from making use of a deadly instrument like a concealed dagger. In short, the mode of resentment must bear a reasonable relationship to the provocation if the offence is to be reduced to manslaughter."*

NEWS

- **THE TELANGANA GAZETTE** PART- I EXTRAORDINARY No. 29-A] HYDERABAD, HEALTH, MEDICAL AND FAMILY WELFARE DEPARTMENT (D1) FRIDAY, FEBRUARY 1, 2019. Government established the State Mental Health Authority for the State of Telangana
- **GOVERNMENT OF ANDHRA PRADESH-** The Rights of Persons with Disabilities Act , 2016 – Appointment of Special Public Prosecutors attached to the Courts of Special Sessions Courts for the trial of cases under The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (Act No.33 of 1989) in the Districts and Additional Public Prosecutors Grade.I, attached to the I Additional District and Sessions Court-cum-Metropolitan Sessions Judge Court, Visakhapatnam and II Additional District and Sessions Court- cum-Metropolitan Sessions Judge Court at Vijayawada, in the Metropolitan cities of Visakhapatnam and Vijayawada respectively, in the State of Andhra Pradesh, as Special Public Prosecutors under section 85 of the Rights of

Persons with Disabilities Act, 2016 to conduct prosecution before the Special Courts under the Rights of Persons with Disabilities Act, 2016 – Notification -Orders- Issued- G.O.MS.No. 43 HOME (COURTS.A) DEPARTMENT Dated: 22-02-2019

- **GOVERNMENT OF ANDHRA PRADESH-** Public Services - Prosecuting Officers – Ms.M.Padmaja, Addl. Public Prosecutor Grade-II – Prl. Assistant Sessions Judge Court - Machilipatnam – Transfer – to the Addl.Assistant Sessions Judge Court – Ongole- on medical grounds – in relaxation of native district rules and ban on transfers - Orders – Issued-G.O.RT.No. 143 HOME (COURTS.A) DEPARTMENT Dated: 06-02-2019
- **GOVERNMENT OF ANDHRA PRADESH-** Public Services – Re-Constitution of Departmental Promotion Committee for the First and Second level Gazetted posts in Prosecutions Department – Orders – Issued- G.O.RT.No. 145 HOME (COURTS-A) DEPARTMENT Dated: 07-02-2019
- **GOVERNMENT OF ANDHRA PRADESH-** Public Services – A.P. State Prosecution Services - Promotion of Smt.G.Suseela Gopal - Addl.Public Prosecutor Grade-I- to the post of Public Prosecutor / Joint Director of Prosecutions – Posting – Orders – Issued- G.O.RT.No. 148 HOME (COURTS.A) DEPARTMENT Dated: 07-02-2019.
- **GOVERNMENT OF ANDHRA PRADESH-** Public Services - Directorate of Prosecutions – Smt.V.Kumari - Senior Assistant - Fixation of pay in the category of Senior Assistant under FR-22 B - Orders – Issued- G.O.RT.No. 173 HOME (COURTS.A) DEPARTMENT Dated: 12-02-2019
- **GOVERNMENT OF TELANGANA**-Public Services – Re-constitution of Departmental Promotion Committee for the First and Second level Gazetted posts in Prosecutions Department- Orders – Issued- G.O.Rt.No. 177 HOME (COURTS-A1) DEPARTMENT Dated: 16-02-2019
- **GOVERNMENT OF TELANGANA**- Public Services – Prosecuting Officers – Retirements of certain Prosecuting Officers during the year, 2019 – Notification – Orders - issued.- G.O.Rt.No. 178 HOME (COURTS.A1) DEPARTMENT Dated: 18-02-2019
- **GOVERNMENT OF ANDHRA PRADESH-** Public Services – Prosecuting Officers – Other Duty - Sri G.S.Rama Bhagavan - Sr.Assistant Public Prosecutor- Prl.Judicial First Class Magistrate Court - Ananthapuramu - Services placed at the disposal of the Director General, ACB, Vijayawada to work on Other Duty (O.D.) - Orders- Issued- G.O.RT.No. 186 HOME (COURTS.A) DEPARTMENT Dated: 14-02-2019
- **GOVERNMENT OF ANDHRA PRADESH-** Public Services - Prosecuting Officers – Sri V.Rajendra Prasad, Addl.Public Prosecutor Gr.I - I ADJ Court- Kurnool – transfer to the II ADJ Court-CumMetropolitan Sessions Court –Vijayawada- in relaxation of ban on transfers - Orders- Issued-G.O.RT.No. 191 HOME (COURTS.A) DEPARTMENT Dated: 14-02-2019
- **GOVERNMENT OF ANDHRA PRADESH-** Public Services - Prosecuting Officers – Smt.J.Gayathri Devi- Asst. Public Prosecutor, AJFCM Court- Yelamanchili- Visakhapatnam District – Transfer to the IV Addl. Chief Metropolitan Magistrate Court - Visakhapatnam - in relaxation of native mandal - native bar - ban on transfers - Orders – Issued-G.O.RT.No. 198 HOME (COURTS.A) DEPARTMENT Dated: 15-02-2019
- **GOVERNMENT OF ANDHRA PRADESH-**Public Services – Directorate of Prosecutions – Sri B.Rama Koteswara Rao,Additional Director of Prosecutions - placed in Full Additional Charge of the post of Director of Prosecutions – Orders- Issued- G.O.RT.No. 217 HOME (COURTS.A) DEPARTMENT Dated: 21-02-2019
- **GOVERNMENT OF ANDHRA PRADESH**- Public Services – Home Department – Sri P. Ramesh Babu - Sr. Assistant (Retired)- Taken the services as Junior Assistant in the Directorate of Prosecutions – on outsourcing basis – further continuation of services for a further period of two years - Orders – issued- G.O.RT.No. 225 HOME (COURTS.A) DEPARTMENT Dated: 26-02-2019
- **GOVERNMENT OF ANDHRA PRADESH-** Public Services – Promotion to the post of Additional Director of Prosecutions for the panel year 2018-2019 – Panel Approved – Sri B. Ramakoteswara Rao – Joint Director of Prosecutions – Promoted and posted as Additional Director of Prosecutions - Andhra Pradesh- Vijayawada - Orders – Issued- G.O.Ms.No.38 HOME (COURTS.A) DEPARTMENT Dated:12-02-2019
- **GAZETTE OF INDIA-** EXTRAORDINARY- PART II — Section 1, no.14, MINISTRY OF LAW AND JUSTICE (Legislative Department) dated 21/2/2019, the Personal Laws (Amendment) Act, 2019 is published.
- **THE ANDHRA PRADESH GAZETTE**- PART I EXTRAORDINARY - No.88 - LABOUR EMPLOYMENT TRAINING AND FACTORIES DEPARTMENT (LABOUR - I)- dated 5/2/2019- COMMENCEMENT OF THE ACT FOR THE ANDHRA PRADESH SHOPS AND ESTABLISHMENTS (AMENDMENT) ACT, 2018 (ACT No. 36 OF 2018)- notified.
- **THE ANDHRA PRADESH GAZETTE**- PART I EXTRAORDINARY - No.114 - LAW DEPARTMENT (L, LA&J - HOME.COURTS-A) - dated 12/2/2019- SHIFTING OF I ADDITIONAL JUNIOR CIVIL JUDGE- CUM-ADDITIONAL JUDICIAL MAGISTRATE OF FIRST CLASS COURT, AVANIGADDA ALONG WITH ITS PARAPHERNALIA TO MOVVA AND ESTABLISHMENT OF “JUNIOR CIVIL JUDGE-CUM- JUDICIAL MAGISTRATE OF FIRST CLASS COURT, AT MOVVA”, IN KRISHNA DISTRICT. - CONSEQUENTIAL

NOTIFICATIONS DEFINING THE AREAS TO BE BROUGHT UNDER THE ORIGINAL AS WELL AS APPELLATE JURISDICTION

- **THE ANDHRA PRADESH GAZETTE-** PART II EXTRAORDINARY - No.22 - LAW DEPARTMENT (L, LA&J - HOME.COURTS-A) - dated 12/2/2019- SHIFTING I ADDITIONAL JUNIOR CIVIL JUDGE- CUM- ADDITIONAL JUDICIAL MAGISTRATE OF FIRST CLASS COURT, AVANIGADDA, SO AS TO FUNCTION AS "JUNIOR CIVIL JUDGE-CUM-JUDICIAL MAGISTRATE OF FIRST CLASS COURT, MOVVA", IN KRISHNA DISTRICT - MODIFICATIONS OF THE TERRITORIAL JURISDICTION OF THE COURTS OF JUNIOR CIVIL JUDGECUM-JUDICIAL MAGISTRATE OF FIRST CLASS &APPELLATE JURISDICTIONS OF THE PRL. DISTRICT COURT, ADDITIONAL DISTRICT & SESSIONS JUDGE'S COURTS AND SENIOR CIVIL JUDGE'S COURTS. JUDICIAL NOTIFICATION-I
- **THE ANDHRA PRADESH GAZETTE-** W.No.7 AMARAVATI, FRIDAY, FEBRUARY 15, 2019 G.778 - PART II - MISCELLANEOUS NOTIFICATIONS OF INTEREST TO THE PUBLIC - AMENDMENT TO RULES ON THE APPELLATE SIDE - INSERTION OF A PROVISO TO RULE 33 B (3) IN CHAPTER III-A OF HIGH COURT APPELLATE SIDE RULES
- **THE ANDHRA PRADESH GAZETTE**- HOME DEPARTMENT (COURTS.A) - No.183 AMARAVATI, FRIDAY, FEBRUARY 22, 2019 G.1277 - *G.O.MS.No. 43, Home (Courts.A), 22nd February, 2019.]*-NOTIFICATION
- **THE ANDHRA PRADESH GAZETTE**- LAW DEPARTMENT (L.A&J - SC.F) - No.195 AMARAVATI, WEDNESDAY, FEBRUARY 27, 2019 G.1297 - RETIREMENT OF Sri A. SOLOMON, JUDGE, FAMILY COURT-CUM-VI ADDL. DISTRICT AND SESSIONS JUDGE, NELLORE WILL BE COMPLETING 55 YEARS OF AGE ON 28-2-2019 A.N. AND FOUND NOT FIT TO BE CONTINUED IN SERVICE. *[G.O.Ms.No.27, Law (L.A&J - SC.F), 26th February, 2019.]*NOTIFICATION
- **GAZETTE OF INDIA**- EXTRAORDINARY- PART II—Section 3—Sub-section (ii) - No. 645] NEW DELHI, THURSDAY, FEBRUARY 7, 2019/MAGHA 18, 1940 - MINISTRY OF LAW AND JUSTICE (Department of Justice) ORDER-New Delhi, the 7th February, 2019 the Calcutta High Court (Establishment of Circuit Bench at Jalpaiguri) Order, 2019-notified.
- **GAZETTE OF INDIA**- EXTRAORDINARY- PART II — Section 1- No. 10] NEW DELHI, THURSDAY, FEBRUARY 21, 2019/PHALGUNA 2, 1940 (SAKA)- The Muslim women (Protection of rights on marriage) Second Ordinance 2019-notified.
- **GAZETTE OF INDIA**- Extraordinary- Part-II- Section 1- no.13, dated 21/2/2019-Ministry of Law-Legislative Department-The banning of unregulated deposit scheme ordinance,2019- notified.

ON A LIGHTER VEIN

Husband brings the child home from kindergarten and asks his wife, "He's been crying the whole way home. Isn't he sick or something?"

"No," replies the wife, "he was just trying to tell you he isn't our Frankie."

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Vol- VIII
Part-4

Prosecution Replenish

An Endeavour for Learning and Excellence

April, 2019

Aano Bhadra Krtavo Yantu Vishwatah.(RIG VEDAM)
"Let Noble Thoughts Come To Me From All Directions"

CITATIONS

MV ACT : Section 158 of the Act casts a duty on a person driving a motor vehicle to produce certain certificates, driving licence and permit on being required by a police officer to do so in relation to the use of the vehicle. Subsection (6), which was added by way of amendment in 1994 to Section 158 **casts a duty on the officer incharge of the police station to forward a copy of the information (FIR)/report regarding any accident involving death or bodily injury to any person within 30 days from the date of information to the Claim Tribunal having jurisdiction and also send one copy to the concerned insurer.** This subsection also casts a duty on the owner of the offending vehicle, if a copy of the information is made available to him, to forward the same to the Claims Tribunal and the insurer of the vehicle.
The Claims Tribunal is empowered to treat the report of the accident on its receipt as if it is an application made by the claimant for award of the compensation to him under the Act by virtue of Section 166(4) of the Act and thus has jurisdiction to decide such application on merits in accordance with law.
if the Court did not exhibit the documents despite the appellants referring them at the time of recording evidence then in such event, the appellants cannot be denied of their right to claim the compensation on such ground. In our opinion, it was nothing but a procedural lapse, which could not be made basis to reject the claim petition. It was more so when the appellants adduced oral and documentary evidence to prove their case and the respondents did nothing to counter them.
Vimla Devi & Ors. Vs. National Insurance Company Limited & Ors.2018 6 ALD(SC) 115; 2019 2 SCC 186; 2018 0 Supreme(SC) 1140; 2019 1 SCC Cri 503.

We are conscious of the fact that the crimes committed by groups of self-appointed keepers of public morality may be on account of different reasons or causes, but the underlying purpose of such group of persons is to exercise unlawful power of authority and that too, without sanction of State and create fear in the minds of the public or, in a given situation, section of the community. The dispensation for preventing occurrences of such crimes or remedial measures and punitive measures would vest in the same police in the State. Therefore, a comprehensive structure will have to be evolved in the respective States so that the issues of accountability and efficiency in curbing incidents of peaceful protests turning into mob violence, causing damage to property including investigation, remedial and punitive measures, are duly addressed. While doing so, the directions given by this Court in In Re: Destruction of Public and Private Properties (2009 5 SCC 212), Shakti Vahini (2018 7 SCC 192) and Tehseen Poonawalla (2018 9 SCC 501), must be borne in mind.

16. There are overlapping areas of directions which albeit apply to the situations referred to in the concerned decision. For the purpose of the present writ petition, we have no hesitation in observing that the dispensation can be similar to the one decided recently in Tehseen Poonawalla (supra), for which reason the guidelines delineated in the said decision must apply proprio vigore in respect of peaceful protests turning into mob violence, causing damage to public and private properties.

A. Ex abundanti cautela, we may hasten to clarify that similar interim measures will operate in respect of any peaceful protest turning into mob violence, causing loss of life or damage to public and private properties, including violence designed to instill fear in the minds and terrorise the common man, in the absence of any law to that effect. The recommendations / directions elucidated hereunder are not exhaustive but only to set

out broad contour of the measures required to be taken and are in addition to the recommendations/directions given in In Re: Destruction of Public and Private Properties (supra):

A. Structural and preventive measures

a) In addition to the responsibilities ascribed to the Nodal Officer(s) as set out in Tehseen Poonawalla (supra), the said Nodal Officer(s) would also be responsible for creating and maintaining a list containing the various cultural establishments, including theatres, cinema halls, music venues, performance halls and centres and art galleries within the district, and pin point vulnerable cultural establishments and property which have been attacked/damaged by mob violence over the past 5 (five) years. This list would be updated on a regular basis to account for any new openings/closings of establishments.

b) In addition to the prohibition against weaponry laid down in paragraph 12 (II) of In Re: Destruction of Public and Private Properties (supra), any person found to be carrying prohibited weaponry, licensed or otherwise, during protests/demonstrations would prima facie be presumed to have an intention to commit violence and be proceeded in that regard as per law.

c) The State governments should set up Rapid Response Teams preferably district-wise which are specially trained to deal with and can be quickly mobilized to respond to acts of mob violence. These teams can also be stationed around vulnerable cultural establishments as mentioned hereinabove.

d) The State governments should set up special helplines to deal with instances of mob violence.

e) The State police shall create and maintain a cyber-information portal on its website and on its internet-based application(s) for reporting instances of mob violence and destruction of public and private properties.

B. Remedies to minimize, if not extirpate, the impending mob violence

a) The Nodal Officer(s) will coordinate with local emergency services, including police stations, fire brigades, hospital and medical services and disaster management authorities during incidents of mob violence in order to have a comprehensive and consolidated response to the situation.

b) The authorities must consider the use of non-lethal crowd-control devices, like water cannons and tear gas, which cause minimum injury to people but at the same time, act as an effective deterrent against mob force.

c) The authorities must ensure that arrests of miscreants found on the spot are done in the right earnest.

d) The Nodal Officer(s), may consider taking appropriate steps as per law including to impose reasonable restrictions on the social media and internet-based communication services or mobile applications, by invoking enabling provisions of law during the relevant period of mob violence, if the situation so warrants.

e) The Nodal Officer(s) must take coordinated efforts and issue messages across various audio-visual mediums to restore peace and to stop/control rumours. This can extend to issuing communications on local TV channels, radio stations, social media like Twitter etc.

C. Liability of person causing violence

a) If a call to violence results in damage to property, either directly or indirectly, and has been made through a spokesperson or through social media accounts of any group/organization(s) or by any individual, appropriate action should be taken against such person(s) including under Sections 153A, 295A read with 298 and 425 of the Indian Penal Code, 1860.

b) In instances where a group/organisation has staged a protest or demonstration resulting in violence and damage to property, the leaders and office bearers of such group/organisation should physically present themselves for questioning, on their own, within 24 (twenty four) hours, in the police station within whose jurisdiction the violence and damage occurred. Any such person(s) failing to present himself/herself in such manner without any sufficient reason should be proceeded against as a suspect and legal process must be initiated forthwith against him/her including for being declared an absconder in accordance with law.

c) A person arrested for either committing or initiating, promoting, instigating or in any way causing to occur any act of violence which results in loss of life or damage to property may be granted conditional bail upon depositing the quantified loss caused due to such violence or furnishing security for such quantified loss. In case of more than one person involved in such act of violence, each one of them shall be jointly, severally and vicariously liable to pay the quantified loss. If the loss is yet to be quantified by the appropriate authority, the judge hearing the bail application may quantify the amount of tentative damages (which shall be subject to final determination thereof by the appropriate authority) on the principle stated in paragraph 15 of the decision in In Re: Destruction of Public and Private Properties (supra), after hearing the submissions of the State/agency prosecuting the matter in that regard.

D. Responsibility of police officials

a) When any act of violence results in damage to property, concerned police officials should file FIRs and complete investigation as far as possible within the statutory period and submit a report in that regard. Any failure to file FIRs and conduct investigations within the statutory period without sufficient cause should be considered as dereliction of duty on behalf of the concerned officer and can be proceeded against by way of departmental action in right earnest.

b) Since the Nodal Officer(s) holds the overall responsibility in each district to prevent mob violence against cultural establishments and against property, any unexplained and/or unsubstantiated delay in filing FIRs

and/or conducting investigations in that regard should also be deemed to be inaction on the part of the said Nodal Officer(s).
c) With reference to the videography mentioned in paragraphs 5(iv), 10 and 12 of In Re: Destruction of Public and Private Properties (supra), the officer-in-charge should first call upon from the panel of local video operators maintained by the concerned police station to video-record the events. If the said video operators are unable to record the events for whatever reason or if the officer-in-charge is of the opinion that supplementary information is required, then he/she can also call upon private video operators to record the events and request the media for information on the incident in question, if need be.
d) Status reports of the investigation(s)/trial(s) concerning such offences as set out hereinabove, including the results of such trial(s), shall be uploaded on the official website of the concerned State police on a regular basis.
e) In the event of acquittal of any person(s) accused of committing such offences as set out hereinabove, the Nodal Officer(s) must coordinate with the Public Prosecutor for filing appeal against such acquittal, in the right earnest.

E. Compensation

a) The person/persons who has/have initiated, promoted, instigated or any way caused to occur any act of violence against cultural programmes or which results in loss of life or damage to public or private property either directly or indirectly, shall be made liable to compensate the victims of such violence.
b) Claims arising out of such acts of violence should be dealt with in the manner prescribed in paragraph 15 of In Re: Destruction of Public and Private Properties (supra).
c) This compensation should be with regard to the loss of life or damage done to any public or private properties, both movable and immovable.

17. The recommendations that we have made hereinabove be implemented by the Central and State governments as expeditiously as possible, preferably within a period of 8 (eight) weeks from today.

2018 10 SCC 713; 2019 1 SCC Cri 517; 2018 5 KHC 297; 2018 0 Supreme(SC) 961; Kodungallur Film Society & Anr. Vs. Union of India & Ors.

Shri R. Balasubramanian, learned senior counsel appearing for the accused Nos. 1 to 4, 7, 9 and 10, has urged that the evidence of PW-1, should be discarded, inter alia, on account of certain **omissions and contradictions** in the evidence and also on account of the fact that the said **witness was a known criminal**, who had several criminal cases including murder cases pending against him. Insofar as PW-2 is concerned, learned senior counsel assailed the testimony of the said witness by pointing out to **certain inconsistencies** in the evidence tendered.

7. We have considered the specific grounds on which the evidence of the aforesaid two witnesses have been sought to be assailed. On such consideration we find that **the inconsistencies and contradictions do not affect the core of their testimonies.** The said witness have without any ambiguity implicated the accused for the injuries caused leading to the death of Chelladurai and also the injuries caused to PW-1 and PW-2.

Merely because the defence witnesses have not been contradicted by reference to their previous statements following the provisions of Section 145 of the Evidence Act would not permit the Court to accept the version as unfolded by the said witnesses to be the correct version.

2019 1 SCC Cri 550; 2018 0 AIR(SC) 1153; 2018 1 ALD(Cri)(SC) 766; 2018 0 AIISCR(Cri) 343; 2018 3 Crimes(SC) 135; 2018 14 SCC 55; 2018 6 Supreme 160; 2018 0 Supreme(SC) 397; Balakrishnan and Ors. Vs. State of Tamil Nadu

Insofar as the recovery of the dead bodies of the two children are concerned, we have perused the evidence of Pws-1, 3 and 5. All the witnesses in their examination-in-chief have categorically stated that the recovery memo was prepared on the spot and that they have signed it voluntarily. A different version appearing in the cross-examination of PW-1 and PW-3 cannot detract from what was deposed by the aforesaid witnesses in their examination-in-chief.

2019 1 SCC Cri 556; 2018 2 AICLR 434; 2018 0 AIR(SC) 1261; 2018 4 AIILJ 251; 2018 0 AIISCR(Cri) 439; 2018 2 CriCC 660; 2018 3 Crimes(SC) 138; 2018 0 CrLJ 2418; 2018 5 RCR(Civ) 100; 2018 14 SCC 111; 2018 6 Supreme 185; 2018 0 Supreme(SC) 393; State of Uttar Pradesh Vs. Mahipal

Magistrate cannot, suo motu or on an application filed by the complainant/informant, direct further investigation.
Liberty given by High Court to a party to apply to trial court for further investigation does not constitute a direction to trial court to order further investigation.

2019 1 SCC Cri 594; 2018 14 SCC 298; Athul Rao Vs State of Karnataka

he Courts should be careful in proceeding against the distant relatives in crimes pertaining to matrimonial disputes and dowry deaths. The relatives of the husband should not be roped in on the basis of omnibus allegations unless specific instances of their involvement in the crime are made out.
2019 1 SCC Cri 605; 2018 0 AIR(SC) 4009; 2018 2 ALD(Cri)(SC) 672; 2018 3 ALT(Cri)(SC) 54; 2018 14 SCC 452; 2018 0 Supreme(SC) 840; K. Subba Rao & Ors. Vs. The State of Telangana

the entire prosecution initiated by the State police was malicious and it has caused tremendous harassment and immeasurable anguish to the appellant. It is not a case where the accused is kept under custody and, eventually, after trial, he is found not guilty. The State police was dealing with an extremely sensitive case and after arresting the appellant and some others, the State, on its own, transferred the case to the Central Bureau of Investigation. After comprehensive enquiry, the closure report was filed. An argument has been advanced by the learned counsel for the State of Kerala as well as by the other respondents that the fault should be found with the CBI but not with the State police, for it had transferred the case to the CBI. The said submission is to be noted only to be rejected. The criminal law was set in motion without any basis. It was initiated, if one is allowed to say, on some kind of fancy or notion. The liberty and dignity of the appellant which are basic to his human rights were jeopardized as he was taken into custody and, eventually, despite all the glory of the past, he was compelled to face cynical abhorrence. This situation invites the public law remedy for grant of compensation for violation of the fundamental right envisaged under Article 21 of the Constitution. In such a situation, it springs to life with immediacy. It is because life commands self-respect and dignity.
2019 1 SCC Cri 682; 2018 10 SCC 804; 2018 0 AIR(SC) 5112; 2018 3 ILR(Ker) 935; 2018 4 KHC 598; 2018 2 KLD 455; 2018 4 KLJ 242; 2018 4 KLT 1337; 2018 11 Scale 171; 2018 7 Supreme 750; 2018 0 Supreme(SC) 878; S. Nambi Narayanan Vs. Siby Mathews & Others

A reading of the provisions of Section 23(4) and 25 of the Act would indicate that in the present case the sample having been taken from the premises of the retailer had to be divided into four portions; one portion is required to be given to the retailer; one portion is required to be sent to the Government Analyst and one to the Court and the last one to the manufacturer whose name, particulars, etc. is disclosed under Section 18A of the Act. In the present case, admittedly, one part of the sample that was required to be sent to the appellant (manufacturer) under Section 23(4)(iii) of the Act was not sent. Instead, what was sent on 22nd March, 2012 was only the report of the Government Analyst. When the part of the sample was not sent to the manufacturer, the manufacturer could not have got the same analysed even if he wanted to do so and, therefore, it was not in a position to contest the findings of the Government Analyst. In the present case, the sample was sent to the appellant-manufacturer on 10th August, 2012 and on 13th September, 2012 the appellant had indicated its desire to have another part of the sample sent to the Central Laboratory for re-analysis. This was refused on the ground that the aforesaid request was made much after the stipulated period of 28 days provided for in Section 25(3) of the Act.
All the aforesaid facts would go to show that the valuable right of the appellant to have the sample analysed in the Central Laboratory has been denied by a series of defaults committed by the prosecution; firstly, in not sending to the appellant-manufacturer part of the sample as required under Section 23(4) (iii) of the Act; and secondly, on the part of the Court in taking cognizance of the complaint on 4th March, 2015 though the same was filed on 28th November, 2012. The delay on both counts is not attributable to the appellants and, therefore, the consequences thereof cannot work adversely to the interest of the appellants. As the valuable right of the accused for re-analysis vested under the Act appears to have been violated and having regard to the possible shelf life of the drug we are of the view that as on date the prosecution, if allowed to continue, would be a lame prosecution.
2019 1 SCC Cri 717; 2017 0 AIR(SC) 2423; 2018 102 AllCriC 162; 2017 0 AllSCR(Cri) 1065; 2017 0 CrLJ 2931; 2017 0 CrLR 694; 2018 15 SCC 93; 2017 0 Supreme(SC) 827; Laborate Pharmaceuticals India Ltd And Ors. Vs. State of Tamil Nadu

In the light of the aforesaid evidence, this Court has no hesitation in holding that all the three ingredients necessary to draw the presumption of commission of the offence under Section 304-B IPC have been proved and established by the prosecution. Consequently, the presumption under Section 113-B of the Indian Evidence Act has to be drawn against the accused and in the absence of any defence evidence to rebut the same, the Court has to hold the accused guilty of the offence under Section 304-B IPC. On the basis of the same consideration, the offence under Section 498-A must also be held to be proved against the accused persons.
2019(1) ALT (Cri) 165(SC) ; 2019 0 AIR(SC) 457; 2019 0 Supreme(SC) 10; JAGDISH CHAND AND ANOTHER Vs. STATE OF HARYANA

Section 50 of NDPS Act patently has no application since the recovery was not from the person of the appellant but the gunny bags carried on the scooter. PW-5 the independent witness who had signed the search and seizure documents but turned hostile, was duly confronted under Section 145 of the Evidence Act, 1872 with his earlier statements to the contrary under Section 161 Cr.P.C. and did not deny his signatures. The order sheet dated 08.11.1995 of the Trial Court reveals that independent witness Jeevan Kumar was present on that date to depose, but was bound down on objection from the defence side that he be examined on another date along with other witnesses. It is therefore very reasonable to conclude that the witness did not appear subsequently because he may have been won over by the appellant. There is no material to conclude that the witness was withheld or suppressed by the prosecution with any ulterior motive. There is no material for us to conclude that PW-5 and the other independent witness Jeevan Kumar were not respectable persons. Given the very short span of time in which events took place it is not possible to hold any violation of Section 100(4) Cr.P.C. In any event, no prejudice on that account has been demonstrated. Sections 52 and 57 of NDPS Act being directory in nature is of no avail to the appellant.

8. The appellant took a defence under Section 313 Cr.P.C. of false implication but failed to produce any evidence with regard to the complaint lodged by him against the C.I.D. department, a fact noticed by the Trial Court itself. We therefore find no reason to come to any different conclusion than that arrived at by the High Court.

Complainant and I.O. can be same person in some cases.

The criminal justice delivery system, cannot be allowed to veer exclusively to the benefit of the offender making it uni-directional exercise. A proper administration of the criminal justice delivery system, therefore requires balancing the rights of the accused and the prosecution, so that the law laid down in Mohan Lal (supra) is not allowed to become a spring board for acquittal in prosecutions prior to the same, irrespective of all other considerations. We therefore hold that all pending criminal prosecutions, trials and appeals prior to the law laid down in Mohan Lal (supra) shall continue to be governed by the individual facts of the case.

Prospective overruling is not only a part of constitutional policy but also an extended facet of stare decisis and not judicial legislation.

In Sonu alias Amar vs. State of Haryana, (2017) 8 SCC 570, it was observed as follows:

"37.....A large number of trials have been held during the period between 4.8.2005 and 18.9.2014. Electronic records without a certificate might have been adduced in evidence. **There is no doubt that the judgment of this Court in Anwar P.V. vs. P.K. Basheer, (2014) 10 SCC 473 has to be retrospective in operation unless the judicial tool of "prospective overruling" is applied. However, retrospective application of the judgment is not in the interest of administration of justice as it would necessitate the reopening of a large number of criminal cases.** Criminal cases decided on the basis of electronic records adduced in evidence without certification have to be revisited as and when objections are taken by the accused at the appellate stage. Attempts will be made to reopen cases which have become final."

VARINDER KUMAR Vs. STATE OF HIMACHAL PRADESH; 2019 0 Supreme(SC) 143; 2019 (1) ALT (Cri) 203(SC);

The opinion of the Doctor in respect of the timing of injuries is not conclusive based on possibility of injuries within one hour of the examination when the presence of prosecution witnesses as also the role attributed to each appellant's presence has been found to be proved by the oral testimony. The opinion of an expert witness cannot be given preference over the primary statement of the witnesses in respect of manner of injuries suffered by them.

The learned trial court found that some discrepancies can be due to minor errors of perception or observation or due to lapse of memory. It may be noticed that the witnesses were being examined after more than six years of the occurrence.

The general principle of appreciation of evidence is that even if some part of the evidence of witness is found to be false, the entire testimony of the witness cannot be discarded.

it is not the confessional statement of one accused which led to recovery of weapons used in the occurrence but on the basis of confessional statements of the accused, a common recovery memorandum was prepared. Such common Memo of recovery of weapons used in the occurrence cannot create doubt on the prosecution story.

It is held in the Gangadhar Behera's case that the words of a judgment cannot be treated as words in a legislative enactment. It is to be remembered that judicial orders are made in the setting of the facts of a particular case. Circumstantial flexibility, one additional or different fact may make a world of difference between conclusions in two cases, therefore, whether there was common object of the accused in each case would depend upon cumulative effects of the facts of that particular case.

2019(1) ALT Cri 225(SC); 2019 0 Supreme(SC) 192; MAHENDRAN Versus THE STATE OF TAMIL NADU

The offences prescribed under the Companies Act, 2013, and the TSPDFE Act are distinct. Hence, the provisions under Sections 212(2) and 221 of the Companies Act, 2013, do not disable the petitioner from investigating the subject criminal case. The investigating officer has to provide the information or documents to the Serious Fraud Investigation Officer. The findings of the Court of Session that the petitioner/prosecuting agency has no authority to investigate the case is erroneous and granting bail to the respondent-accused on this ground is also erroneous. The allegations against the respondent-accused are specific and grave. Huge public money is involved in this crime. Number of material 6 witnesses and voluminous documents are required to be examined in the course of investigation. As per the submissions made by the learned Public Prosecutor appearing for the petitioner, several similar cases are registered in the States of Andhra Pradesh, Karnataka, Kerala, Maharashtra and other States across the country. When huge amount is involved and hundreds of crores of rupees are diverted to unknown destinations, the possibility of the respondent-accused fleeing away from justice and taking shelter in foreign countries cannot be ruled out. On this sole ground only, the bail is liable to be cancelled. If the respondent-accused is permitted to continue on bail, there is every possibility of her causing disappearance of the material documents and there is also possibility of threatening the witnesses.
2019 1 ALT Cri 287(HC); State of Telangana Vs Dr Nowhera Shaik.

an adverse inference has to be drawn against the 2nd respondent for not subjecting herself to undergo DNA test pursuant to Crl.M.P.No.204 of 2015 filed by the petitioner in Crl.R.P.No.28 of 2015. On the other hand, in the said petition, the 2nd respondent stated that she is not ready to undergo DNA test. Coupled with this, the oral as well as the documentary evidence adduced on behalf of the 2nd respondent will not prove that she is the legally wedded wife of the petitioner, though the standard of proof of marriage in summary proceedings under Section 125 Cr.P.C., is not as strict as required in a trial of offence under Section 494 IPC.
2019 1 ALT Cri 368(HC); 2018 0 Supreme(AP) 543; Sanneerapppa Vs State of A.P

The First Information Report, at the cost of repetition, mentions even deceased wanted to commit suicide, from the accused asked him to do what he wanted to do, if at all to die, that even taken as true may not by itself be suffice to rope them to the offence under Section 306 IPC,
Presence of mens rea is concomitant of instigation and even the words uttered in a quarrel or on the spur of the moment cannot be taken to be uttered with mens rea, to attract the offence, for suicide was not proximate to the quarrel, though deceased has named them in the suicide note.
2019 1 ALT Cri 377 (HC); http://distcourts.tap.nic.in/hcorders/2018/crlp/crlp_13918_2018.pdf; **Koduri Bikshapathi and others Vs State of Telangana.**

A perusal of Section 219 sub-section (1) Cr.P.C. speaks that when a person is accused of more offences than one of the same kind committed within the space of twelve months from the first to the last of such offences, whether in respect of the same person or not, he may be charged with, and tried at one trial for, any number of them not exceeding three. Sub-section (2) speaks offences are of the 2 same kind when they are punishable with the same amount of punishment under the same section of the Indian Penal Code (45 of 1860) or of any special or local law and the proviso speaks for the offence under section 379 and 380 IPC can be construed as of same kind. All the offences for which the cognizance taken is Section 395 IPC in the three sessions cases. The accused mostly common not even one in the three cases, thereby Section 219 Cr.P.C. squarely applies to the case on hand.
http://distcourts.tap.nic.in/hcorders/2018/crlp/crlp_10371_2018.pdf; 2019 1 ALT Cri 384 (HC); Ponduru Jeevaratnam and others Vs State of A.P. and others.

Evidence of a witness is not to be disbelieved simply because he has not reacted in a particular manner.
Relationship with deceased cannot be the reason for doubting the testimony of a witness.
Omission of names in FIR not fatal to prosecution story.
Truthfulness of eye witness evidence corroborated by medical evidence warrants conviction.
In an appeal against acquittal the appellate court is duty bound to reappreciate the evidence.
2019 1 ALD Crl 369(SC); 2018 9 SCC 429; 2018 3 SCC Cri 738; 2018 0 Supreme(SC) 711; MOTIRAM PADU JOSHI AND OTHERS Vs STATE OF MAHARASHTRA;

It is also well settled that unless the discrepancies are vital, they cannot affect the credibility of the witnesses as corroboration of evidence with mathematical niceties cannot be expected in criminal cases and trivial discrepancies ought not to obliterate an otherwise acceptable evidence as held in Leela Ram (D) through Duli Chand v. State of Haryana (1999 2 ALD Crl 914[SC]).

It is well settled that the testimony of an injured witness gains more prominence compared to the testimony of an eyewitness and unless concrete material is brought out in his cross-examination condemning the very case of the prosecution, it solely constitutes basis for recording conviction.
2019 1 ALD Crl. 398(DB)(HC); http://distcourts.tap.nic.in/hcorders/2013/crla/crla_388_2013.pdf; Akula Chandraiah and another Vs.The State of Andhra Pradesh;

both P.Ws.1 and 3 were cross-examined from which the defence could not elicit anything to discredit their evidence. It is only much thereafter that they were further cross-examined during which the witnesses have come out with a new theory which was never put forth earlier. If P.W.3 was not in the house at Kanigiri on the night of occurrence, there was no reason for the defence to not put the relevant suggestions at the earliest point of time. Their further cross-examination was made as a desperate attempt to introduce a new theory which cannot be taken even with a pinch of salt. The lower Court has therefore rightly rejected this part of the deposition of P.Ws.1 and 3.
2019 1 ALD Crl 418(DB)(HC); 2018 0 Supreme(AP) 556; Malleboma Chalamaiah & Another Vs. The State of A.P.

the learned counsel for the appellant would contend that when accused Nos.2 and 3 are acquitted for the said offence, the same benefit should be extended to the appellant as well. We are afraid the said argument cannot be accepted. If the defence of accused No.1 had been that accused Nos.2 and 3 along with others were also involved in the commission of offence, definitely one could have thought of extending the benefit. On the other hand, the findings given by the trial Court go to show that there is no material on record to show that accused Nos.2 and 3 entered the house of the appellant at the time of the incident. Merely because they went out of the compound in a hurried manner, does not by itself indicate that they also participated in the commission of offence. Hence, we feel that the findings of the trial Court in convicting the appellant for the offences punishable under Sections 302 and 201 IPC warrants no interference.
It is well settled that the burden of proving the guilt of an accused is on the prosecution, but there may be certain facts pertaining to a crime that can be known only to the accused, or are virtually impossible for the prosecution to prove. These facts need to be explained by the accused and if he does not do so, then as held by the Apex Court it is a strong circumstance pointing out the guilt towards the accused.
Further, the fact that the dead body was in the house situated in third floor is not in dispute. The evidence on record amply established that the appellant was present in the house at the time of the incident and she opened the door 10 minutes after it was knocked. An explanation is sought to be given by way of suggestions that she was sleeping and she was not aware about the 15 incident. If really she was sleeping and when door was bolted from inside, it is strange as to how the dead body was inside the house. The said version is not found in her 313 Cr.P.C., examination nor it was suggested to PW.1 or PW.4 or to any other witness that it was PW.4 or accused No.2 or accused No.3 or any other third person responsible for the incident. Except denying the incident, she has not come forward with any specific plea even in her 313 Cr.P.C., examination. After completion of 313 Cr.P.C., examination, she examined DWs.1 to 4 to show that she was not present in the house at the time of the incident, but the said plea was never suggested to any of the witness nor such a plea taken in her 313 Cr.P.C., examination. Obviously it is an after thought, invented for this case. If really she was not there in the house and she was not aware as to how the dead body came to the house, nothing prevented her from establishing the same by giving suggestions to all the witnesses or by stating the said fact atleast in 313 Cr.P.C., examination.
2019 1 ALD Crl 426(DB)(HC); 2018 3 ALT(Cri) 211; 2018 0 Supreme(AP) 540; Hazara Begum Vs State of A.P.

The mentioning of unknown persons as the attackers, in the wound certificate of PW.2 is, no doubt, a considerable aspect. But it would not hold the strength of overruling the cogent evidence. It can, sometimes, be attributed to the wrong noting by the concerned. We feel that giving much weight to the said aspect, in the light of the other evidence, more particularly, the evidence of an injured witness, which stands on a higher plane of credibility, which proves the guilt of the accused, is not in the spirit of right appreciation of things.
2019 1 ALD Crl 437(DB)(HC); 2018 0 Supreme(AP) 545; Rebaka Krupandandam @ Krupa & Anr Vs. State of A.P.

if it is an application filed by the accused/detenu showing that there is a default statutorily committed by non-filing of the final report within the statutory period and he is entitled to the default bail that default bail to be granted on his application is like a regular bail and not even till filing of charge sheet.
The bail now granted is since a regular one till end of trial (without prejudice to the right to cancel meanwhile in case of need and/or for non-compliance of conditions supra) any absence of petitioner/s as accused for hearing/enquiry or trial, issuance of non bailable warrant-NBW (unless canceled before execution) and even its

execution and production of accused as per the NBW; that does not tantamount to cancellation of bail including from the wording of Sec. 439(2) Cr.P.C. and as such in such event no fresh bail application can be entertained. As it tantamounts to only cancellation of bail bonds earlier executed, (leave about the power of the Court to issue surety notices by forfeiting bonds and for imposing penalty on the bonds forfeited); the proper course is to direct the accused to work out the remedy to pay penalty on the previous forfeited bonds as per Section 441 to 446 Cr.P.C. and to submit fresh solvency with self bond for enlarging him by release for custody on payment of penalty of the earlier bonds forfeited without need of enforcing against earlier sureties again.

2019 1 ALD Crl 477(HC); 2018 3 ALT(Cri) 307; 2018 0 Supreme(AP) 549; Bobba Venkat Reddy Vs. Senior Intelligence Officer, Directorate of Revenue Intelligence Hyd.

They were in a relationship with each other for quite some time and enjoyed each other's company. It is also clear that they had been living as such for quite some time together. When she came to know that the appellant had married some other woman, she lodged the complaint. It is not her case that the complainant has forcibly raped her. She had taken a conscious decision after active application of mind to the things that had happened. It is not a case of a passive submission in the face of any psychological pressure exerted and there was a tacit consent and the tacit consent given by her was not the result of a misconception created in her mind. We are of the view that, even if the allegations made in the complaint are taken at their face value and accepted in their entirety, they do not make out a case against the appellant. We are also of the view that since complainant has failed to prima facie show the commission of rape, the complaint registered under Section 376(2)(b) cannot be sustained.

22. Further, the FIR nowhere spells out any wrong committed by the appellant under Section 420 of the IPC or under Section 3(1)(x) of the SC/ST Act. Therefore, the High Court was not justified in rejecting the petition filed by the appellant under Section 482 of the Cr.P.C.

2019 1 ALD Crl 523(SC); 2019 0 AIR(SC) 327; 2018 0 Supreme(SC) 1296; DR. DHRUVARAM MURLIDHAR SONAR Vs. THE STATE OF MAHARASHTRA & ORS.

Considering the law on the point and the other decisions of this Court on the point, referred to hereinabove, it is observed and held as under:

(i) that the power conferred under Section 482 of the Code to quash the criminal proceedings for the non-compoundable offences under Section 320 of the Code can be exercised having overwhelmingly and predominantly the civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes and when the parties have resolved the entire dispute amongst themselves;

(ii) such power is not to be exercised in those prosecutions which involved heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society;

(iii) similarly, such power is not to be exercised for the offences under the special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender;

(iv) offences under Section 307 IPC and the Arms Act etc. would fall in the category of heinous and serious offences and therefore are to be treated as crime against the society and not against the individual alone, and therefore, the criminal proceedings for the offence under Section 307 IPC and/or the Arms Act etc. which have a serious impact on the society cannot be quashed in exercise of powers under Section 482 of the Code, on the ground that the parties have resolved their entire dispute amongst themselves. However, the High Court would not rest its decision merely because there is a mention of Section 307 IPC in the FIR or the charge is framed under this provision. It would be open to the High Court to examine as to whether incorporation of Section 307 IPC is there for the sake of it or the prosecution has collected sufficient evidence, which if proved, would lead to framing the charge under Section 307 IPC. For this purpose, it would be open to the High Court to go by the nature of injury sustained, whether such injury is inflicted on the vital/delegate parts of the body, nature of weapons used etc. However, such an exercise by the High Court would be permissible only after the evidence is collected after investigation and the charge sheet is filed/charge is framed and/or during the trial. Such exercise is not permissible when the matter is still under investigation. Therefore, the ultimate conclusion in paragraphs 29.6 and 29.7 of the decision of this Court in the case of Narinder Singh (supra) should be read harmoniously and to be read as a whole and in the circumstances stated hereinabove;

(v) while exercising the power under Section 482 of the Code to quash the criminal proceedings in respect of non-compoundable offences, which are private in nature and do not have a serious impart on society, on the ground that there is a settlement/compromise between the victim and the offender, the High Court is required to consider the antecedents of the accused; the conduct of the accused, namely, whether the accused was

absconding and why he was absconding, how he had managed with the complainant to enter into a compromise etc.

2019 0 Supreme(SC) 246; THE STATE OF MADHYA PRADESH Vs. LAXMI NARAYAN AND OTHERS

As held by this Court in a catena of decisions, minor discrepancies are not to be given undue emphasis and the evidence is to be considered from the point of view of trustworthiness. The test is whether the same inspires confidence in the mind of the court. In the case of Yogesh Singh v. Mahabeer Singh (2007) 11 SCC 195 it is observed by this Court that every omission cannot take place of a material omission and, therefore, minor contradictions, inconsistencies or insignificant embellishments do not affect the core of prosecution case and should not be taken to be a ground to reject the prosecution evidence. It is further observed that the omission should create a serious doubt about the truthfulness or creditworthiness of a witness. It is further observed that it is only the serious contradictions and omissions which materially affect the case of prosecution but not every contradiction or omission.

2019 0 Supreme(SC) 247; KHUSHWINDER SINGH Vs. STATE OF PUNJAB

it is the duty of the Court to see that the real culprits are booked and are punished. The Court cannot shut its eyes to the aforesaid fact that five persons have been killed/murdered and that there is no fair investigation and because of the lapse on the part of the prosecution/investigating agency in not conducting any investigation qua those four persons who were identified by PW8 on 7.6.2003 before the special executive magistrate. The benefit of the lapse in investigation and/or unfair investigation cannot be permitted to go to the persons who are real culprits and in fact who committed the offence.

we strongly deprecate the conduct on the part of the investigating agency and the prosecution. Because of such lapses, and more particularly in not conducting the investigation insofar as those four persons who were identified by PW8 on 7.6.2003, the real culprits have gone out of the clutches of the law and got scot free.

Murder and rape is indeed a reprehensive act and every perpetrator should be punished. Therefore, considering the observations made by this Court in the case of Kishanbhai (supra), referred to hereinabove, we direct the Chief Secretary, Home Department, State of Maharashtra to look into the matter and identify such erring officers/officials responsible for failure of a prosecution case, on account of sheer negligence or because of culpable lapses, real culprits are out of the clutches of law and because of whose lapses the case has resulted into acquittal in a case where five persons were killed brutally and one lady was subjected to even rape. Therefore, we direct the Chief Secretary, Home Department, State of Maharashtra to enquire into the matter and take departmental action against those erring officers/officials, if those officers/officials are still in service. The instant direction shall be given effect to within a period three months from today.

2019 0 Supreme(SC) 251; STATE OF MAHARASHTRA Vs. AMBADAS LAXMAN SHINDE AND OTHERS

While considering the case of discharge sought immediately after the charge-sheet is filed, the Court cannot become an Appellate Court and start appreciating the evidence by finding out inconsistency in the statements of the witnesses as was done by the High Court in the impugned order running in 19 pages. It is not legally permissible.

2019 0 Supreme(SC) 262; State Represented By The Deputy Superintendent Of Police Vigilance And Anti Corruption, Tamil Nadu Vs J. Doraiswamy

It is not in dispute that no proper investigation could be made by the Investigating Officer (IO) much less concluded on the basis of the FIR lodged by the complainant and before it could be brought to its logical conclusion, the impugned order intervened resulting in quashing of the FIR itself in relation to cognizable offences which were of more serious in nature than the remaining one which survived for being tried.

The High Court, in our view, instead of quashing the FIR at such a preliminary stage should have directed the IO to make proper investigation on the basis of the FIR and then file proper charge sheet on the basis of the material collected in the investigation accordingly. It was, however, not done. It was more so because, we find that FIR did disclose prima facie allegations of commission of concerned offences.

We cannot, therefore, countenance the approach of the High Court when it proceeded to quash the FIR partly in relation to more serious offences (Sections 392, 395 and 397 IPC) without allowing the IO to make proper investigation into its allegations.

2019 0 Supreme(SC) 301; Rafiq Ahmedbhai Paliwala Vs. The State Of Gujarat & Ors

At the stage of consideration of the application under Section 319 CrPC, of course, the Trial Court was to look at something more than a prima facie case but could not have gone to the extent of enquiring as to whether the matter would ultimately result in conviction of the proposed accused persons.

2019 0 Supreme(SC) 306; SUGREEV KUMAR Vs. STATE OF PUNJAB AND ORS

it is well-settled that criminal justice should not become a casualty because of the minor mistakes committed by the Investigating Officer. We may hasten to add here itself that if the Investigation Officer suppresses the real incident by creating certain records to make a new case altogether, the Court would definitely strongly come against such action of the Investigation Officer. There cannot be any dispute that the benefit of doubt arising out of major flaws in the investigation would create suspicion in the mind of the Court and consequently such inefficient investigation would accrue to the benefit of the accused. As observed by this Court in the case of State of H.P. v. Lekh Raj, (2000) (1) SCC 247, a criminal trial cannot be equated with a mock scene from a stunt film. Such trial is conducted to ascertain the guilt or innocence of the accused arraigned and in arriving at a conclusion about the truth, the courts are required to adopt a rational approach and judge the evidence by its intrinsic worth and the animus of the witnesses. The courts are not obliged to make efforts either to give latitude to the prosecution or loosely construe the law in favour of the accused. The traditional dogmatic hyper technical approach has to be replaced by a rational, realistic and genuine approach for administering justice in a criminal trial.
Since the accused/appellant has offered a false explanation regarding the events of that day, more particularly about the last seen circumstance, an adverse inference needs to be drawn against him.
It is worth reiterating that though certain discrepancies in the evidence and procedural lapses have been brought on record, the same would not warrant giving the benefit of doubt to the accused/appellant. It must be remembered that justice cannot be made sterile by exaggerated adherence to the rule of proof, inasmuch as the benefit of doubt given to an accused must always be reasonable, and not fanciful.
2019 0 Supreme(SC) 272; Sachin Kumar Singhraha Vs. State Of Madhya Pradesh

In the statements recorded under Section 161 of the Code during the course of investigation, the Complainant and his witnesses have not disclosed any other name except the 11 persons named in the FIR. Thus, the Complainant has sought to cast net wide so as to include numerous other persons while moving an application under Section 319 of the Code without there being primary evidence about their role
In the First Information Report or in the statements recorded under Section 161 of the Code, the names of the appellants or any other description have not been given so as to identify them. The allegations in the FIR are vague and can be used any time to include any person in the absence of description in the First Information Report to identify such person. There is no assertion in respect of the villages to which the additional accused belong. Therefore, there is no strong or cogent evidence to make the appellants stand the trial for the offences under Sections 147, 448, 294(b) and 506 of IPC in view of the judgment in Hardeep Singh case (supra). The additional accused cannot be summoned under Section 319 of the Code in casual and cavalier manner in the absence of strong and cogent evidence. Under Section 319 of the Code additional accused can be summoned only if there is more than prima facie case as is required at the time of framing of charge but which is less than the satisfaction required at the time of conclusion of the trial convicting the accused.
2019 0 Supreme(SC) 284; PERIYASAMI AND ORS.Vs. S. NALLASAMY

Merely because an offence is compoundable under Section 320 Cr.PC, still discretion can be exercised by the court having regard to nature of offence, as such it is rightly held in the impugned judgment that as the offence for which appellant was convicted and sentenced, it will have its own effect on the society at large. In view of the reasons recorded in the impugned order rejecting the application for compounding, it cannot be said that the High Court has committed any error in not accepting the application filed for compounding the offence.
2019 0 Supreme(SC) 309; Bhagyan Das Vs. The State of Uttarakhand & Anr

Non-production of the seized wood and the vehicle, the primary evidence of the offence, renders the prosecution case fragile and unsustainable. Mere production of the seizure memo does not tantamount to the production of the seized woods and the lorry. Unless the seized wood was produced, mere production of a sample, and there is no material in support that the sample was out of the same 22 logs, we are unable to sustain the conviction of the appellants
2019 0 Supreme(SC) 315; Pawan Kumar & Ors. Vs. The State of Himachal Pradesh

Once the criminal court had no power to deal with the property seized under the Act, the High Court was held to have no jurisdiction under Section 482 of the CrPC to quash proceedings for confiscation of forest produce.
Forests are a national wealth which are required to be preserved. In most cases, the State is the owner of the forest and forest produce and is enjoined with a duty to preserve forests to maintain an ecological balance. Therefore, statutory interpretation of such provisions should have regard to the principle of purposive construction so as to give effect to the aim and object of the legislature, and keeping the principles contained in Articles 48-Aand 51-A(g) of the Constitution in mind.
2019 0 Supreme(SC) 355; 2019 LF(SC) 336; The State of Madhya Pradesh Vs. Uday Singh (THREE JUDGE BENCH)

A plea of mala fides, in our view, has no factual and legal foundation to sustain because we find that it is only based on the averment that since the appellant happened to be a member of the opposition party, the party in power at that time had taken the impugned action to resume the land against them. Such averments by itself do not constitute a plea of mala fides without there being any substantial material in its support.

2019 LF(SC) 335; V. Krishnamurthy & Anr V/S State of Tamil Nadu & Ors

NOSTALGIA

Hostile evidence in Cross examination, need to be ignored, if the witness supported the prosecution in Chief examination

In Pubi Satyanarayana @ Satteyya v. State of Andhra Pradesh (1994(2) ALT 172 (DB), this Court has come down heavily on the practice of deferring cross-examination of the prosecution witnesses to facilitate the defence to win over them and make them turn hostile and held that no credence could be given to the retracted versions. In Dudekula Rasool v. State of Andhra Pradesh (MANU/AP/0126/2018 (Crl.A.No.615 of 2011, dt.14.2.2018), a Division Bench of this Court, speaking through one of us (Justice C.V. Nagarjuna Reddy), affirmed the said view.

In Gundegoni Jangaiah v. State of A.P. (2005 (2) ALT (Crl.) 362 (DB)(AP)referred by the Public Prosecutor, the witness has supported the prosecution version in chief examination. As the defence has not cross-examined him, the Sessions Court recorded the cross-examination as Nil. The witness was recalled after a long gap of time, who deposed contrary to what he had deposed in chief examination. This Court held that in such cases the Courts must accept the earlier version and reject the later version. Similar view was taken in Krishna v. State of Karnataka (2010 Crl.LJ 1515).

Complainant cannot be Investigating Officer in NDPS CASES

a fair investigation, which is but the very foundation of fair trial, necessarily postulates that the informant and the investigator must not be the same person. Justice must not only be done, but must appear to be done also. Any possibility of bias or a predetermined conclusion has to be excluded. This requirement is all the more imperative in laws carrying a reverse burden of proof. **2018 0 AIR(SC) 3853; 2018 3 Crimes(SC) 218; 2018 4 KHC 387; 2018 2 KLD 394; 2018 3 KLT 852; 2018 0 Supreme(SC) 814; MOHAN LAL vs. THE STATE OF PUNJAB**

NEWS

- L.H.Rajeshwer Rao, Sr APP, Nizamabad, has been attached as Legal Advisor, to the Special Investigation Team, formed by the Telangana State Government to investigate the IT Grids case (famous as the Data Theft case).
- A.P. Gazette- The new Court timings of High Court of Andhra Pradesh notified vide Gazette W.No.10 AMARAVATI, FRIDAY, MARCH 8, 2019 G.832 PART II - MISCELLANEOUS NOTIFICATIONS OF INTEREST TO THE PUBLIC.
- A.P. Gazette- The Government of Andhra Pradesh hereby appoints the 08-03-2019 as the date on which the provisions of the the Andhra Pradesh State Council for Physiotherapy Act, 2019 (Act No.7 of 2019), shall come into force vide gazette Part I Extra ordinary, No.222 AMARAVATI, MONDAY, MARCH 11, 2019 G.1330.
- A.P. Gazette- LAW DEPARTMENT (L, LA&J - HOME-COURTS-A)- DESIGNATION OF CERTAIN METROPOLITAN MAGISTRATE COURTS IN VIJAYAWADA CITY TO COMMIT THE CASES TO CERTAIN DESIGNATED COURTS AND SPECIFYING THE ENTIRE STATE OF ANDHRA PRADESH AS LOCAL AREA FOR THE SAID COURTS FOR THE PURPOSE OF COMMITTAL OF THE CASES FILED IN COUNTER INTELLIGENCE CELL POLICE STATION.- vide gazette Part I Extraordinary No.229 AMARAVATI, WEDNESDAY, MARCH 13, 2019 G.1341
- A.P. Gazette- LAW DEPARTMENT (L, LA&J - HOME-COURTS-A) DESIGNATION OF CERTAIN METROPOLITAN MAGISTRATE COURTS IN VIJAYAWADA CITY TO COMMIT THE CASES TO CERTAIN DESIGNATED COURTS AND SPECIFYING THE ENTIRE STATE OF ANDHRA PRADESH AS LOCAL AREA FOR THE SAID COURTS FOR THE PURPOSE OF TRIAL THE CASES FILED IN COUNTER INTELLIGENCE CELL POLICE STATION- vide gazette Part II Extraordinary No.48 AMARAVATI, MONDAY, MARCH 18, 2019 G.1355.

- A.P. Gazette- LAW DEPARTMENT (L, LA&J - HOME-COURTS-A) ANDHRA PRADESH STATE JUDICIAL SERVICE - CIVIL JUDGES - NOTIFIED FOR THE YEAR 2016 - APPOINTMENT OF Ms. MADHURI UNDRAJAVARAPU, TO THE POST OF CIVIL JUDGE AGAINST SC VACANCY, BY DRECT RECRUITMENT IN PLACE OF Sri S.P. BALAJI KUMAR- vide gazette Part I Extraordinary No.276 AMARAVATI, SATURDAY, MARCH 23, 2019 G.1404
- GOVERNMENT OF ANDHRA PRADESH- Public Services – Prosecuting Officers - Retirements during the year 2019 – Notification – Orders – Issued- HOME (COURTS.A) DEPARTMENT G.O.Rt.No. Dated.29-03-2019.
- GOVERNMENT OF ANDHRA PRADESH- Public Services - Prosecution Department – Fixation of notional seniority in respect of Sri G.Ramesh Babu and original seniority in respect of Sri P Madusudana Rao - in the cadre of Senior Assistant Public Prosecutor - Orders – Issued- G.O.RT.No. 315 HOME (COURTS.A) DEPARTMENT Dated: 19-03-2019
- GOVERNMENT OF TELANGANA- Budget Estimates 2018-19 – Budget Release Order for an amount of Rs.15,00,000/- to the Director of Prosecutions, Telangana State, Hyderabad – Administrative Sanction - Orders – Issued- G.O.Rt.No. 113 LAW (LA, LA&J-HOME-COURTS-B2) DEPARTMENT Dated: 07-03-2019
- GOVERNMENT OF ANDHRA PRADESH- Public Services – Prosecution Department – Sanction of additional charge allowance to certain Prosecuting Officers, for having held full additional charge of the posts of Public Prosecutors - under the Provision of FR 49 – Orders – Issued- G.O.Rt.No.275 HOME (COURTS.A) DEPARTMENT Dated.08-03-2019
- GOVERNMENT OF ANDHRA PRADESH- Public Services – Prosecutions Department - Declaration of Probation of Additional Public Prosecutor Grade-II (DR) of 2015 Batch – certain Errata on the declaration of Probation - Orders-Issued- G.O.RT.No. 305 HOME (COURTS.A) DEPARTMENT Dated: 18-03-2019

ON A LIGHTER VEIN

Wife: Had Your Lunch?
Husband: Had Your Lunch?
Wife: I am Asking You
Husband: I am Asking You
Wife: You Copying Me ?
Husband: You Copying Me?
Wife: Lets Go Shopping
Husband: Yes I had My Lunch

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SAVE PAPER SAVE TREES.

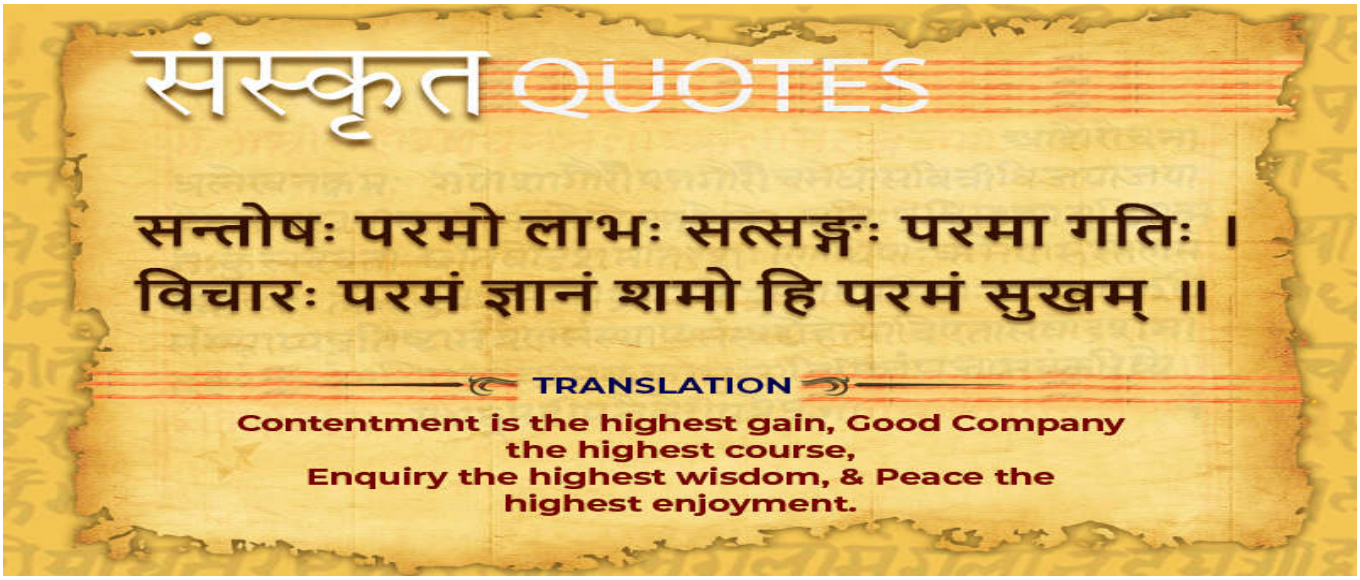
Vol- VIII
Part-5

Prosecution Replenish

An Endeavour for Learning and Excellence

May, 2019

Aano Bhadra Krtavo Yantu Vishwatah.(RIG VEDAM)
"Let Noble Thoughts Come To Me From All Directions"



CITATIONS

A reading of the F.I.R. reveals that the police has registered the F.I.R on directions of the Sub-Divisional Magistrate which was clearly impermissible in the law. The Sub-Divisional Magistrate does not exercise powers under Section 156(3) of the Code. The very institution of the F.I.R. in the manner done is contrary to the law and without jurisdiction.
2019 1 Crimes(SC) 18; 2018 0 Supreme(SC) 1249; (2019) 1 SCC (Cri) 737; (2019) 2 SCC 344; NAMAN SINGH ALIAS NAMAN PRATAP SINGH AND ANOTHER Vs. STATE OF UTTAR PRADESH AND OTHERS.

No doubt, the semen of the appellant has not been detected in the vaginal swabs of the deceased (as per the FSL Report being Exh. 38), having been found only on the knickers of the appellant himself (as per the FSL Report being Exh. 61). However, this, too, cannot be a ground to exonerate the appellant, given the totality of circumstances of the case, and also considering that the swabs were mixed with mud, as stated by the doctor PW13.
In this situation, we also find that the minor discrepancies in the recorded timings and sequence of events pertaining to the recovery of the body, and articles including the victim's schoolbag, as evident through the First Information Statement (Exh. 63), the testimony of the I.O., PW14, and the spot panchanama (Ex. 23), are not fatal to the prosecution version and may be explained due to all the events happening in quick succession, viz. the apprehending of the appellant, the recovery of the dead body, the lodging of the FIR pertaining to murder and the preparation of the spot panchanama. Moreover, the argument that the recovery of the dead body at the instance of the appellant is highly suspicious cannot be sustained either, since it is clear from the testimony of the witnesses that the body was recovered from a spot which could only have been within the knowledge of the person who hid the body to begin with. This is also fortified by the lack of any explanation by the appellant regarding the recovery of the body and the circumstance of the victim being last seen around him. To add to this, even the clothes of the deceased were recovered at the instance of the appellant, from a spot around 200m from Kamthekarwadi, from a pit which had been covered with a stone. This again is a location of which only the perpetrator of the offence could have had knowledge. Although it is true that the recovery of articles is to be made based on the statement of the accused immediately after the arrest of the accused and recording his statement, the recovery should be based on the voluntary action relating to showing of the place by the accused. Therefore, unless the accused volunteers to show the place of hiding certain things/facts, the recovery cannot be made by the investigating officers. In this view of the matter, if the accused volunteered to show the place where he had hidden the deceased's clothes at a particular place only after 5 days, the investigating officer cannot be blamed for the same. In a given case, the accused may confess ten or fifteen days after

his arrest and as such the recovery cannot be suspected on this ground alone. Together, these circumstances establish that the appellant had hidden the body of the deceased, as well as her clothes, in a bid to suppress the evidence of his crime.
As rightly contended by counsel for the prosecution, in a village of merely 25 houses, where everyone is well-acquainted with one another, an outsider would stand out starkly, and attract attention. In such a situation, his identification through clothes, if supported by the testimony of multiple witnesses whose testimony has been found to inspire confidence, cannot be found fault with only because a Test Identification Parade was not conducted subsequently.
we find ourselves unable to agree with the contention of the learned Senior counsel for the appellant that the non-investigation into the ownership of the second wristwatch recovered vitiates the case against the accused. Moreover, as noted by the High Court, the non-seizure of the sandal of the victim and the stone used to hide the victim's clothes, also does not strike at the root of the matter.
2019 0 AIIMR(Cri)(SC) 784; 2018 4 Crimes(SC) 474; 2019 2 SCC 311; 2019 2 Supreme 246; 2018 0 Supreme(SC) 1221; Viran Gyanlal Rajput VsThe State of Maharashtra(Three Judge Bench)

Although we acknowledge the gravity of the offence alleged against the accused-respondents and the unfortunate fact of a senior official losing his life in furtherance of his duty we cannot overlook the fact that the lapses in the investigation have disabled the prosecution to prove the culpability of the accused. The accused cannot be expected to relinquish his innocence at the hands of an inefficacious prosecution, which is ridden with investigative deficiencies. The benefit of doubt arising out of such inefficient investigation, must be bestowed upon the accused.
2019 0 AIR(SC) 38; 2018 4 Crimes(SC) 359; 2019 1 KLT(SN) 11; 2019 1 PLJR(SC) 253; 2019 2 SCC 303; 2019 2 Supreme 596; 2018 0 Supreme(SC) 1234; STATE OF UTTAR PRADESH Vs. WASIF HAIDER ETC.

Once we find that Clause 11.2.2.2 does not entitle the petitioner to get the draft electoral roll in the text mode which is searchable as well viz. in 'full text search' form, it is for the ECI to decide about the format in which the draft electoral roll is to be published. ECI has given the reasons for not adhering to the request of the petitioner in providing draft electoral roll in searchable PDF format. According to it, issues of privacy of voters are involved and the move of ECI is aimed at prevention of voter profiling and data mining. According to ECI, ensuring free and fair elections, to which it is committed, also necessitates that ECI is duty bound to protect the privacy and profiling of electors. Therefore, it is duty bound to take all precautionary measures. However, it is not necessary to go into this aspect.
2019 0 AIR(SC) 336; 2019 2 SCC 260; KAMAL NATH Vs. ELECTION COMMISSION OF INDIA AND OTHERS

The Evidence of an injured eye witness stands on higher footing. (See: Abdul Sayeed v. State of M.P. reported in (2010) 10 SCC 259).
2019 0 AIR(SC) 264; 2018 4 Crimes(SC) 380; 2018 0 Supreme(SC) 1083; BHAGIRATH Vs.THE STATE OF MADHYA PRADESH

An accused who was earlier discharged in the case, can be summoned as an accused and proceeded subsequently basing on supplementary charge sheet and deposition of witness.
there is no provision to review or recall the order under the Code of Criminal Procedure (for short 'the Cr.P.C.') by the Criminal Court/Sessions Court.
(2019) 1 SCC (Cri) 748; (2019) 2 SCC 393; 2019 0 AIR(SC) 265; 2018 4 Crimes(SC) 505; 2018 0 Supreme(SC) 1263; Deepu @ Deepak Vs. State of Madhya Pradesh.

Having advanced the money to the deceased, the appellant-accused might have uttered some abusive words; but that by itself is not sufficient to constitute the offence under Section 306 I.P.C.
The Suicide note and the statement of the witnesses that the accused tortured the deceased to repay the loan, does not satisfy the ingredients necessary for abetting or instigating the suicide.
2019 0 AIR(SC) 43; 2018 4 Crimes(SC) 570; 2018 0 Supreme(SC) 1269; M. Arjunan Vs.The State

the presence of the Accused Nos. 1 and 2 at the time of the incident has been established and proved beyond doubt. The role attributed to them has also been established and proved by the prosecution by leading cogent evidence. The testimony of the eye witnesses fully supports the case of the prosecution., motive becomes unimportant.
unless the contradictions are such material contradictions which may destroy the case of the prosecution, the benefit of such contradictions cannot be given to the accused.
When 7-8 persons form a group with a common intention of killing deceased, section 149 applies notwithstanding acquittal of some of the accused.
2019 0 AIR(SC) 278; 2019 1 Supreme 168; 2018 0 Supreme(SC) 1213; Farida Begum Vs. State of Uttarakhand

the N.D.P.S Act, should not be read in exclusion to Drugs and Cosmetics Act, 1940. Additionally, it is the prerogative of the State to prosecute the offender in accordance with law.
we find that decision rendered by the High Court holding that the accused-respondents must be tried under the Drugs and Cosmetics Act, 1940 instead of the N.D.P.S Act, as they were found in possession of the “manufactured drugs”, does not hold good in law.
(2019) 1 SCC (Cri) 739; (2019) 2 SCC 466; 2019 0 AIR(SC) 84; 2018 4 Crimes(SC) 489; 2019 1 PLJR(SC) 184; 2019 1 Supreme 92; 2018 0 Supreme(SC) 1202; State of Punjab Vs. Rakesh Kumar (Three Judge Bench)

The upshot of this discussion is that there can be no interference in investigations and the courts cannot brook any interference in the judicial process. An exception may occur as we have noticed above, when there is an unjustified deviation from the natural course of investigations or illegal interference in the judicial process. Such a situation would be rare and would have to be dealt with on a case by case basis and it is to preempt this that the Constitutional Courts monitor investigations on extraordinary occasions. Consequently, the apprehension expressed by the applicants/petitioners that due to the observations said to have been made by this Court there would be interference in the investigations by the SIT all interference in the due judicial process by the courses not real or justified.
there is a clear distinction between rape and consensual sex. The court, in such cases, must very carefully examine whether the complainant had actually wanted to marry the victim or had mala fide motives and had made a false promise to this effect only to satisfy his lust, as the later falls within the ambit of cheating or deception. There is also a distinction between mere breach of a promise and not fulfilling a false promise. If the accused has not made the promise with the sole intention to seduce the prosecutrix to indulge in sexual acts, such an act would not amount to rape. There may be a case where the prosecutrix agrees to have sexual intercourse on account of her love and passion for the accused and not solely on account of the misconception created by accused, or where an accused, on account of circumstances which he could not have foreseen or which were beyond his control, was unable to marry her despite having every intention to do. Such cases must be treated differently. If the complainant had any mala fide intention and if he had clandestine motives, it is a clear case of rape. The acknowledged consensual physical relationship between the parties would not constitute an offence under Section 376 of the IPC
2019 0 AIR(SC) 327; 2019 0 AIIMR(Cri)(SC) 771; 2019 1 Crimes(SC) 20; 2019 1 KHC 403; 2019 1 Supreme 140; 2018 0 Supreme(SC) 1296; DR. DHRUVARAM MURLIDHAR SONAR Vs. THE STATE OF MAHARASHTRA & ORS.

Accused can be convicted basing on reliable evidence of a sole witness.
Minor Discrepancies which do not shake the basic version of Prosecution is not fatal.
Interested witness deposition can be relied upon.
Delay in setting the law in motion by lodging the complaint or registration of FIR is normally viewed by courts with suspicion because there is possibility of concoction of the case against the accused. But when there is proper explanation for the delay, the prosecution case cannot be doubted on the ground that there was delay in registration of FIR.
FIR is not an encyclopaedia which is expected to contain all the minute details of the prosecution case, it may be sufficient if the broad effects of the prosecution case are stated in the FIR.

Such delay in sending the recovered weapons to FSL could only be an omission or lapse on the part of the Investigating Officer. Such omissions or lapses in the investigation cannot be a ground to discard the prosecution case which is otherwise credible and cogent. **2019 0 AIR(SC) 381; 2019 1 ALD(Cri)(SC) 276; 2018 4 Crimes(SC) 238; 2018 3 JLJ(SC) 309; 2018 4 MLJ(Cri) 502; 2018 0 Supreme(SC) 943; STATE OF MADHYA PRADESH Vs. CHHAAKKI LAL AND ANOTHER.**

It is common knowledge that generally direct evidence may not be available to prove conspiracy, inasmuch as the act of conspiracy takes place secretly. Only the conspirators would be knowing about the conspiracy. However, the Court, while evaluating the material, may rely upon other material which suggests conspiracy. Such material will be on record during the course of trial.
2018 3 ACR 3249; 2019 0 AIR(SC) 302; 2018 0 AIIMR(Cri)(SC) 4938; 2018 4 Crimes(SC) 156; 2018 3 Crimes(SC) 425; 2018 2 OLR 768; 2018 10 SCC 516; 2019 1 Supreme 259; 2018 0 Supreme(SC) 890; The State of Orissa Vs. Mahimananda Mishra.

It may be that many people are set free because of poor investigation and on account of indifferent prosecution. At the same time, it is not uncommon for individuals to file false cases. In fact, this Court has noted the misuse of Section 498A of Indian Penal Code, 1860 in the case of Rajesh Sharma v. State of U.P., 2017 SCC Online SC 821 and of Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 in the case of Dr. Subhash Kashinath Mahajan v. State of Maharashtra, (2018) 6 SCC 454. Therefore, while interpreting the law one cannot shut one's eyes to the fact that a large number of false cases are filed and appeals will more likely than not be filed in such cases when the acquittal of the accused is ordered.
Though the victim has rights, one cannot forget that a victim who may have suffered, may also seek revenge. Therefore, an obligation has been cast upon the State to prosecute the accused. In fact, even now a trial under the CrPC has to be conducted by the Public Prosecutor or Assistant Public Prosecutor. No private lawyer can be engaged to conduct the trial under Section 301(2) of CrPC. A private person including the victim, can only instruct a pleader to act on his behalf in court but the prosecution has to be conducted either by the Public Prosecutor or Assistant Public Prosecutor and the pleader engaged by the private person can only act as per the directions of the Public Prosecutor or Assistant Public Prosecutor. The reason behind this is that the victim may fabricate evidence or hide true facts whereas the Public Prosecutor or Assistant Public Prosecutor is expected to be fair to the court, to the accused and to the victim.
On the one hand are the rights of the victim and on the other hand, is the well settled principle of criminal jurisprudence that every man is presumed to be innocent till proved guilty. Therefore, though the victim may have a right to file an appeal, this right of filing an appeal vested in the victim, cannot be larger than the right of filing an appeal which inheres in the State and the complainant in a complaint case. Therefore, I am of the view that when the victim files an appeal against acquittal in the High Court he has to seek leave to appeal under Section 378(3) CrPC.
(2019) 1 SCC (Cri) 801; (2019) 2 SCC 752; 2018 0 AIR(SC) 5206; 2018 4 Crimes(SC) 123; 2018 4 Crimes(SC) 194; 2018 3 GLH 609; 2019 1 KCCR 1; 2018 5 KHC 362; 2018 2 KLD(SN) 825; 2019 1 KLJ 292; 2018 4 KLT 682; 2018 2 LW(Cri) 675; 2018 0 Supreme(SC) 983; Mallikarjun Kodagali (Dead) represented through Legal Representatives Vs. State of Karnataka & Ors.

The Magistrate cannot suo moto direct for further investigation under Section 173(8) of the CrPC or direct the reinvestigation into a case at the post-cognizance stage, more particularly when, in exercise of powers under Section 227 of the CrPC, the Magistrate discharges the accused. However, Section 173(8) of the CrPC confers power upon the officer-in-charge of the police station to further investigate and submit evidence, oral or documentary, after forwarding the report under subsection (2) of Section 173 of the CrPC. Therefore, it is always open for the investigating officer to apply for further investigation, even after forwarding the report under subsection (2) of Section 173 and even after the discharge of the accused. However, the aforesaid shall be at the instance of the investigating officer/police officer-in-charge and the Magistrate has no jurisdiction to suo moto pass an order for further investigation/reinvestigation after he discharges the accused.
2019 0 Supreme(SC) 459; Bikash Ranjan Rout Vs. State through the Secretary (Home), Government of NCT of Delhi.

the High Court had no jurisdiction to appreciate the evidence of the proceedings under Section 482 of the Code Of Criminal Procedure, 1973 (for short "Cr.P.C.") because whether there are contradictions or/and inconsistencies in the statements of the witnesses is essentially an issue relating to appreciation of evidence and the same can be gone into by the Judicial Magistrate during trial when the entire evidence is adduced by the parties. That stage is yet to come in this case.
mere pendency of a civil suit is not an answer to the question as to whether a case under Sections 323, 379 read with Section 34 IPC is made out against respondent Nos. 2 and 3 or not
2019 0 Supreme(SC) 454; Md. Allauddin Khan Vs. The State of Bihar & Ors

“Cruelty” which is the crux of the offence under Section 498A IPC is defined in Black’s Law Dictionary to mean “The intentional and malicious infliction of mental or physical suffering on a living creature, esp. a human; abusive treatment; outrage (Abuse, inhuman treatment, indignity)”. Cruelty can be both physical or mental cruelty. The impact on the mental health of the wife by overt acts on the part of the husband or his relatives; the mental stress and trauma of being driven away from the matrimonial home and her helplessness to go back to the same home for fear of being ill-treated are aspects that cannot be ignored while understanding the meaning of the expression “cruelty” appearing in Section 498A of the Indian Penal Code. The emotional distress or psychological effect on the wife, if not the physical injury, is bound to continue to traumatize the wife even after she leaves the matrimonial home and takes shelter at the parental home. Even if the acts of physical cruelty committed in the matrimonial house may have ceased and such acts do not occur at the parental home, there can be no doubt that the mental trauma and the psychological distress cause by the acts of the husband including verbal exchanges, if any, that had compelled the wife to leave the matrimonial home and take shelter with her parents would continue to persist at the parental home. Mental cruelty borne out of physical cruelty or abusive and humiliating verbal exchanges would continue in the parental home even though there may not be any overt act of physical cruelty at such place.
We, therefore, hold that the courts at the place where the wife takes shelter after leaving or driven away from the matrimonial home on account of acts of cruelty committed by the husband or his relatives, would, dependent on the factual situation, also have jurisdiction to entertain a complaint alleging commission of offences under Section 498A of the Indian Penal Code.
2019 0 Supreme(SC) 420; Rupali Devi Vs. State of Uttar Pradesh & Ors.

the prosecution has been successful in proving the case that from the very beginning the accused never intended to marry the prosecutrix; he gave false promises/promise to the prosecutrix to marry her and on such false promise he had a physical relation with the prosecutrix; the prosecutrix initially resisted, however, gave the consent relying upon the false promise of the accused that he will marry her and, therefore, her consent can be said to be a consent on misconception of fact as per Section 90 of the IPC and such a consent shall not excuse the accused from the charge of rape and offence under Section 375 of the IPC.
2019 0 Supreme(SC) 445; Anurag Soni Vs. State of Chhattisgarh

It is well settled that a departmental proceeding and proceedings in a criminal court are completely different. The purpose is different, the standard of proof is different and the approach is also different. The initiation of the process in a departmental proceeding, specially on charges with which we are concerned in the present matter can never be said to be amounting to contempt of court even if the criminal proceedings were pending. The allegations made against Respondent No. 1 were of such level and dimension that an immediate action on the departmental front was required to be undertaken and such action by its very nature had to be completely independent. Whether any criminal trial was pending or not would not be having any bearing on the pending issue before the Inquiry Committee.
2019 0 Supreme(SC) 413; THE SECRETARY, LUCY SEQUEIRA TRUST AND ANOTHER Vs. KAILASH RAMESH TANDEL AND OTHERS

Further, both the trial Court and the High Court placed reliance on the injuries found on the face of the accused. It is pertinent to note that the accused failed to provide any explanation as to how he had incurred the aforesaid injuries. Further, the injuries on the body of the deceased also indicate signs of struggle. Furthermore, the postmortem suggests that the death of deceased was not suicidal but rather she was hanged after she had lost consciousness. All the aforesaid circumstances further substantiate the voluntary extrajudicial confession of the accused made before P.W4. Moreover, the fact of the commission of death by hanging corroborated by the Exhibit P12, (Panchayatnama) which notes that the deceased was hanging from the roof with the help of a bed sheet. It is noted that the Exhibit P12, (Panchayatnama) stands proved by the Sub-Inspector (P.W.8). The extrajudicial confession of the accused, therefore, finds independent reliable corroboration from the aforesaid circumstances. (See Ram Singh v. State of U.P., 1967 Cri LJ 9) In light of the aforementioned chain of events, there exists sufficient evidence on record to connect the appellant with the death of the deceased, the motive of which is apparent.

In the absence of any existing enmity between the accused and the witnesses there exists no ground to question the veracity of the witnesses or to raise a ground of false implication. Therefore, considering the totality of the facts and circumstances, we conclude that the chain of events has been rightly analysed by both the courts below and the same leads towards proving the culpability of the accused. (See Prakash v. State of Rajasthan, (2013) 4 SCC 668)

2019 0 Supreme(SC) 398; MANOJ KUMAR Vs. THE STATE OF UTTARAKHAND

In our view, in order to attract the rigor of Section 197 of the Cr.P.C., it is necessary that the offence alleged against a Government Officer must have some nexus or/and relation with the discharge of his official duties as a Government Officer. In this case, we do not find it to be so.

So far as the second ground is concerned, we are of the view that the High Court while hearing the application under Section 482 of the Cr.P.C. had no jurisdiction to appreciate the statement of the witnesses and record a finding that there were inconsistencies in their statements and, therefore, there was no prima facie case made out against respondent No. 2. In our view, this could be done only in the trial while deciding the issues on the merits or/and by the Appellate Court while deciding the appeal arising out of the final order passed by the Trial Court but not in Section 482 Cr.P.C. proceedings.

2019 0 Supreme(SC) 389; Devendra Prasad Singh Vs. State of Bihar And Anr.

In the facts and circumstances of the present case, it is difficult to sustain the charges levelled against the appellant who may have possibly, made a false promise of marriage to the complainant.

It is, however, difficult to hold sexual intercourse in the course of a relationship which has continued for eight years, as ‘rape’ especially in the face of the complainant's own allegation that they lived together as man and wife.

Shivashankar alias Shiva Vs. State of Karnataka and Another; 2018 0 Supreme(SC) 1337; {S.A. Bobde, L. Nageswara Rao, JJ.}

The only other circumstance relied upon by the prosecution is the recovery of the dead body of the deceased-Ramesh on the basis of the confession of the appellant accused. In our considered view this only circumstance by itself may not be sufficient to establish the guilt of the accused.

The circumstance of recovery of the dead body on the basis of confession may indicate that the accused might have been involved in the incident. However, as held in Raj Kumar Singh alias Raju Alias Batya v. State of Rajasthan, (2013) 5 SCC 722 that suspicion however grave but cannot take the place of the proof. There is a wide gap between “may be” and “must be”. In the present case, the circumstance of recovery of the dead body allegedly based on the alleged confessional statement may raise a suspicion against the appellant-accused that he might be involved in the incident but mere suspicion itself cannot take itself the evidence of proof. In our view conviction under Section 302/201 I.P.C. cannot be sustained, more so, when the motive attributed for the murder has been theft of the sheep, and the accused-appellant has been acquitted of the charge of theft.

2019(1) ALD (Crl) 538 (SC); 2019 0 AIR(SC) 410; 2018 4 Crimes(SC) 364; 2019 2 Supreme 503; 2018 0 Supreme(SC) 1160; UPPALA BIXAM @ BIXMAIAH Vs. THE STATE OF ANDHRA PRADESH

While Section 53-A of the Cr.P.C. is not mandatory, it certainly requires a positive decision to be taken. There must be reasonable grounds for believing that the examination of a person will afford evidence as to the commission of an offence of rape or an attempt to commit rape. If reasonable grounds exist, then a medical examination as postulated by Section 53-A(2) of the Cr.P.C. must be conducted and that includes examination of the accused and description of material taken from the person of the accused for DNA profiling. Looked at from another point of view, if there are reasonable grounds for believing that an examination of the accused will not afford evidence as to the commission of an offence as mentioned above, it is quite unlikely that a charge-sheet would even be filed against the accused for committing an offence of rape or attempt to rape.

Section 164-A of the Cr.P.C. requires, wherever possible, for the medical examination of a victim of rape. Of course, the consent of the victim is necessary and the person conducting the examination must be competent to medically examine the victim. Again, one of the requirements of the medical examination is an examination of the victim and description of material taken from the person of the woman for DNA profiling.

For the prosecution to decline to produce DNA evidence would be a little unfortunate particularly when the facility of DNA profiling is available in the country. The prosecution would be well advised to take advantage of this, particularly in view of the provisions of Section 53-A and Section 164-A of the Cr.P.C. We are not going to the extent of suggesting that if there is no DNA profiling, the prosecution case cannot be proved but we are certainly of the view that where DNA profiling has not been done or it is held back from the Trial Court, an adverse consequence would follow for the prosecution.

We must however express our shock and anguish that the appellant had the opportunity to commit the offences alleged against him on more than one occasion. This could have been possible only if the appellant had been on bail and our shock and anguish is that in the background of the facts before us, the appellant was actually granted bail.

2019 (1) ALD (Crl) 583; 2019 0 AIR(SC) 1; 2018 4 Crimes(SC) 542; 2018 0 Supreme(SC) 1246; RAJENDRA PRALHADRAO WASNIK Vs STATE OF MAHARASHTRA(3 Judges Bench)

The appellant's illicit relation with another woman would have definitely created the psychological imbalance to the deceased which led her to take the extreme step of committing suicide. It cannot be said that the appellant's act of having illicit relationship with another woman would not have affected to negate the ingredients of Sections 306 I.P.C.

In our considered view, based upon the evidence and also Agreement dated 22nd June, 2002, the High Court has rightly maintained the conviction of the appellant under Sections 498-A and 306 I.P.C.

2019(1) ALD (Crl) 638(SC); 2018 0 Supreme(SC) 1274; Siddaling Vs State

There need not be any further demur to hold that the petitioner, who is in custody in different crimes, can be deemed to be in custody pertaining to other crimes, in which he figured as accused. Therefore, the remedy of bail under sec 439 CrPC cannot be denied, on the ground that his arrest was not shown in the crime in which he is shown as accused. There can be no reason for the police not to show his arrest in the current crime except for the reason alleged by the petitioner.

2019(1) ALD (Crl) 649(AP), K.R.Giri Babu Vs State of A.P. and another.

Turning to the last mentioned reason, namely, that the very parents, brother and sister of the deceased did not support the version in the dying declaration, it is sad that quite often the kith and kin of the victim ditch the former obviously for extraneous reasons, such as financial gain, fear of reprisal and a host of other considerations. When a dying declaration is pitted against the vagaries of living human beings, the former deserves the highest degree of credibility as a person in contemplation of death is supposed to be free from all the human temptations. Therefore, the conduct of the family members of the victim cannot be made the anvil on which the dying declaration needs to be tested. If the dying declaration stands all the relevant tests as discussed above, it wins over ever other factor, especially the testimony of witnesses who were gained over by the defence.

while reiterating that though there is no requirement of law that the Doctor certifying the condition of the victim to make dying declaration must be examined in every case, it was held by the Supreme Court that it was the obligation of the prosecution to lead corroborative evidence in the peculiar facts

and circumstances of the case.
A person who suffered severe burns almost all over the body must have been suffering from excruciating pain. It is not expected of such a person to give out the names of the neighbours who arrived at the scene of offence on hearing her cries. Therefore, the absence of reference to the names of the neighbours by no means creates any suspicion on the genuineness of the statement of the deceased. Similarly, the fact of neighbours examined as witnesses not supporting the case of the prosecution also would not whittle down the genuineness or truthfulness of the statement of the deceased if the dying declaration otherwise stands the scrutiny of the Court. The mere presence of some persons inside the Ward of the hospital would not give rise to an automatic presumption that they must have tutored the deceased. The conclusion arrived at by the lower Court in this regard is founded on a baseless inference. When a person was admitted with burns in a serious condition, it is not unnatural for the kith and kin of the victim to be around him/her in the hospital unless the defence is able to bring out circumstances warranting an interference of tutoring. It is highly impermissible for the Court to draw such an inference. As regards the non-examination of the doctor, there is a catena of Judgments holding that examination of doctor to prove the fitness of the patient is not mandatory and that such non-examination cannot be made a ground to reject the dying declaration.
2019(1) ALD(Crl) 669(HC); MANU/HY/0301/2018; The State of A.P. vs. Vodde Ramudu.

Minor discrepancies in evidence of eye-witnesses do not make untrustworthy.
The antecedents of the prosecution witnesses cannot be the ground for doubting their version.
Merely because FIR contains inquest number, it cannot be said that the FIR was registered subsequent to the inquest.
Delay in filing FIR not fatal if explained.
Oral evidence prevails in case of inconsistency between oral and medical evidence, and oral and forensic evidence.
Common intention can be inferred from conduct of accused.
2019 (1) ALT (Crl) 247(SC); 2019 1 Crimes(SC) 169; 2019 0 Supreme(SC) 184; BALVIR SINGH Vs. STATE OF MADHYA PRADESH

We are not persuaded to overturn the concurrent findings of the courts below. As observed by the High Court, there is no motive for the police officials to falsely implicate the appellants. The case of the second appellant is one of alibi. She has not discharged her burden to show that she was elsewhere. On the other hand, there is evidence of the police officials that after committing the crime, the appellants came out and proclaimed that they have accomplished what they wanted. They were apprehended. In such circumstances, we see no reason to allow the appellants to rely upon the statement of the first appellant under Section 313 Cr.P.C or upon the deposition of D.W.1. No doubt, the High Court has taken the view that D.W.1 has not given complaint to the higher police officers. The High Court no doubt also finds fault with the first appellant in not disclosing the name of the person with whom his wife was found to be in a compromising position. Even proceeding on the basis that he may not have known the name of the person it still does not detract from us reposing confidence in the testimony of the police officer. The presence of the second appellant and her being apprehended by the police officers, has been believed by both the Courts and this is completely inconsistent with the case set up by the appellants. In such circumstances, we see no reason to interfere. The appeal fails and stands dismissed.
2019(1) ALT(Crl) 261(SC); 2018 0 Supreme(SC) 1183; ASHWANI KUMAR & ANR.Vs. THE STATE OF PUNJAB

he High Court ought to have appreciated that it is not in every case where the complainant has entered into a compromise with the accused, there may not be any conviction. Such observations are presumptive and many a time too early to opine. In a given case, it may happen that the prosecution still can prove the guilt by leading cogent evidence and examining the other witnesses and the relevant evidence/material, more particularly when the dispute is not a commercial transaction and/or of a civil nature and/or is not a private wrong.
2019(1) ALT (Crl) 261(SC); 2019 0 AIR(SC) 1106; 2019 2 Supreme 472; 2019 0 Supreme(SC) 198; The State Of Madhya Pradesh Vs. Dhruv Gurjar And Another

Under Section 319 Cr.P.C., a person can be added as an accused invoking the provisions not only for the same offence for which the accused is tried but for "any offence"; but that offence shall be such that in respect of which all the accused could be tried together.
2019 (1) ALT (Crl) 278(SC); 2019 0 AIR(SC) 1174; 2019 0 Supreme(SC) 218; SUNIL KUMAR GUPTA AND OTHERS Vs. STATE OF UTTAR PRADESH AND OTHERS

It is settled law that when offences enumerated under Section 195 CrPC are alleged to have been committed and a prosecution has to be launched pursuant to a complaint alleging commission of such offences, the procedure envisaged under Section 340 CrPC has to be necessarily followed. As per the said provision, when the Court is of the opinion that any offence punishable under the Sections of the Indian Penal Code, which are enumerated under Section 195(1)(b), appears to have been committed in or in relation to a proceeding in that Court or, as the case may be, in respect of a document produced or given in evidence in a proceeding in that Court, such Court, as envisaged, shall conduct a preliminary enquiry, if any, as it thinks necessary & record a finding to that effect, make a complaint thereof in writing and send it to a Magistrate of First Class having jurisdiction.
http://distcourts.tap.nic.in/hcorders/2010/crlp/crlp_5658_2010.pdf; Peela Gangadhar VS Addl. Munisiff Magistrate Court, Anakapalli; 2019(1) ALT(Crl) 385(FB)(HC);

Though all the incriminating features such as his staying along with the deceased in room No.104 of Subhodaya lodge, the door being locked from outside, the lock being broken open and the body found hanging were put to him during his Section 313 Cr.P.C., examination, the appellant has not come out with any specific explanation regarding those incriminating features or set up any specific defence such as alibi. He gave one standard answer to every question by saying that he has not committed the offence. Though the appellant has a right to be silent, from his failure to deny the incriminating features by setting up specific defence, the Court can draw adverse inference
2019(1) ALT (Crl) 428(DB); http://distcourts.tap.nic.in/hcorders/2012/crla/crla_493_2012.pdf; **Dollu Venkataramana Vs State of A.P.**

Letdown from a promise to marry does not in any way attract the offence under Section 420 of IPC. Further, merely because A1 received some gold ornaments presented by the de facto complainant it does not constitute an offence of criminal breach of trust. It appears from the complaint allegations that the de-facto complainant incurred some expenditure under the impression that his daughter's marriage would be performed with A1 on a date agreed upon by both parties. Subsequently, however, as A1 was not willing to marry LW3-Thulasi, the daughter of the de facto complainant, the marriage could not be performed. The de facto complainant since acted on the promise made by the petitioners, more particularly, that of A1, if he had really incurred any expenditure based on the assurance of the petitioners, he can recover the same by way of damages which remedy lies in civil law. I do not think any criminal offence is made out against the petitioners warranting prosecution against them. **2019(1) ALT(Crl) 460(HC); 2018 2 ALD(Cri) 622; 2018 0 Supreme(AP) 318; Varthya Shanker and another Vs. State of Telangana.**

It also explained that if the document forged in the Court proceedings, the Court has to initiate proceeding and if it is a document already forged out side the Court and used in Court proceeding the party aggrieved may maintain a private complaint as contemplated by Section 195 Cr.P.C. without need of initiation of the proceedings by preliminary enquiry under Section 340 Cr.P.C. by the Court.
Movva RamakrishnaVs. Sri Kommareddy Rambabu,2019(1) ALT(Crl) 492(HC)

There is a clear provision under Section 65 (c) of the Act for receiving document when the original has been destroyed or lost. The case of the prosecution is that the originals were destroyed and therefore, they want to file Xerox copies of those documents. The trial Court on consideration of contentions of both sides, has passed appropriate order permitting the prosecution to file those documents, subject to proof and relevancy. Therefore, there is no prejudice caused to the accused by receiving the documents by the trial Court in view of the Sec 242(2) CrPC.
Jupudi Prakash Vs. Jupudi Prakash; 2019(1) ALT(Crl) 498(HC)

that in a non-cognizable offence where the police registered the crime directly without permission of the Magistrate and even investigated the entire proceedings no way survives to continue and thereby, the registration of crime and investigation and filing of final report and taking of cognizance by the learned Magistrate no way survives to continue and it is suffice to quash the proceedings, leave about Section 497 IPC is struck down as unconstitutional by the Constitution Bench expression of the Apex Court in Joseph Shine v. Union of India [W.P. (Crl.) No.194 of 2017 vide judgment dated 27.09.2018.

Thripuramallu Chiranjeevi Venkatesh Vs State of A.P.; 2019(1) ALT(Crl) 510(HC)

Criminal law jurisprudence makes a clear distinction between a related and interested witness. A witness cannot be said to be an "interested" witness merely by virtue of being a relative of the victim. The witness may be called "interested" only when he or she derives some benefit from the result of a litigation in the decree in a civil case, or in seeing an accused person punished. [See: Sudhakar v. State, (2018) 5 SCC 435].

2019 0 Supreme(SC) 495; Sadayappan @ Ganesan Vs. State,

a person who stands in the shoes of the accused being named in the First Information Report, can be examined by the Police Officer under Section 161 of the Cr.PC.

2019 0 Supreme(SC) 485; DIPAKBHAI JAGDISHCHANDRA PATEL Vs. STATE OF GUJARAT AND ANOTHER

the investigating authority did not apply for further investigation and that the learned Magistrate suo moto passed an order for further investigation and directed the investigating officer to further investigate and submit the report, which is impermissible under the law. Such a course of action is beyond the jurisdictional competence of the Magistrate. Therefore, that part of the order passed by the learned Magistrate ordering further investigation after he discharges the accused, cannot be sustained and the same deserves to be quashed and set aside. Consequently, the impugned judgment and order passed by the High Court confirming such an order passed by the learned Magistrate also deserves to be quashed and set aside. At the same time, it will always be open for the investigating officer to file an appropriate application for further investigation and undertake further investigation and submit a further report in exercise of powers under Section 173(8) of the CrPC.

2019 0 Supreme(SC) 459; Bikash Ranjan Rout Vs. State through the Secretary (Home), Government of NCT of Delhi

TIP

In Mulla v. State of U.P., (2010) 3 scc 508 para 55, this court laid down that a TIP has to be conducted timely, if not, then the delay has to be explained and such delay should not cause exposure of the accused.

Dfference between NDPS and D& C act.

in the case of Union of India vs. Sanjeev V. Deshpande ((2014) 13 SCC 1), has held that, "35. …essentially the Drugs & Cosmetics Act, 1940 deals with various operations of manufacture, sale, purchase etc. of drugs generally whereas Narcotic Drugs and Psychotropic Substances Act, 1985 deals with a more specific class of drugs and, therefore, a special law on the subject. Further the provisions of the Act operate in addition to the provisions of 1940 Act."

Accused can be convicted basing on reliable evidence of a sole witness:

In Prithipal Singh and Others v. State of Punjab and Another (2012) 1 SCC 10, it was held as under:-

"49. This court has consistently held that as a general rule the court can and may act on the testimony of a single witness provided he is wholly reliable. There is no legal impediment in convicting a person on the sole testimony of a single witness. That is the logic of Section 134 of the Evidence Act. But if there are doubts about the testimony, the court will insist on corroboration. In fact, it is not the number or the quantity, but the quality that is material. The time-honoured principle is that evidence has to be weighed and not counted. The test is whether the evidence has a ring of truth, is cogent, credible and trustworthy or otherwise. The legal system has laid emphasis on value, weight and quality of evidence, rather than on quantity, multiplicity or plurality of witnesses. It is, therefore, open to a competent court to fully and completely rely on a solitary witness and record conviction. Conversely, it may acquit the accused in spite of testimony of several witnesses if it is not satisfied about the quality of evidence."
The same principle was reiterated in Sudip Kumar Sen alias Biltu v. State of West Bengal and others (2016) 3 SCC 26.

Minor discrepancies which do not shake the basic prosecution version, are not fatal.
In Prithu alias Prithi Chand and Another v. State of Himachal Pradesh (2009) 11 SCC 588, it was held as under:-
"14. In Bharwada Bhoginbhai Hirjibhai v. State of Gujarat (1983) 3 SCC 217, it was observed that undue importance should not be attached to omissions, contradictions and discrepancies which do not go to the root of the matter and shake the basic version of the prosecution witnesses. A witness cannot be expected to possess a photographic memory and to recall the details of an incident verbatim. Ordinarily, it so happens that a witness is overtaken by events. A witness could not have anticipated the occurrence which very often has an element of surprise. The mental faculties cannot, therefore, be expected to be attuned to absorb all the details. Thus, minor discrepancies were bound to occur in the statement of witnesses."
The same principle was reiterated in State of U.P. v. M.K. Anthony (1985) 1 SCC 505.

DEFECTIVE INVESTIGATION
In Nankaunoo v. State of Uttar Pradesh (2016) 3 SCC 317, it was held as under:-

> " 9. ……Any omission on the part of the investigating officer cannot go against the prosecution case. Story of the prosecution is to be examined dehors such omission by the investigating agency. Otherwise, it would shake the confidence of the people not merely in the law enforcing agency but also in the administration of justice".

In V.K. Mishra and Another v. State of Uttarakhand and Another (2015) 9 SCC 588, it was held as under:-

> "38. The investigating officer is not obliged to anticipate all possible defences and investigate in that angle. In any event, any omission on the part of the investigating officer cannot go against the prosecution. Interest of justice demands that such acts or omission of the investigating officer should not be taken in favour of the accused or otherwise it would amount to placing a premium upon such omissions".

BAIL
the basic principles governing the grant of bail. (See the judgment of this Court in the case of Neeru Yadav vs. state of Uttar Pradesh, (2014) 16 SCC 508 and Prasanta Kumar Sarkar vs. Ashis Chatterjee, (2010) 14 SCC 496). It is by now well settled that at the time of considering an application for bail, the Court must take into account certain factors such as the existence of a prima facie case against the accused, the gravity of the allegations, position and status of the accused, the likelihood of the accused fleeing from justice and repeating the offence, the possibility of tampering with the witnesses and obstructing the Courts as well as the criminal antecedents of the accused. It is also well settled that the Court must not go into deep into merits of the matter while considering an application for

bail. All that needs to be established from the record is the existence of a prima facie case against the accused. (See the judgment of this Court in the case of Anil Kumar Yadav vs. State (NCT) of Delhi, (2018) 12 SCC 129.)

ON A LIGHTER VEIN

Husband : I lost my wife, she went shopping & hasn't come back yet.

Inspector : what is her height?

Husband : I never checked.

Inspector : Slim or Healthy?

Husband : Not slim, can be healthy.

Inspector : Colour of eyes?

Husband : Changes according to season.

Inspector : what was she wearing?

Husband : Not sure whether it was a dress or a suit.

Inspector : Was she driving?

Husband : yes.

Inspector : colour of the car?

Husband : Black Audi A8 with supercharged 3.0 litre V6 engine generating 333 horse power teamed with an eight-speed tiptronic automatic transmission with manual mode. And it has full LED headlights, which use light emitting diodes for all light functions and has a very thin scratch on the front left door and then the husband started crying..

Inspector : Don't worry sir,... we will find your car

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Suggestions; articles and responses welcome to make this as the most informative leaflet

SAVE PAPER SAVE TREES.

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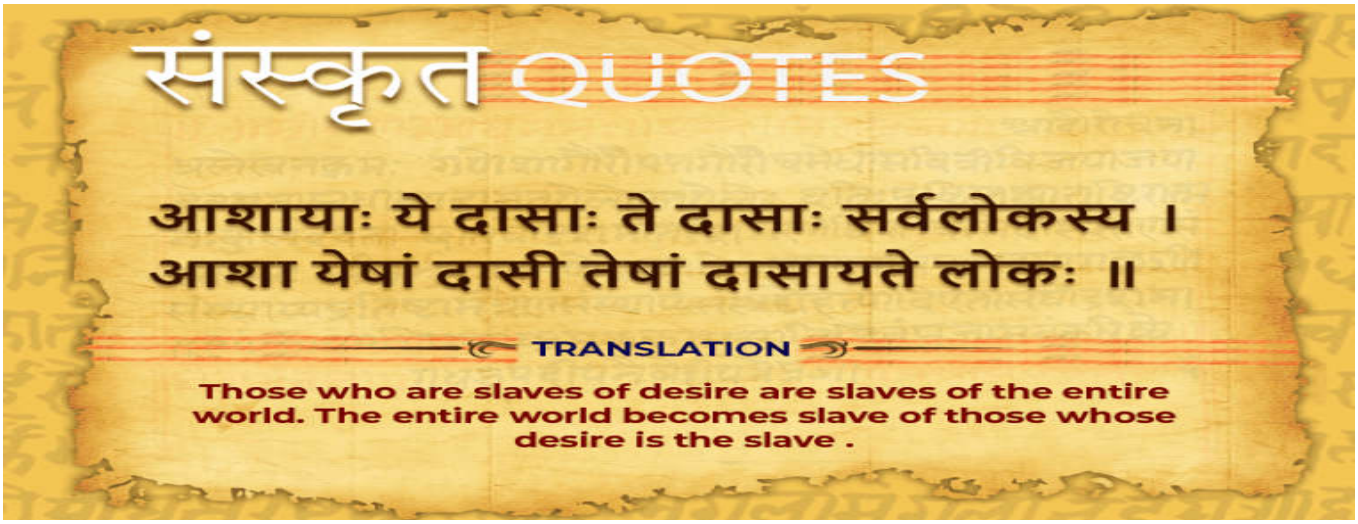
Part-6

Prosecution Replenish

An Endeavour for Learning and Excellence

June, 2019

Aano Bhadra Krtavo Yantu Vishwatah.(RIG VEDAM)
"Let Noble Thoughts Come To Me From All Directions"



CITATIONS

Shri N. K. Janu vs. Lakshmi Chandra: 2019 SCC OnLine SC 518 : Held : Practice of summoning officers to court is not proper – The Supreme Court observed that practice of summoning officers to court is not proper and does not serve the purpose of administration of justice in view of the separation of powers of the Executive and the Judiciary. The bench observed thus in an appeal, while noticing that numerous orders were passed by the High Court from time to time seeking personal presence of the officers of the State. The court further noted that, with these orders it is the public at large who suffer on account of their absence from the duties assigned to them.

Accused X vs. State of Maharashtra: 2019 SCC OnLine SC 543 : Held : Pre-sentence hearing on a separate date not mandatory – The Supreme Court observed that there is no bar on the pre-sentencing hearing taking place on the same day after passing the judgment of conviction, if the accused and the prosecution are ready to submit their arguments. The bench observed that the object of Section 235 (2) of the Code of Criminal Procedure is to provide an opportunity for accused to adduce mitigating circumstances, but it does not mean that the Trial Court can fulfil the requirements of Section 235(2) of the Cr.P.C. only by adjourning the matter for one or two days to hear the parties on sentence. The court further observed that even if a procedural irregularity is committed by the trial court to a certain extent on the question of hearing on sentence, the violation can be remedied by the appellate Court by providing sufficient opportunity of being heard on sentence.

Atma Ram vs. State of Rajasthan : 2019 SCC OnLine SC 523 : Held : Examination of witnesses in the absence of accused is a curable irregularity – Absence of the accused while taking evidence of prosecution witnesses, by itself, would not vitiate the trial, unless great prejudice has caused to the accused, the Supreme Court held, while upholding a High Court judgment which ordered fresh trial in a murder case. The bench was considering an appeal against High court judgment which ordered fresh trial / de-novo by directing the trial court to lawfully re-record statements of the witnesses whose evidence was recorded in the first round without ensuring presence of the accused in the court. It was further observed that, barring those stipulated in

Section 461, the thrust of the Chapter XXXV of the Criminal Procedure Code deals with "Irregular Proceedings", is that any infringement or irregularity would not vitiate the proceedings unless, as a result of such infringement or irregularity, great prejudice had occasioned to the accused.

Rupali Devi vs. State of Uttar Pradesh: 2019 SCC OnLine SC 493: Held: 498A case can be filed at a place where a woman driven out of matrimonial home takes shelter – The Supreme Court held that the courts at the place where the wife takes shelter after leaving or driven away from the matrimonial home on account of acts of cruelty committed by the husband or his relatives, would, dependent on the factual situation, also have jurisdiction to entertain a complaint alleging commission of offences under Section 498A of the Indian Penal Code. The court also noticed that under Section 179 of the Code of Criminal Procedure, if by reason of the consequences emanating from a criminal act an offence is occasioned in another jurisdiction, the court in that jurisdiction would also be competent to take cognizance. The court further observed that definition of cruelty under the Protection of Women from Domestic Violence Act have a close connection with Explanation A & B to Section 498A, Indian Penal Code which defines cruelty.

Devendra Prasad Singh vs. State of Bihar : 2019 SCC OnLine SC 464 : Held : Sanction under Sec.197 Cr.P.C required only if offence has nexus with duties of public servant – In order to attract the rigor of Section 197 Cr.P.C. the offence alleged against a Government Officer must have some nexus with the discharge of his official duties as Government Officer, held the Supreme Court. It has been further observed that in order to attract the rigor of Section 197 of the Cr.P.C., it is necessary that the offence alleged against a Government Officer must have some nexus or/and relation with the discharge of his official duties as a Government Officer. While allowing the appeal and restoring the compliant to its original file, the court held that the High Court had no jurisdiction under section 482 Cr.P.C. to appreciate the statement of witnesses and to record the inconsistencies in their statements.

State of Madhya Pradesh vs. Uday Singh : 2019 SCC OnLine SC 420 : Held : Forest Act – Magistrate can't invoke jurisdiction under S.451 Cr.P.C to release a seized vehicle, once authorized officer initiates confiscation proceedings – Statutory interpretation must remain eternally vigilant to the daily assaults on the environment, said the Supreme Court while it set aside the High Court order that directed the Magistrate to order interim release of a vehicle seized for being involved in the illegal excavation of sand from the Chambal River. The bench held that a Magistrate has no jurisdiction under Section 451 of the Criminal Procedure to release a seized vehicle, once the Authorised Officer initiated confiscation proceedings. The bench further observed that, upon the receipt of an intimation by the Magistrate of the initiation of confiscation proceedings under sub-section (4)(a) of Section 52, the bar of jurisdiction under sub-section (1) of Section 52-C is clearly attracted. The scheme contained in the amendments enacted to the Indian Forest Act 1927 in relation to the State of Madhya Pradesh, makes it abundantly clear that the direction which was issued by the High Court in the present case, in a petition under Section 482 of the Cr.P.C, to the Magistrate to direct the interim release of the vehicle, which had been seized, was

contrary to law, the court added

(2019) 2 SCC (Cri)1; (2019)4 SCC 360; 2019 0 Supreme(SC) 383; Mani Vs State of Kerala; The injury received by the appellant is not serious, therefore, he could not have attacked the deceased on chest which is vital part, as such injury is likely to cause death. Therefore, the appellant is not entitled to right of private defence which does not extend to inflict more harm than it is necessary in exercise of right of private defence. Therefore, the plea that the appellant acted in his private defence is not made out.

(2019) 4 SCC 16; (2019) 2 SCC (Cri) 35; 2019 0 AIR(SC) 938; 2019 1 ALT(Cri)(SC) 201; 2019 1 MPWN 59; 2019 0 Supreme(SC) 155; Mahesh Dube Vs Shivbodh and others; It seems that after the appeal was filed, the order directing restoration of the possession was not given effect to. We may also make reference to Sub-Section 2 of Section 456 Cr.P.C. which provides that if the Court trying the offence has not made such an order, the Court of appeal, confirmation or revision can also make such an order while disposing of the proceedings pending before it. No limitation has been provided for the higher courts to make such order. In this behalf, reference may be made to the judgment of this Court in H.P. Gupta v. Manohar Lal AIR 1979 S.C. 443.

(2019) 2 SCC (Cri) 39; (2019) 4 SCC 182; 2019 0 Supreme(SC) 315; Pawan Kumar and ors vs State of H.P.; Forest Act, 1927- Non-production of the seized wood and the vehicle, the primary evidence of the offence, renders the prosecution case fragile and unsustainable. Mere production of the seizure memo does not tantamount to the production of the seized woods and the lorry. Unless the seized wood was produced, mere production of a sample, and there is no material in support that the sample was out of the same 22 logs, we are unable to sustain the conviction of the appellants.

(2019) 2 SCC (Crl) 57; (2019) 4 SCC 268; 2019 0 AIR(SC) 312; 2019 1 ALT(Cri)(SC) 168; 2019 1 Crimes(SC) 14; 2019 1 Supreme 6; 2019 0 Supreme(SC) 9; State of M.P. Vs Kalyan Singh & ors; the High Court has committed a grave error in quashing the criminal proceedings for the offences under Sections 307, 294 read with Section 34 of the IPC solely on the ground that the original Complainant and the accused have settled the dispute. At this stage, the decision of this Court in the case of Gulab Das and Ors. V. State of M.P. (2011) 12 SCALE 625 is required to be referred to. In the said decision, this Court has specifically observed and held that, despite any settlement between the Complainant on the one hand and the accused on the other, the criminal proceedings for the offences under Section 307 of the IPC cannot be quashed, as the offence under Section 307 is a non-compoundable offence.

2019 2 SCC (Cri) 214; 2019 3 SCC 193; 2019 0 Supreme(SC) 502; Chande Bhan Singh Vs CBI and ors; Revision can be entertained directly in High Court, without approaching the District Court.

2019 0 AIR(SC) 43; 2018 4 Crimes(SC) 570; 2019 1 OLR 247; 2019 3 SCC 315; 2018 0 Supreme(SC) 1269; M. Arjunan Vs The State Rep. by Its Inspector of Police; Having advanced the money to the deceased, the appellant-accused might

have uttered some abusive words; but that by itself is not sufficient to constitute the offence under Section 306 I.P.C.

2019(2) SCC (Cri) 221; 2019 1 Crimes(SC) 49; 2019 3 SCC 318; 2019 2 Supreme 314; 2019 0 Supreme(SC) 110; Narendra Kumar Srivastava Vs State of Bihar & ors; Magistrate cannot take cognizance of offence u/s 193 on basis of a private complaint.

2019 2 SCC CRI 229; 2019 3 SCC 393; 2019 0 Supreme(SC) 63; Munishamappa & ors Vs State of Karnataka; Once a common object of an unlawful assembly is established, it is not necessary that all persons who form the unlawful assembly must be demonstrated to have committed the overt act.

2019 0 AIR(SC) 719; 2019 1 KLJ 662; 2019 3 SCC 191; 2019 2 Supreme 3; 2019 0 Supreme(SC) 99; Smt. Bhimabai Mahadeo Kambekar (D) Th. LR Vs. Arthur Import and Export Company & Ors. This Court has consistently held that mutation of a land in the revenue records does not create or extinguish the title over such land nor it has any presumptive value on the title. It only enables the person in whose favour mutation is ordered to pay the land revenue in question. (See Sawarni(Smt.) vs. Inder Kaur, (1996) 6 scc 223, Balwant Singh & Anr. Vs. Daulat Singh(dead) by L.Rs. & Ors., (1997) 7 scc 137 and Narasamma & Ors. vs. State of Karnataka & Ors., (2009) 5 scc 591).

2019 0 AIR(SC) 662; 2019 3 SCC 511; 2019 1 SCC(L&S) 497; 2019 1 Supreme 606; 2019 2 Supreme 4; 2019 0 Supreme(SC) 47; RAKESH BAKSHI & ANR. Vs. STATE OF JAMMU AND KASHMIR & ORS; Even if the appointment was not proper, after 18 years of service it will not be justified to unseat the appellant more so the petitioner stands to gain nothing.

2019(1) ALD(Crl) 690(SC); 2019 0 AIR(SC) 1190; 2019 0 Supreme(SC) 233; Shiv Shankar Prasad Singh VS State of Bihar; Merely because misappropriation of 540 bags of urea is mentioned in the initial complaint, we cannot ignore the chargesheet which was filed after investigation which revealed misappropriation of entire qualtity of 1040 bags of urea. Same is clear from the deposition of the investigating officer who was examined as P.W.21. It is clear from the evidence on record, that so far as 500 bags of urea are concerned though they were loaded in the two trucks bearing nos. BRI-7851 and BHF-3155 but they were not taken to the F.C.I, godown at Tilrath and false entries were made in the main gate register and other registers which are being maintained in 'O' Form and 'G' Form to show as if such quantity of fertiliser was delivered.

2019(1) ALD (Crl) 696(SC); 2018 0 AIR(SC) 3853; 2018 3 Crimes(SC) 218; 2018 4 KHC 387; 2018 2 KLD 394; 2018 3 KLT 852; 2018 0 Supreme(SC) 814; Mohan Lal Vs. State of Punjab; NDPS- the informant and the investigator must not be the same person. Justice must not only be done, but must appear to be done also. Any possibility of bias or a predetermined conclusion has to be excluded. This requirement is all the more imperative in laws carrying a reverse burden of proof.

2019(1) ALD(Crl) 707(SC); 2018 0 AIR(SC) 1635; 2018 2 Crimes(SC) 373; 2018 2 KLT(SN) 22; 2018 5 SCC 549; 2018 4 Supreme 302; 2018 0 Supreme(SC) 255;Ganapathi and another vs State of Tamilnadu; 'Related' is not equivalent to 'interested'. A witness may be called 'interested' only when he or she derives some benefit from the result of a litigation; in the decree in a civil case, or in seeing an accused person punished. A witness who is a natural one and is the only possible eye witness in the circumstances of a case cannot be said to be 'interested' [See: State of Rajasthan Vs. Smt. Kalki and Anr. (1981) 2 SCC 752].

Merely because the eye-witnesses are family members their evidence cannot per se be discarded. When there is allegation of interestedness, the same has to be established. Mere statement that being relatives of the deceased they are likely to falsely implicate the accused cannot be a ground to discard the evidence which is otherwise cogent and credible. Relationship is not a factor to affect credibility of a witness. It is more often than not that a relation would not conceal actual culprit and make allegations against an innocent person. Foundation has to be laid if plea of false implication is made [See : Maranadu and Anr. Vs. State by Inspector of Police, Tamil Nadu (2008) 16 SCC 529].

2019(1) ALD(Crl) 711(SC); 2019 0 AIR(SC) 1136; 2019 2 Supreme 464; 2019 0 Supreme(SC) 197; Raju Vs State of Haryana; It is by now well-settled, as was held in Hari Ram v. State of Rajasthan, (2009) 13 SCC 211, that in light of Sections 2(k), 2(l), 7A read with Section 20 of the 2000 Act as amended in 2006, a juvenile who had not completed eighteen years on the date of commission of the offence is entitled to the benefit of the 2000 Act (also see Mohan Mali v. State of Madhya Pradesh, (2010) 6 SCC 669; Daya Nand v. State of Haryana, (2011) 2 SCC 224; Dharambir v. State (NCT) of Delhi (supra); Jitendra Singh @ Babboo Singh v. State of Uttar Pradesh, (2013) 11 SCC 193). It is equally well-settled that the claim of juvenility can be raised at any stage before any Court by an accused, including this Court, even after the final disposal of a case, in terms of Section 7A of the 2000 Act (see Dharambir v. State (NCT) of Delhi, (supra), Abuzar Hossain v. State of West Bengal, (2012) 10 SCC 489; Jitendra Singh @ Babboo Singh v. State of UP, (supra); Abdul Razzaq v. State of Uttar Pradesh, (2015) 15 SCC 637).

Sub-rule (3) of Rule 12 of the 2007 Rules states the following regarding the procedure to be followed for age determination:

“In every case concerning a child or juvenile in conflict with law,the age determination inquiry shall be conducted by the court or the Board or, as the case may be, the Committee by seeking evidence by obtaining –

(a) (i) the matriculation or equivalent certificates, if available; and in the absence whereof;

(ii) the date of birth certificate from the school (other than a play school) first attended; and in the absence whereof;

(iii) the birth certificate given by a corporation or a municipal authority or a panchayat;

(b) and only in the absence of either (i), (ii) or (iii) of clause (a) above, the medical opinion will be sought from a duly constituted Medical Board, which will declare the age of the juvenile or child. In case exact assessment of the age cannot be done, the Court or the Board or, as the case may be, the Committee, for the reasons to be

recorded by them, may, if considered necessary, give benefit to the child or juvenile by considering his/her age on lower side within the margin of one year, and while passing orders in such case shall, after taking into consideration such evidence as may be available, or the medical opinion, as the case may be, record a finding in respect of his age and either of the evidence specified in any of the clauses (a)(i), (ii), (iii) or in the absence whereof, clause (b) shall be the conclusive proof of the age as regards such child or the juvenile in conflict with law."

2019(1) ALD(Crl) 732(TS); http://distcourts.tap.nic.in/hcorders/2013/crla/crla_1032_2013.pdf; **Kadamanchi Laxmi Vs. State of Andhra Pradesh;** Repeatedly, it has come to the notice of this Court that the investigating agencies leave gaping holes in their investigation. Despite the availability of ample clues, the investigation is not taken to its logical conclusion. At times, the statement of the eyewitness is not recorded by the police; at times, the statements recorded under Section 161 Cr.P.C. are not submitted along with the charge-sheet. Many a times, the weapon of crime, although recovered at the instance of the alleged accused, is not sent to the FSL for its opinion. Most of the time, the blood of the deceased is never collected and sent to the FSL for its grouping. Some of the times, even if the clothes worn by the accused are bloodstained, they are seldom recovered by the police. Even if they are recovered, they are hardly sent to the FSL for serological report. A few times, objects recovered, or persons arrested are not subjected to Test Identification Parade. These lacunae give easy exist to the accused to escape from the clutches of the law. Instead of collecting the tell-tale signs of a crime, invariably, both the investigating agency, and the prosecution rely on the alleged "confessional statement" made by the accused while he is in the police custody. Despite the bar contained in Section 25 of the Evidence Act, against the use of such a "confessional statement", the trial Courts rely on such "statements" in order to convict the accused. Needless to say, the lacunae left by the investigating agencies prevent the Court from convicting the accused persons. Invariably, this leads to a high rate of acquittal, and to a low rate of conviction. Therefore, the police department needs to train its officers well with regard to importance of fair and impartial investigation, and with regard to the depth of investigation. It further needs to issue circulars with regard to the extent of investigation. It also needs to supervise the investigation, in grave offences, by its senior and experienced officers, rather than leaving the investigation at the mercy of over-burdened investigating officers. It is trite to state that poor investigation lessens the rate of conviction, which, in turn, shakes the faith of the people in the functioning of the judiciary and in the administration of criminal justice system. Therefore, a faulty investigation undermines the rule of law. Hence, faulty investigations have to be taken seriously by the investigating agencies.
The importance of a dying declaration is well known in criminal jurisprudence. A strong presumption arises in favour of its veracity. For, it is presumed that the person who is about to meet his/her creator would not lie at such a critical moment in his/her life. Thus, unless there is evidence to the contrary, which can undermine the truthfulness of the statement, a dying declaration is generally accepted as a gospel truth.

2019(1) ALD (Crl) 740(TS); **http://distcourts.tap.nic.in/hcorders/2011/crla/crla_99_2011.pdf; Shaik Dasthagiri**

Vs State; To attract the ingredients of abetment, the intention of the accused to aid or instigate or abet the deceased to commit suicide is necessary as held in Pallem Deniel Victoralions Victor Manter v. State of Andhra Pradesh1. In order to convict a person under Section 306 I.P.C., there has to be a clear mens rea to commit the offence. It also requires an active act or direct act, which leads the deceased to commit suicide seeing no option and this act must have been intended to push the deceased into such a position that he/she commits suicide.

2019(1)ALD(Crl)744(TS);http://distcourts.tap.nic.in/hcorders/2018/crlp/crlp_12656_2018.pdf; D.Ramu Vs State; though Sub-section 1 of Sec 370A IPC, relates to minor, sub-section 2, what is reproduced above speaks whoever, knowingly by or having reason to believe that a person has been trafficked, engages such person for sexual exploitation in any manner, shall be punished with rigorous imprisonment for a term which shall not be less than three years, but which may extend to five years, and shall also be liable to fine. The accused once allegedly found in the room by locking from inside with a lady in nude, it clearly shows that victim trafficked engaged by him for some sexual exploitation. Whether such is the case it may not be contended prima facie to Section 370-A IPC has no application and none of the decisions are valid in this regard, but forrelating to the other offences, as the crime is at nasal stage and police have to investigate and it is from the investigation material, if at all what provisions that are applied, leave about, they can add any of the other appropriate sections of law or delete any among those, it is not proper to quash the FIR proceedings from the prima facie accusation.

http://distcourts.tap.nic.in/hcorders/2018/crlp/crlp_11354_2018.pdf; 2019(1) ALD(Crl) 802; State Vs Nowhera Shaik; The offences prescribed under the Companies Act, 2013, and the TSPDFE Act are distinct. Hence, the provisions under Sections 212(2) and 221 of the Companies Act, 2013, do not disable the petitioner from investigating the subject criminal case. The investigating officer has to provide the information or documents to the Serious Fraud Investigation Officer.

http://distcourts.tap.nic.in/hcorders/2018/crlp/crlp_8379_2018.pdf; 2019(1) ALD(Crl) 815; Yellaruru Siva Shankar Reddy Vs State; The sum and substance of the accusation so far as the petitioners concerned is on same facts and participation from same evidence. Once such is the case, in the 2 sets of SC trial conducted by selfsame witnesses evidence rerecorded and ended in acquittal particularly A.3 by the trial Court and others even ended in conviction reversed by appellate Court with finality. Merely because they were earlier shown in abscondence or they fled away from the clutches of law that itself not a ground for no practical purpose even in asking them to face the trial with no any sustainable evidence that will outcome to convict them from selfsame witness re-examination even by taking such ordeal and valuable time of the Court and the witnesses of the prosecution agencies, thus need not be wasted even one way the petitioners/accused are taking undue advantage by their abscondence from earlier but for to say for the earlier abscondence all through and in seeking the relief now and to sub serve the ends of justice they are each imposed costs of Rs.10,000/- payable to the State which is to the Head of Account to be remitted all fines recoverable under Section 421 r/w 431 Cr.P.C. and if they pay said

costs before the trial Court within one month from the date of receipt of this order, the order comes into effect in directing the trial Court by virtue of this order to acquit them by closing the SC from their appearance and if they failed to comply this order ceases its force for all purposes for them to face trial.

2019(1) ALD (Crl) 837; Y.Sivaramkrishnaiah Vs State of A.P. and anr; Sec 91 CrPC cannot be issued against the accused.

2019 0 Supreme(SC) 569; B. K Pavitra and Ors Vs The Union of India and Ors-(Three Judge Bench)- The object of the Reservation Act 2018 is to accord consequential seniority to promotees against roster points.

2019 0 Supreme(SC) 558; SHIO SHANKAR DUBEY & ORS.Vs. STATE OF BIHAR; The above impression recorded in the inquest report was only opinion of person preparing inquest report and due to the above impression recorded in the inquest report and no bullet having been found in the post mortem report, it cannot be concluded that incident did not happen in a manner as claimed by the prosecution. The mention of bullet injury was only an opinion of the officer writing the inquest report and in no manner belies the prosecution case as proved by eyewitnesses PW11 and PW13.
a close relative cannot be characterised as an “interested” witness. He is a “natural” witness. His evidence, however, must be scrutinised carefully. If on such scrutiny, his evidence is found to be intrinsically reliable, inherently probable and wholly trustworthy, conviction can be based on the “sole” testimony of such witness. Close relationship of witness with the deceased or victim is no ground to reject his evidence. On the contrary, close relative of the deceased would normally be most reluctant to spare the real culprit and falsely implicate an innocent one.

2019 0 Supreme(SC) 548; CBI VS. M. SUBRAHMANYAM- Substantive justice must always prevail over procedural or technical justice. To hold that failure to explain delay in a procedural matter would operate as res judicata will be a travesty of justice considering that the present is a matter relating to corruption in public life by holder of a public post. The rights of an accused are undoubtedly important, but so is the rule of law and societal interest in ensuring that an alleged offender be subjected to the laws of the land in the larger public interest. To put the rights of an accused at a higher pedestal and to make the rule of law and societal interest in prevention of crime, subservient to the same cannot be considered as dispensation of justice. A balance therefore has to be struck. A procedural lapse cannot be placed at par with what is or may be substantive violation of the law.

2019 0 Supreme(SC) 590; State Vs M.R. Hiremath; In the present case, on 15 November 2016, the complainant is alleged to have met the respondent. During the course of the meeting, a conversation was recorded on a spy camera. Prior thereto, the investigating officer had handed over the spy camera to the complainant. This stage does not represent the commencement of the investigation. At that stage, the purpose was to ascertain, in the course of a preliminary inquiry, whether the information which was furnished by the complainant would form the basis of lodging a

first information report. In other words, the purpose of the exercise which was carried out on 15 November 2012 was a preliminary enquiry to ascertain whether the information reveals a cognizable offence.
the High Court erred in coming to the conclusion that the failure to produce a certificate under Section 65B(4) of the Evidence Act at the stage when the charge-sheet was filed was fatal to the prosecution. The need for production of such a certificate would arise when the electronic record is sought to be produced in evidence at the trial. It is at that stage that the necessity of the production of the certificate would arise.

2019 0 Supreme(SC) 524; Rajesh & Ors. Vs. State of Haryana; the submission on behalf of the accused that as they were discharged by the learned Magistrate and therefore it was not open to the learned Magistrate to exercise the power under Section 319 of the CrPC and to summon the appellants to face the trial, cannot be accepted.

Section 149

The provisions of Section 149 have been explained by this Court in Mijazi v State of UP, AIR 1959 SC 572 and in Masalti v State of U.P., (1964) 8 SCR 133 Two elements are crucial to the above definition: (i) the offence must be committed by a member of an unlawful assembly; (ii) the offence must be committed in prosecution of the common object of that assembly or must be such as the members of that assembly knew to be likely to be committed in prosecution of the common object. Once a common object of an unlawful assembly is established, it is not necessary that all persons who form the unlawful assembly must be demonstrated to have committed the overt act. The common object is ascertained from considering the acts of its members and on the basis of all surrounding circumstances. In Sikandar Singh v State of Bihar, (2010) 7 scc 477, this Court held thus:
"17. A "common object" does not require a prior concert and a common meeting of minds before the attack. It is enough if each member of the unlawful assembly has the same object in view and their number is five or more and that they act as an assembly to achieve that object. The "common object" of an assembly is to be ascertained from the acts and language of the members composing it, and from a consideration of all the surrounding circumstances. It may be gathered from the course of conduct adopted by the members of the assembly. For determination of the common object of the unlawful assembly, the conduct of each of the members of the unlawful assembly, before and at the time of attack and thereafter, the motive for the crime, are some of the relevant considerations. What the common object of the unlawful assembly is at a particular stage of the incident is essentially a question of fact to be determined, keeping in view the nature of the assembly, the arms carried by the members, and the behaviour of the members at or near the scene of the incident. It is not necessary under law that in all cases of unlawful assembly, with an unlawful common object, the same must be translated into action or be successful."

In a more recent decision in Sanjeev Kumar Gupta v State of Uttar Pradesh, (2015) 11 scc 69, this Court held that a common object does not always require a prior concert and it may form even on the spur of the moment. In taking this view, this Court

relied on the earlier decision in Ramachandran v State of Kerala, (2011) 9 scc 257 and held thus:
"32. In this case all the accused were very well known to the witnesses. So their identification, etc. has not been in issue. As their participation being governed by the second part of Section 149 IPC, overt act of an individual lost significance."

Injuries on accused:
The decision in Lakshmi Singh has been considered in a later judgment of this Court in Amar Malla vs. State of Tripura, (2002) 7 scc 91. A two judge Bench this Court held thus:
"9...From the nature of injuries said to have been received by these accused persons, it would appear that the same were simple and minor ones. It is well settled that merely because the prosecution has failed to explain injuries on the accused persons, ipso facto the same cannot be taken to be a ground for throwing out the prosecution case, especially when the same has been supported by eyewitnesses, including injured ones as well, and their evidence is corroborated by medical evidence as well as objective finding of the investigating officer."

The same principle has been followed by another Bench of two judges in State of M.P. v. Ramesh, (2005) 9 scc 705 where it was held that:
"11...Non-explanation of the injuries sustained by the accused at about the time of occurrence or in the course of altercation is a very important circumstance. But mere non-explanation of the injuries by the prosecution may not affect the prosecution case in all cases. This principle applies to cases where the injuries sustained by the accused are minor and superficial or where the evidence is so clear and cogent, so independent and disinterested, so probable, consistent and creditworthy, that it far outweighs the effect of the omission on the part of the prosecution to explain the injuries. (See Lakshmi Singh v. State of Bihar [(1976) 4 scc 394 : 1976 scc (Cri) 671 : AIR 1976 SC 2263]."

In Raghubir Singh v State of Rajasthan, (2011) 12 scc 235 a two judge Bench of this Court held thus:
"14...each and every injury on an accused is not required to be explained and more particularly where all the injuries caused to the accused are simple in nature (as in the present case) and the facts of the case have to be assessed on the nature of probabilities..."

NEWS

- GOVERNMENT OF TELANGANA- Budget Estimates 2019-20 – Budget Release Order for Rs.13,63,000/- to the Director of Prosecutions, Telangana State, Hyderabad – Administrative Sanction - Orders – Issued- G.O.Rt.No. 292, LAW (LA, LA&J-HOME-COURTS-B2) DEPARTMENT Dated: 16-05-2019.
- A.P.Gazette- RULES SUPPLEMENT TO PART II EXTRAORDINARY - No.1 AMARAVATI, WEDNESDAY, MAY 22, 2019 G.152- PUBLICATION OF "SERVICE RULES OF HIGH COURT OF ANDHRA PRADESH - 2019."

- Prosecution Replenish wishes Sri P.**Ravinder Reddy, Public Prosecutor and Member of Editorial Board of Prosecution Replenish, a very happy and healthy retired life.**

ON A LIGHTER VEIN

We have a strange custom in our office. The food has names there. Yesterday for example I got me a sandwich out of the fridge and its name was "Michael"

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SAVE PAPER SAVE TREES.

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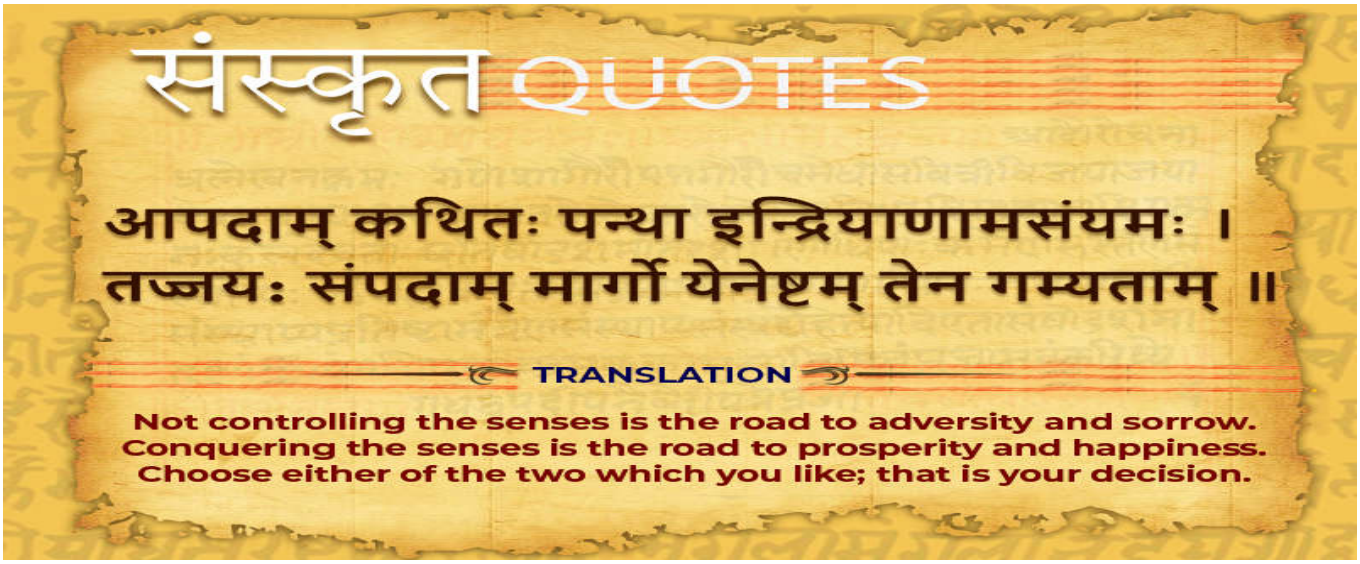
Part-7

Prosecution Replenish

An Endeavour for Learning and Excellence

July, 2019

Aano Bhadra Krtavo Yantu Vishwatah.(RIG VEDAM)
"Let Noble Thoughts Come To Me From All Directions"



CITATIONS

1. No court shall release a motor vehicle involved in an accident resulting in death or bodily injury or damage to property, when such vehicle is not covered by the policy of insurance against third party risks taken in the name of registered owner or when the registered owner fails to furnish copy of such insurance policy despite demand by investigating police officer, unless and until the registered owner furnishes sufficient security to the satisfaction of the court to pay compensation that may be awarded in a claim case arising out of such accident.
2. Where the motor vehicle is not covered by a policy of insurance against third party risks, or when registered owner of the motor vehicle fails to furnish copy of such policy in circumstance mentioned in sub-rule (1), the motor vehicle shall be sold off in public auction by the magistrate having jurisdiction over the area where accident occurred, on expiry of three months of the vehicle being taken in possession by the investigating police officer, and proceeds thereof shall be deposited with the Claims Tribunal having jurisdiction over the area in question, within fifteen days for purpose of satisfying the compensation that may have been awarded, or may be awarded in a claim case arising out of such accident.' Though direction was issued to all the State Governments to incorporate such a rule yet it appears that no steps have been taken so far.
In view of the aforesaid, we direct that a copy of the order passed today be communicated to the Chief Secretaries and the Director Generals of Police of all the States and the Registrar Generals of all the High Courts to see that such a rule is introduced if already not done, so that the victims of an accident get some compensation. They may file their response within six weeks. Needless to say that the compensation in hit and run cases will also apply to such cases.
https://sci.gov.in/supremecourt/2016/27819/27819_2016_Order_13-Sep-2018.pdf;
https://indiankanoon.org/doc/182213433/; Usha Devi Vs Pawan Kumar;

proof of grievous or life-threatening hurt is not a sine qua non for the offence under Section 307 of the Penal Code. The intention of the accused can be ascertained from the actual injury, if any, as well as from surrounding circumstances. Among other things, the nature of the weapon used and the severity of the blows inflicted can be considered to infer intent.
State of Madhya Pradesh Vs Kanha @ Omprakash; 2019 0 AIR(SC) 713; 2019 1 KLJ 655; 2019 3 SCC 605; 2019 1 Supreme 756; 2019 0 Supreme(SC) 106; 2019 2 SCC (Cri) 247;

Some minor contradictions here and there without affecting the substance of their statements could not be made basis to reject their entire testimony.

that since there was delay in filing of FIR, the prosecution case should not be believed, is concerned, it was also rightly repelled by the High Court, as delay was examined.
Satya Raj Singh Vs State of Madhya Pradesh2019 1 JLJ 592; 2019 3 SCC 615; 2019 1 Supreme 666; 2019 0 Supreme(SC) 80; 2019 2 SCC (Cri) 252;

minor discrepancies are not to be given undue emphasis and the evidence is to be considered from the point of view of trustworthiness. The test is whether the same inspires confidence in the mind of the court. In the case of Yogesh Singh v. Mahabeer Singh (2007) 11 SCC 195 it is observed by this Court that every omission cannot take place of a material omission and, therefore, minor contradictions, inconsistencies or insignificant embellishments do not affect the core of prosecution case and should not be taken to be a ground to reject the prosecution evidence. It is further observed that the omission should create a serious doubt about the truthfulness or creditworthiness of a witness. It is further observed that it is only the serious contradictions and omissions which materially affect the case of prosecution but not every contradiction or omission.
Khushwinder Singh Vs State of Punjab; 2019 1 Crimes(SC) 220; 2019 3 JT 313; 2019 2 RCR(Cri) 304; 2019 4 Scale 187; 2019 3 Supreme 14; 2019 0 Supreme(SC) 247;

Like all other opinion evidence, the probative value accorded to DNA evidence also varies from case to case, depending on facts and circumstances and the weight accorded to other evidence on record, whether contrary or corroborative. This is all the more important to remember, given that even though the accuracy of DNA evidence may be increasing with the advancement of science and technology with every passing day, thereby making it more and more reliable, we have not yet reached a juncture where it may be said to be infallible. Thus, it cannot be said that the absence of DNA evidence would lead to an adverse inference against a party, especially in the presence of other cogent and reliable evidence on record in favour of such party.

It is needless to observe that it has been established through a catena of judgments of this Court that the doctrine of last seen, if proved, shifts the burden of proof onto the accused, placing on him the onus to explain how the incident occurred and what happened to the victim who was last seen with him. Failure on part of the accused to furnish any explanation in this regard, as in the case in hand, or furnishing false explanation would give rise to a strong presumption against him, and in favour of his guilt, and would provide an additional link in the chain of circumstances. (See Rohtash Kumar v. State of Haryana, (2013) 14 SCC 434; Trimukh Maroti Kirkan v. State of Maharashtra, (2006) 10 SCC 681).
It is worth recalling that while it is necessary that proof beyond reasonable doubt should be adduced in all criminal cases, it is not necessary that such proof should be perfect, and someone who is guilty cannot get away with impunity only because the truth may develop some infirmity when projected through human processes. The traditional dogmatic hypertechnical approach has to be replaced by a rational, realistic and genuine approach for administering justice in a criminal trial. Justice cannot be made sterile by exaggerated adherence to the rule of proof, inasmuch as the benefit of doubtmust always be reasonable and not fanciful. (See Inder Singh v. State (Delhi Administration), (1978) 4 SCC 161; State of H.P. v. Lekh Raj & Anr., (2000) 1 SCC 247; Takhaji Hiraji v. Thakore Kubersing Chamansing & Ors., (2001) 6 SCC 145; Chaman & Anr. v. State of Uttarakhand, (2016) 12 SCC 76.
Pattu Rajan Vs State of Tamilnadu; FULL BENCH; 2019(2) ALT(Crl) 83(SC); 2019 0 AIR(SC) 1674; 2019 3 Supreme 517; 2019 0 Supreme(SC) 371; 2019 2 SCC Cri 354

The maxim "falsus in uno, falsus in omnibus" has not received general acceptance nor has this maxim come to occupy the status of rule of law. It is not applicable in India.
The argument that it is unbelievable that son-in-law will not stay with his in-laws, when his own village is around 15 KMs away, is purely conjectural. There is no reasonable basis to hold that PW1-Ganesamoorthy would not stay with his father-in-law in the circumstances explained by him.
The opinion of an expert witness cannot be given preference over the primary statement of the witnesses in respect of manner of injuries suffered by them.
In respect of the argument that FIR was delivered at 4.45 PM on 13.03.1994 to the Judicial Magistrate at Nagapattinam, though the report was said to be sent at 9.30 AM, again does not create

doubt on the prosecution version. The argument that the competent Magistrate was at Thiruvarur but the FIR has been delivered to the Judicial Magistrate, Nagapattinam which shows that the FIR was ante-timed, is again not acceptable. PW15-H.C. Narayanan, deposed that he went to Thiruvarur and waited for the arrival of the Magistrate. Since, it was a holiday, he handed over the FIR to the Judicial Magistrate at his residence at Pauthiramanickam at 4.45 PM. Therefore, the delay in the receipt of the FIR by the Judicial Magistrate is explained and cannot be made basis to reject the case of the prosecution as the FIR was proved to be lodged soon after the occurrence from the testimony of PW19-Police Inspector Ramakrishnan.
Circumstantial flexibility, one additional or different fact may make a world of difference between conclusions in two cases (see Padma Sundara Rao vs. State of T.N., (2002) 3 SCC 533).
Mahendran Vs State of T.N; 2019 0 AIR(SC) 1719; 2019 1 ALT(Cri)(SC) 225; 2019 1 Crimes(SC) 191; 2019 2 RCR(Cri) 128; 2019 4 Scale 707; 2019 3 Supreme 438; 2019 0 Supreme(SC) 192; 2019 2 SCC Cri 436

In such a situation, it was necessary for the Magistrate to have specified in the order by taking recourse to Section 31 of the Code as to whether the punishment of sentence of imprisonment so awarded by her for each offence would run concurrently or consecutively.
Indeed, it being a legal requirement contemplated under Section 31 of the Code, the Magistrate erred in not ensuring its compliance while inflicting the two punishments to the appellant.
If the Magistrate failed in her duty, the Additional Sessions Judge and the High Court should have noticed this error committed by the Magistrate and accordingly should have corrected it. It was, however, not done and hence interference is called for to that extent.
Gagan Kumar Vs State of Punjab; 2019 0 AIR(SC) 1009; 2019 2 RCR(Cri) 46; 2019 3 Scale 390; 2019 2 SCJ 449; 2019 3 Supreme 680; 2019 0 Supreme(SC) 335; 2019 2 SCC Cri 466; 2019 5 SCC 154;

We may notice that it has been very clearly set out that it is not merely a question of the form in which the request for extension is to be made, but one of substance, as it is to assist the designated court to independently decide whether or not to grant such extension. It cannot be a mere presentation and forwarding of the request of the IO to the Court. The mere labelling of the document as a report or an application was stated to be not of much consequence, but what was held to be of consequence was that there could not be a mere reproduction of the application or request of the IO by the Public Prosecutor in his report, without demonstration of the application of his mind and a recording of his own satisfaction.
the request of an IO for extension of time is not a substitute for the report of the public prosecutor but since we find that there has been, as per the comparison of the two documents, an application of mind by the public prosecutor as well as an endorsement by him, the infirmities in the form should not entitle the respondents to the benefit of a default bail when in substance there has been an application of mind. The detailed grounds certainly fall within the category of “compelling reasons” as enunciated in Sanjay Kumar Kedia alias Sanjay Kedia v. Intelligence Officer, Narcotics Control Bureau & Anr.,[(2009) 17 SCC 631,] case.
THE STATE OF MAHARASHTRA Vs. SURENDRA PUNDLIK GADLING & ORS 2019 0 AIR(SC) 975; 2019 1 Crimes(SC) 134; 2019 2 JLJR(SC) 58; 2019 2 KHC(SN) 2; 2019 2 PLJR(SC) 69; 2019 3 Scale 379; 2019 2 Supreme 387; 2019 0 Supreme(SC) 158; 2019 2 SCC Cri 472; 2019 5 SCC 178;

It is very clear that compromise between the parties shall not alone be the basis for quashing the criminal proceedings involving heinous offences, which are not private in nature and have serious impact on society.
Mere repayment of the amount would not exonerate the petitioner from the criminal liability
Indukuri Prasada Rama Mohana Raju vs Central Bureau Of Investigation; 2019 (1) ALD (Crl) 856(A.P); 2019(2) ALT (Crl) 104(AP)

In a given case, if accused is already in judicial custody in connection with one crime and when the Investigation Officer wants to effect his arrest in some other crime, the Apex Court in CBI Vs

Anupam, J. Kulkarni, observed that he can effect formal arrest of the accused in prison, but he cannot take him into custody without taking prior approval of the Concerned Court, as his detention has already been authorized by a concerned Magistrate in connection with some other case. It is not permissible for the police officer to remove the person from that place by effecting his arrest. Hence, the Apex Court in the judgment referred to above used the words 'formal arrest'. When once such "formal arrest" is effected in prison, it would not be possible for the police officer to produce him before the nearest Magistrate within 24 hours for the purpose of further remand, since he cannot be removed or moved out from the jail. In such a situation, the only method by which he can seek production of the accused before the concerned Magistrate for the purpose of remand is to invoke the provision under Section 267 Cr.PC. It is to be noted here that PT warrant can be issued by that Magistrate within whose jurisdiction the crime is registered and in which the production is sought, but not by any other Magistrate. It is also to be noted that production on PT warrant is sought from the prison through the Superintendent of Jail and not through any other mode.
Ahamed Riswan Vs State of A.P. and others; 2019(1) ALD(Cri) 860(A.P)

One of the contentions of the de facto complainant is that there is no service of notice on the application for recall of the warrants. Same is in fact not mandatory and on that ground, the application under Section 70(2) Cr.P.C. allowed cannot be set aside, much less allowed to be impugned.
it is purely the judicial discretion to exercise where its expedient in the interests of justice so to do and not as a matter of course nor merely because a party seeks so to do. It also explained that if the document forged in the Court proceedings, the Court has to initiate proceeding and if it is a document already forged out side the Court and used in Court proceeding the party aggrieved may maintain a private complaint as contemplated by Section 195 Cr.P.C. without need of initiation of the proceedings by preliminary enquiry under Section 340 Cr.P.C. by the Court.
Movva Ramakrishna vs Kommareddy Rambabu; 2019 (1) ALD(Crl) 879(TS); http://distcourts.tap.nic.in/hcorders/2017/crlp/crlp_10343_2017.pdf

So far as the summery trial and summons trial is concerned, there is no difference between case proceeded on police report or on private complaint but for to the extent in relating to Section 258 Cr.P.C. of stoppage of proceedings in summary trial or summons case only arises in case arising of police report and in not for private complaint cases. **Mohd.Sadiq vs. State of Telangana; 2019(1) ALD(Crl) 884(TS); http://distcourts.tap.nic.in/hcorders/2018/crlrc/crlrc_782_2018.pdf**

the contention of notice before taking cognizance and opportunity of hearing contemplated is untenable and the expression in Jogendra Yadav's case (2015 (9) SCC 244) is confined to the facts for the observations in the factual scenario and not as a principle to made applicable to all cases, that too not by interpretation by referring to the wording of Section 319 Cr.P.C. and leave about the earlier expressions including the Constitution Bench on that aspect not brought to consider.
N.Jyotsna & another vs. The State through S.H.O., P.S. IV Town Nizamabad; 2019(1) ALD (Crl) 889(TS); http://distcourts.tap.nic.in/hcorders/2018/crlrc/crlrc_2949_2018.pdf; 2019(2) ALT(Crl) 136(TS)

The case is quashed against A3. However, it is made clear that, this will not prevent the trial Court in the event during trial if there is any evidence forthcoming to take recourse under Section 319 Cr.P.C. subject to making out such case with factual foundation as per the Constitutional Bench expression of Hardeep Singh Vs. State of Punjab and others(2014 3 SCC 92)
Challa Sathyavathi vs. State of Telangana; 2019(1) ALD (Crl) 920(TS); http://distcourts.tap.nic.in/hcorders/2018/crlp/crlp_1167_2018.pdf

In A. BHASKAR AND OTHERS v. STATE OF A.P(2003(10) ALD (Crl.) 411 (AP)) this Court held as under: "The order of conviction alone would result in forfeiture of any of the instruments of game or destruction thereof. The conviction of the person under Section 9 of the Act is a condition precedent for ordering forfeiture or destruction of instruments of game seized by the police and produced before

the learned Magistrate." **N.Mohan Reddy Vs State of A.P; 2019(1) ALD (Crl) 955; http://distcourts.tap.nic.in/hcorders/2015/crlrc/crlrc_3077_2015.pdf**

if the Police Officer prepares a statement completely different from what the petitioner stated, it will be open to the petitioner to speak the truth when he is in the witness box.
Seeking the registration of a criminal complaint against the Investigation Officer, especially at the instance of a person sought to be made a witness, even during the course of investigation into another criminal complaint, would sabotage the investigation. If even during the course of investigation by an Investigating Officer, a criminal complaint is registered against the very same Investigating Officer about the manner in which he is collecting evidence, the same would derail the investigation into the criminal complaints.
An investigation can be derailed in several ways and the present one appears to be a very novel one which we have not come across so far. In cases of this nature, an order directing investigation under section 156(3) of the Code should not have been ordered by the learned Magistrate. In any case such an order cannot be construed as an order for the registration of a FIR.
Aijaz Ahmed @ Mohd. Sharfuddin Vs. Union of India; 2019(1) ALD (Crl)965; http://distcourts.tap.nic.in/hcorders/2018/wp/wp_6703_2018.pdf

Section 497 IPC struck down from the statute book operates retrospectively,
Sec 506 IPC is non-cognizable, so also is 497, hence the cognizance taken by the magistrate on police report filed by police by investigating the case without permission is bad in law.
In a protest petition, it is not what the statements contained alone that is criteria, but for the entire material, as mere allegation making out a case by itself is not sufficient to sustain the accusation and the proceedings. The total and overall appreciation of the facts, should be done, for taking cognizance. **T.Swamy Vs State of Telangana; 2019(1) ALD(Crl) 975(TS); http://distcourts.tap.nic.in/hcorders/2015/crlp/crlp_10010_2015.pdf**

a perusal of Sections 436, 437, 438 and 439 Cr.P.C. there is no prohibition for police custody to grant even accused in a bailable case was released on bail forthwith on production without even application
41A CRPC- in case of failure to comply or where it is essential and lawful to arrest by mentioning can arises despite complied with the notice,
Police Custody if found necessary can be ordered only during the first period of 15 days. If a further interrogation is necessary after the expiry of the period of first 15 days there is no bar for interrogating the accused who is in judicial custody during the periods of 90 days or 60 days.
it is advisable by virtue of this order, to direct the learned Magistrates and District courts of original jurisdiction, where any police custody application filed within the first remand of 15 days to dispose of the same after hearing both sides either on next day or at least within four days and shall not exceed the outer limit so that anybody aggrieved can move the superior court, impugning the same.
State rep., by Inspector of Police, Anti-Corruption Bureau Vs Vaidya Vara Prasad ; 2019(2) ALT (Crl) 117(TS &AP); http://distcourts.tap.nic.in/hcorders/2018/crlp/crlp_12947_2018.pdf

Split up case- Merely because they were earlier shown in abscondence or they fled away from the clutches of law that itself not a ground for no practical purpose even in asking them to face the trial with no any sustainable evidence that will outcome to convict them from selfsame witness re-examination even by taking such ordeal and valuable time of the Court and the witnesses of the prosecution agencies, thus need not be wasted even one way the petitioners/accused are taking undue advantage by their abscondence from earlier but for to say for the earlier abscondence all through and in seeking the relief now and to sub serve the ends of justice they are each imposed costs of Rs.10,000/- payable to the State which is to the Head of Account to be remitted all fines recoverable under Section 421 r/w 431 Cr.P.C. and if they pay said costs before the trial Court within one month from the date of receipt of this order, the order comes into effect in directing the trial Court by virtue of this order to acquit them by closing the SC from their appearance and if they failed to comply this order ceases its force for all purposes for them to face trial.

Yallaturu Siva Sankar Reddy and another Vs State of A.P; 2019(2) ALT(Crl) 153(TS & AP); http://distcourts.tap.nic.in/hcorders/2017/crlp/crlp_11255_2017.pdf

the investigation is still pending with large magnitude of embezzlement by luring the innocent public and the FIR speaks their names, they are not entitled to the concession of anticipatory bail at this stage and the fact that in other earlier crimes they were enlarged on anticipatory bail or regular bail itself not a ground, but for if at all to avail any liberty to surrender and move for regular bail to consider on own merits.- **J.Charan Teja and others VS State of Telangana; 2019(2) ALT(Crl) 171(TS); http://distcourts.tap.nic.in/hcorders/2019/crlp/crlp_841_2019.pdf**

the person who accorded permission under Section 17 of the Act is not competent to accord permission for the investigation, which goes to the root of the matter that requires to scrap the investigation by reverting the clock back to give proper according of permission to another officer other than the said Sri K.Sampath Kumar who registered the crime by the competent officer of the Superintendent of Police or above cadre of the Anti-Corruption Bureau to conduct fresh investigation and for that whatever the material earlier investigating officer conducted can be referred and can be relied, which is not a bar.
Managipet @ Mangipet Sarveshwar Reddy Vs State of Telangana through DSP, ACB; 2019(2) ALT (Crl) 173(TS & AP); http://distcourts.tap.nic.in/hcorders/2018/crlp/crlp_12485_2018.pdf

The learned Magistrate also committed a mistake as pointed by learned Public Prosecutor in permitting participation of the accused at the pre-cognizance inquiry in passing the order for production of the documents after hearing the counsel for the accused also. In fact, the accused has no role at the pre-cognizance stage, much less of any right of audience or to file any appearance for none of the provisions under Sections 200 to 202 read with 190 Cr.P.C. provided any right of hearing to the accused at the pre-cognizance stage of the protest to be followed as per the procedure of the private complaint, but for the difference that it is not a fresh private complaint but only a protest to the earlier investigation done by the police with referred report as to how the referred report is not acceptable and how the earlier investigation and where faulty. The learned Magistrate is proceeding, it appears, as if it is a fresh private complaint which is not permissible. In a protest petition securing new documents does not ordinarily arise, but for to point out how investigation is faulty, for that the learned Magistrate has to peruse the earlier investigation and what is the area of fault pointed out in the protest petition if at all to take as a private complaint procedure.
Y. Sivaramakrishnaiah Vs State of Andhra Pradesh,; 2019(2) ALT(Crl) 206(TS &AP): http://distcourts.tap.nic.in/hcorders/2018/crlp/crlp_11285_2018.pdf

where minimum sentence is provided for, the Court cannot impose less than the minimum sentence. It is also held that provisions of Article 142 of the Constitution cannot be resorted to impose sentence less than the minimum sentence. **2019 (2) ALT (Crl) 25(SC); 2019 0 AIR(SC) 835; 2019 1 Crimes(SC) 80; 2019 2 JLJR(SC) 130; 2019 4 SCC 125; 2019 1 Supreme 740; 2019 0 Supreme(SC) 132; State of Madhya Pradesh Versus Vikram Das FULL BENCH**

It is submitted that the duty of the prosecution is not to get the conviction of some persons, but it is the duty of the prosecution to see that the real culprits are not scot free and the innocent persons are not held guilty. It is submitted that the prosecution owes an obligation to be fair and just. It is submitted by the learned counsel appearing on behalf of the accused that it is the duty of the prosecution to ensure that all material facts are brought on record so that there might not be any miscarriage of justice. It is submitted that the prosecution is not expected to show a thirst to reach the case in the conviction of the accused somehow or the other irrespective of the true facts involved in the case. It is submitted that the expected attitude of the prosecution must be couched in fairness not only to the court, but to the accused as well. It is submitted that even it was the duty of the prosecution to winch it to the fore and make it available to the accused any material which may even help the accused.
2019 (2) ALT (Crl) 46; 2019 0 AIR(SC) 1457; 2019 4 Scale 266; 2019 0 Supreme(SC) 251; ANKUSH MARUTI SHINDE AND OTHERS Vs STATE OF MAHARASHTRA (FULL BENCH)

once the Investigating Officer submitted the Final Report on conclusion of the investigation, the High Court was not justified in interfering with the criminal proceedings in exercise of power under Section 482 of the CrPC and particularly when in the Final Report it was specifically concluded on the basis of the material on record that a prima facie case is made out for the offences alleged against the accused persons.
2019(2) ALT (Crl) 80(SC); 2019 0 Supreme(SC) 54; Sau Saraswatibai Vs. Lalitabai & Others

The provisions contained in Section 498A of the Indian Penal Code, undoubtedly, encompasses both mental as well as the physical well-being of the wife. Even the silence of the wife may have an underlying element of an emotional distress and mental agony. Her sufferings at the parental home though may be directly attributable to commission of acts of cruelty by the husband at the matrimonial home would, undoubtedly, be the consequences of the acts committed at the matrimonial home. Such consequences, by itself, would amount to distinct offences committed at the parental home where she has taken shelter. The adverse effects on the mental health in the parental home though on account of the acts committed in the matrimonial home would, in our considered view, amount to commission of cruelty within the meaning of Section 498A at the parental home. The consequences of the cruelty committed at the matrimonial home results in repeated offences being committed at the parental home. This is the kind of offences contemplated under Section 179 Cr.P.C which would squarely be applicable to the present case as an answer to the question raised.
2019(2) ALT (Crl) 114(SC); 2019 0 AIR(SC) 1790; 2019 2 KHC 764; 2019 2 KLJ 601; 2019 2 KLT 334; 2019 2 PLJR(SC) 255; 2019 5 SCC 384; 2019 4 Supreme 225; 2019 0 Supreme(SC) 420; Rupali Devi Vs State of Uttar Pradesh and others; FULL BENCH

A converted Christian is not entitled to claim as SC by caste.
2019(2) ALT (Crl) 8(TS); M.Pratap Reddy and another vs State of Telangana.

There need not be any further demur to hold that the petitioner, who is in custody in different crimes, can be deemed to be in custody pertaining to other crimes, in which he figured as accused. Therefore, the remedy of bail under section 439 CrPC cannot be denied, on the ground that his arrest was not shown in the crime in which he is shown as accused.
2019(2) ALT (Crl) 19(A.P); K.R.Giri Babu Vs State of A.P

NOSTALGIA

Sec 307 IPC

The lack of forensic evidence to prove grievous or a life-threatening injury cannot be a basis to hold that Section 307 is inapplicable. This proposition of law has been elucidated by a two-judge bench of this Court in Pasupuleti Siva Ramakrishna Rao v State of Andhra Pradesh, (2014) 5 SCC 369 :

"18. There is no merit in the contention that the statement of medical officer that there is no danger to life unless there is dislocation or rupture of the thyroid bone due to strangulation means that the accused did not intend, or have the knowledge, that their act would cause death. The circumstances of this case clearly attract the second part of this section since the act resulted in Injury 5 which is a ligature mark of 34 cm × 0.5 cm. It must be noted that Section 307 IPC provides for imprisonment for life if the act causes "hurt". It does not require that the hurt should be grievous or of any particular degree. The intention to cause death is clearly attributable to the accused since the victim was strangulated after throwing a telephone wire around his neck and telling him that he should die. We also do not find any merit in the contention on behalf of the accused that there was no intention to cause death because the victim admitted that the accused were not armed with weapons. Very few persons would normally describe the Thums up bottle and a telephone wire used, as weapons. That the victim honestly admitted that the accused did not have any weapons cannot be held against him and in favour of the accused." (Emphasis supplied)

Sec 149

in Gangadhar Behera and Others Vs. State of Orissa, (2002) 8 SCC 381 to contend that the offence under Section 149 is made out if the unlawful assembly shared common object and not common intention, though mere presence in an unlawful assembly cannot render a person liable unless there was a common object. The common object is as set out in Section 141. It is not necessary to prove overt act against a person who is alleged to be a member of an unlawful assembly. In other words, the object should be common to the persons, who compose the assembly, that is to say, they should all be aware of it and concur in it. A common object may be formed by express agreement after mutual consultation, but that is by no means necessary. It may be formed at any stage by all or a few members of the assembly and the other members may just join and adopt it.

The Judgment in Sanjeev Kumar Gupta vs. State of Uttar Pradesh, (2015) 11 SCC 69 was relied upon to contend that Section 149 has two components (i) offence committed by any member of an unlawful assembly consisting of five or more members, and (ii) such offence must be committed in prosecution of the common object under Section 141 IPC of the assembly or members of that assembly knew to be likely to be committed in prosecution of the common object. For 'common object', it is not necessary that there should be a prior concert in the sense of a meeting of the members of the unlawful assembly.

Probation of Offenders Act

In the case of Mohd. Hashim v. State of Uttar Pradesh and Others, (2017) 2 SCC 198 the question examined was in relation to minimum sentence provided for an offence under Section 4 of the Dowry Prohibition Act, 1961 (Act of 1961), providing for minimum sentence of six months. It was held that benefit of the Probation Act cannot be extended where minimum sentence is provided.

Continuing Offence X Repeat offence

There is a distinction between a continuing offence and a repeat offence. The continuing offence is a one which is of a continuous nature as distinguished from one which is committed once and for all. The term "continuing offence" was explained and elucidated by giving several illustrations in State of Bihar vs. Deokaran Nenshi & Ors., (1972) 2 scc 890 In case of continuing offence, the liability continues until the rule or its requirement is obeyed or complied with. On every occasion when disobedience or non-compliance occurs and reoccurs, there is an offence committed. Continuing offence constitutes a fresh offence every time or occasion it occurs. InUnion of India & Anr. Vs. Tarsem Singh, (2008) 8 scc 648, continuing offence or default in service law was explained as a single wrongful act which causes a continuing injury. A recurring or successive wrong, on the other hand, are those which occur periodically with each wrong giving rise to a distinct and separate cause of action.

- GOVERNMENT OF ANDHRA PRADESH- Public Services – Prosecuting Officers – Sri B. Rama Koteswara Rao – Additional Director of Prosecutions - O/o. the Directorate of Prosecutions - A.P.- Vijayawada -Fixation of pay under FR-22-B - Orders – Issued- G.O.Rt.No.553 HOME (COURTS.A) DEPARTMENT, Dated.04-06-2019.

- GOVERNMENT OF TELANGANA- ALLOWANCES – Dearness Allowance – 27.248% of the basic pay to 30.392% of basic pay Dearness Allowance to the State Government Employees from 1st of July, 2018 – Sanctioned – Orders – Issued.- GOMs No. 36 Finance (HRM.IV) DEPARTMENT dt. 1.6.2019.

- GOVERNMENT OF ANDHRA PRADESH- Public Services – Human Resources – Transfers and Postings of Employees –Guidelines /Instructions - Orders – Issued- G.O. Ms. No. 45 FINANCE (HR.I-PLG. & POLICY) DEPARTMENT, Dated: 24-06-2019

ON A LIGHTER VEIN

Murder of English Language

See, how people write leave applications.
It's murder of English language – but too funny

- **An employee applies for leave:**
  "Since I have to go to my village to sell my land along with my wife, please sanction me one-week leave."
- **From an employee who was performing the "mundane" ceremony of his 10 year old son:**
  "As I want to shave my son's head, please leave me for two days."
- **Leave-letter from an employee who was performing his daughter's wedding:**
  "As I am marrying my daughter, please grant a week's leave."
- **From HAL Administration Dept:**
  "As my mother-in-law has expired and I am only one responsible for it, please grant me 10 days leave."
- **An employee applies for half day leave:**
  "Since I've to go to the cremation ground at 10 o'clock and I may not return, please grant me half day casual leave."
- **An incident of a leave letter:**
  "I am suffering from fever, please declare one-day holiday."
- **A leave letter to the headmaster:**
  "As I am studying in this school I am suffering from headache. I request you to leave me today."
- **Another leave letter written to the headmaster:**
  "As my headache is paining, please grant me leave for the day."
- **Covering note:**
  "I am enclosed herewith..."
- **Another one:**
  "Dear Sir: with reference to the above, please refer to my below..."
- **Actual letter written for application of leave:**
  "My wife is suffering from sickness and as I am her only husband at home I may be granted leave."
- **Letter writing:**
  "I am well here and hope you are also in the same well."
- **A candidate's job application:**
  "This has reference to your advertisement calling for a ' Typist and an Accountant - Male or Female'... As I am both (!!) for the past several years and I can handle both with good experience, I am applying for the post.

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Part-8

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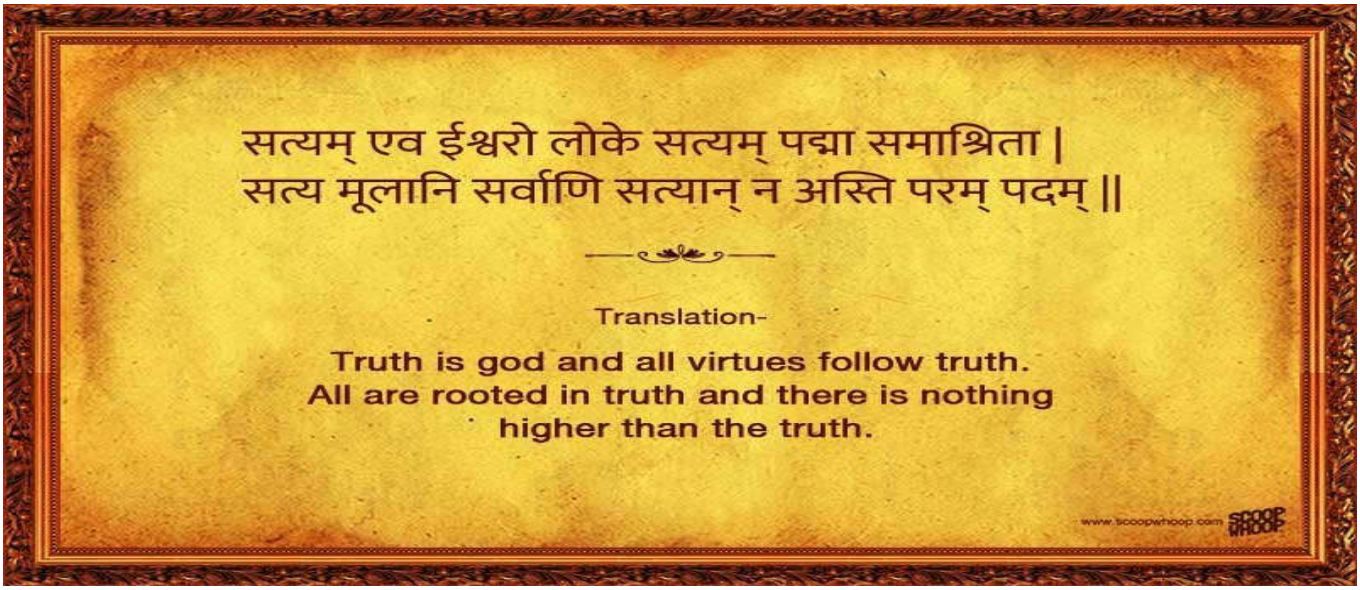
August, 2019

Aano Bhadra Krtavo Yantu Vishwatah.(RIG VEDAM)
"Let Noble Thoughts Come To Me From All Directions"



CITATIONS

CrPC — S. 311 — Summoning of material witness: The age of a case, by itself, cannot be decisive of the matter when a prayer is made for examination of a material witness. **[Manju Devi v. State of Rajasthan, (2019) 6 SCC 203]**

326 IPC- The acid is undoubtedly a corrosive substance within the meaning of S. 326 IPC. **[Omanakuttan v. State of Kerala, (2019) 6 SCC 262]**

Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 — S. 3(1)(x) — Ingredients of offence: Abuse without reference to caste or tribe will not bring the matter within umbrage of S. 3(1)(x), though the same may be punishable under S. 294 IPC. **[Narad Patel v. State of Chhattisgarh, (2019) 6 SCC 268]**

Evidence Act, 1872 — S. 32(1) — Dying declaration — When may be sole basis for conviction — Principles summarized: A dying declaration can be the sole basis for convicting the accused. However, such a dying declaration should be trustworthy, voluntary, blemishless and reliable. In case the person recording dying declaration is satisfied that declarant is in a fit medical condition to make the statement and if there are no suspicious circumstances, dying declaration may not be invalid solely on the ground that it was not certified by the doctor. **[Poonam Bai v. State of Chhattisgarh, (2019) 6 SCC 145]**

Sec 376 IPC: - Consensual Sex- on false promise of marriage- amounts to Rape- The prosecution has been successful by leading cogent evidence that from the very inspection the accused had no intention to marry the victim and that he had mala-fide motives and had made false promise only to satisfy the lust. But for the false promise by the accused to marry the prosecutrix, the prosecutrix would not have given the consent to have the physical relationship. It was a clear case of cheating and deception.
if it is established and proved that from the inception the accused who gave the promise to the prosecutrix to marry, did not have any intention to marry and the prosecutrix gave the consent for sexual intercourse on such an assurance by the accused that he would marry her, such a consent can be said to be a consent obtained on a misconception of fact as per Section 90 of the IPC and, in such a case, such a consent would not excuse the offender and such an offender can be said to have committed the rape as defined under Section 375 of the IPC and can be convicted for the offence under Section 376 of the IPC.

merely because the accused had married with another lady and/or even the prosecutrix has subsequently married, is no ground not to convict the appellant-accused for the offence punishable under Section 376 of the IPC. The appellant-accused must face the consequences of the crime committed by him.
the decisions of this Court in Uday ((2003) 4 SCC 46), Deelip Singh ((2005) 1 SCC 88) and Shivashankar alias Shive v. State of Karnataka (2108) SCC Online 3106 shall not be applicable to the case of the accused on hand. **2019 2 ALT Crl 211 (SC); 2019 4 Supreme 411; 2019 0 Supreme(SC) 445; Anurag Soni Vs State of Chhattisgarh;**

CONTRADICTIONS & MOTIVE- unless those contradictions are such material contradictions which may destroy the case of the prosecution, the benefit of such contradictions cannot be given to the accused.
so far as the submission made on behalf of the original Accused No. 1 that as the original Accused Nos. 6 and 7 are acquitted by the High Court and, therefore, the number of other accused shall be five or less than five and, therefore, the conviction of the original Accused No. 1 for the offence punishable under Section 302 with the aid of Section 149 IPC, is not sustainable is concerned, the same has no substance.
When eye witnesses establish the case, motive becomes unimportant. **2019 2 ALT Crl 243(SC); 2019 0 AIR(SC) 278; 2019 2 SCC 440; 2019 1 SCC(Cri) 724; 2019 1 Supreme 168; 2018 0 Supreme(SC) 1213; Farida Begum Vs. State of Uttarakhand (THREE JUDGE BENCH)**

173(8) CrPC- the investigating authority did not apply for further investigation and that the learned Magistrate suo moto passed an order for further investigation and directed the investigating officer to further investigate and submit the report, which is impermissible under the law. Such a course of action is beyond the jurisdictional competence of the Magistrate.
At the same time, it will always be open for the investigating officer to file an appropriate application for further investigation and undertake further investigation and submit a further report in exercise of powers under Section 173(8) of the CrPC. **2019 2 SCC Cri 613; 2019 0 AIR(SC) 2002; 2019 2 KLT 507; 2019 5 SCC 542; 2019 4 Supreme 577; 2019 0 Supreme(SC) 459; 2019 2 ALT Crl 255(SC); Bikash Ranjan Rout Vs. State through the Secretary (Home), Government of NCT of Delhi**

Section 273 CrPC opens with the expression “Except as otherwise expressly provided…” By its very nature, the exceptions to the application of Section 273 must be those which are expressly provided in the Code. Shri Hegde is right in his submission in that behalf. Sections 299 and 317 are such express exceptions provided in the Code. In the circumstances mentioned in said Sections 299 and 317, the contents of which need no further elaboration, the Courts would be justified in recording evidence in the absence of the accused. Under its latter part, Section 273 also provides for a situation in which evidence could be recorded in the absence of the accused, when it says “when his personal attendance is dispensed with, in the presence of his pleader”.
It is certainly in the societal interest that the guilty must be punished and at the same time the procedural requirements which ensure fairness in trial must be adhered to. If there was an infraction, which otherwise does not vitiate the trial by itself, the attempt must be to remedy the situation to the extent possible, so that the interests of the accused as well as societal interest are adequately safeguarded. **2019 4 Supreme 327; 2019 0 Supreme(SC) 435; 2019 2 ALT Crl 265(SC); Atma Ram Vs State of Rajasthan;**

CHAIN OF CUSTODY OF MO’s-The Investigating Officer deposed that after the seizure of the knives, the same were not sealed at all, and he merely put them in a box and sent the same to the Judicial Magistrate. Such procedure adopted by the prosecution is highly improper and illegal, inasmuch as the box could have been opened at any stage by anybody and the weapon tampered with or replaced. Hence, the aspect of recovery is also not proved in accordance with law - **2019 2 ALT Crl 328(SC); 2019 1 Crimes(SC) 98; 2019 2 Scale 128; 2019 0 Supreme(SC) 82; 2019 1 WLC(Cri) 163; Malaichamy & Anr.Vs. The State of Tamil Nadu**

In a given case, if accused is already in judicial custody in connection with one crime and when the Investigation Officer wants to effect his arrest in some other crime, the Apex Court in CBI Vs Anupam, J. Kulkarni, observed that he can effect formal arrest of the accused in prison, but he cannot take him into custody without taking prior approval of the Concerned Court, as his detention has already been authorized by a concerned Magistrate in connection with some other case. It is not permissible for the police officer to remove the person from that place by effecting his arrest. Hence, the Apex Court in the judgment referred to above used the words 'formal arrest'. When once such "formal arrest" is effected in prison, it would not be possible for the police officer to produce him before the nearest Magistrate within 24 hours for the purpose of further remand, since he cannot be removed or moved out from the jail. In such a situation, the only method by which he can seek production of the accused before the concerned Magistrate for the purpose of remand is to invoke the provision under **Section 267 Cr.PC.** It is to be noted here that PT warrant can be issued by that Magistrate within whose jurisdiction the crime is registered and in which the production is sought, but not by any other Magistrate. It is also to be noted that production on PT warrant is sought from the prison through the Superintendent of Jail and not through any other mode. **Ahamed Riswan Vs State of A.P. and others; 2019(1) ALD(Cri) 860(A.P), 2019(2) ALT (Crl) 209(DB)(AP).**

Sec 451 CrPC -When the documents are irrelevant, pending adjudication of the subject Calendar Case, they can be returned to the person, who filed the same i.e., the petitioner/complainant, after being substituted by certified copies of those documents. -**2019 2 ALT Crl 242(TS); http://distcourts.tap.nic.in/hcorders/2017/crlp/crlp_6645_2017.pdf; Srikanth Bollepalli Vs State of Telangana;**

The Doctor cannot just endorse on a printed format, regarding the condition of the patient, it is against **rule 33 of the Criminal rules of practice**. He needs to verify the condition of the patient and endorse manually. **2019 2 ALT Crl 249(DB)(AP); BUAYA KURUMALA KALVAGADDA RAMESH Vs State of A.P.**

Physical relation on false promise of marriage attracts cheating- It is the petitioner, who went back on his promise, that too on a consideration that he would get Rs 50 lakhs as dowry if he marries anyone. From the said fact, there is a possibility of inferring that the petitioner did not have any intention to marry any girl unless she is ready to give Rs. 50 Laks to him, which he did not disclose to the defacto complainant, at any time when had sexual relations with her. Hence, prima facie, sufficient material, attracting the offences alleged under section 417 IPC is available.
When police initially start the investigation of **a non-cognizable offence along cognizable offence** and subsequently, the cognizable offence is not made out, it cannot be said that the investigation done by the police is vitiated. **2019 2 ALT Crl 260(A.P); Kancharana Venkatesh Vs State of A.P.**

What mainly provided by sub-sections 1 and 2 of Section **155 Cr.P.C.** supra is the duty of the police officer, who received information of a non-cognizable offence to enter or cause enter the substance in the book to be kept in the police station (police diary) in the prescribed format and refer the informant to the Magistrate and it is also with a rider saying no police officer shall investigate a noncognizable offence without the order of a Magistrate having the power to try to such case or to commit the case for trial. So, the power to investigate is only from the permission of the Magistrate, who got right to take cognizance. Even Section 2(l) Cr.P.C. only bars the arrest and not the investigation or registration of the crime. In fact, registration of crime is different from investigation and what subsection 2 of Section 155 Cr.P.C. supra bars investigation and not registration of a crime. Without going into the controversy, suffice to say from the above legal position, it is a pre-requisite for a police officer to investigate a crime to obtain permission of the concerned judicial Magistrate- **http://distcourts.tap.nic.in/hcorders/2018/crlrc/crlrc_2344_2018.pdf; 2019 2 ALT Crl 276(TS); Rajesh Kumar and others Vs State of Telangana;**

we feel that the version of P.Ws.1 and 2 in cross-examination[on an a different date] has to be **eschewed** from consideration and their evidence in chief which gets corroboration from other evidence, as referred to by us earlier can be made the basis to convict the accused. -

http://distcourts.tap.nic.in/hcorders/2013/crla/crla_598_2013.pdf; 2019 2 ALT Crl 280(DB)(TS &AP); Harijana Peddinti Erikalanna Vs State

Law is well settled that **non-examination of panch witnesses** is not fatal to the prosecution case. However, in the absence of evidence of panch witnesses, evidence of official witnesses (police officials) is required to be scrutinized with due care and caution. The testimony of a witness cannot be brushed aside merely because he is a Police Officer. The credibility of the witnesses has to be tested on the touchstone of truthfulness. Therefore, wherever the evidence of police officials, after careful scrutiny, inspires confidence and is found to be trustworthy and reliable, it can form basis of conviction, even in absence of corroboration with the independent witnesses.
No infirmity attaches to the testimony of the police officials, merely because they are police officials and there is no rule of law or evidence, which lays down that conviction cannot be recorded on the sole testimony of the police officials. Where a police witness bore no grudge or animosity against the accused, his/her testimony, if otherwise reliable, can be believed. It may be indicated here that as a rule of prudence, corroboration of police witness probably by a reliable witness is desirable, but in all cases such corroboration cannot be insisted as a matter of course, because it may not be possible in all cases to get corroboration from an independent witness.
The mere fact that the **prosecution witnesses are police officers** is not enough to discard their evidence in the absence of evidence of their hostility to the accused. In the instant case, the explanation given by the prosecution for non-examination of the panch witnesses is that their whereabouts were unknown to them. There is no animosity or grudge or any other reason for P.W.1 to depose falsely against the appellant/accused. **V.Balaiah Vs State; http://distcourts.tap.nic.in/hcorders/2009/crla/crla_1617_2009.pdf; 2019 2 ALT Crl 287 (TS);**

the **acquittal of the co-accused** by giving benefit of doubt, by itself can be no ground to discard the otherwise reliable evidence which has remained unshaken, pointing towards the complicity of the appellant in the commission of crime. **2019 2 SCC Cri 546; 2019 0 AIR(SC) 904; 2019 2 ALD Crl 20(SC); 2019 2 Scale 613; 2019 5 SCC 351; 2019 0 Supreme(SC) 511; Pappi @ Mehboob Vs. State of Rajasthan**

It is not in dispute that **no proper investigation** could be made by the Investigating Officer (IO) much less concluded on the basis of the FIR lodged by the complainant and before it could be brought to its logical conclusion, the impugned order intervened resulting in quashing of the FIR itself in relation to cognizable offences which were of more serious in nature than the remaining one which survived for being tried.
The High Court, in our view, instead of quashing the FIR at such a preliminary stage should have **directed the IO to make proper investigation** on the basis of the FIR and then file proper charge sheet on the basis of the material collected in the investigation accordingly. It was, however, not done. It was more so because, we find that FIR did disclose prima facie allegations of commission of concerned offences. **2019 2 SCC Cri 602; 2019 2 ALD Crl 32(SC); 2019 0 AIR(SC) 1537; 2019 1 Crimes(SC) 304; 2019 5 Scale 136; 2019 5 SCC 464; 2019 3 Supreme 720; 2019 0 Supreme(SC) 301; Rafiq Ahmedbhai Paliwala Vs. The State Of Gujarat & Ors.**

The Court will have to evaluate the evidence before it keeping in mind the **rustic nature of the depositions of the villagers**, who may not depose about exact geographical locations with mathematical precision. Discrepancies of this nature which do not go to the root of the matter do not obliterate otherwise acceptable evidence. It need not be stated that it is by now well settled that minor variations should not be taken into consideration while assessing the reliability of witness testimony and the consistency of the prosecution version as a whole.
it is well-settled that criminal justice should not become a casualty because of the minor **mistakes committed by the Investigating Officer.** We may hasten to add here itself that if the Investigation Officer suppresses the real incident by creating certain records to make a new case altogether, the Court would definitely strongly come against such action of the Investigation Officer. There cannot be any dispute that the benefit of doubt arising out of major flaws in the investigation would create

suspicion in the mind of the Court and consequently such inefficient investigation would accrue to the benefit of the accused. **2019 2 ALD Crl 67(SC); 2019 0 AIR(SC) 1416; 2019 1 Crimes(SC) 278; 2019 2 RCR(Cri) 351; 2019 5 Scale 39; 2019 3 Supreme 643; 2019 0 Supreme(SC) 272; Sachin Kumar Singhraha Vs. State Of Madhya Pradesh**

Sec 306 IPC- The mere fact that three months prior to the occurrence dt.09.04.2012, the accused when sent her to her parents, she drank 'Vasmal' and again she came back and taken her to his fold does not mean much less appreciate any probability of the deceased committed suicide.- **2019 2 ALD Crl 105 (HC); http://distcourts.tap.nic.in/hcorders/2013/crla/crla_745_2013.pdf; Akula Sreenivasulu vs State of A.P.**

Merely because **the rough sketch** has not shown the existence of an electrical pole, in the face of the evidence discussed above including the suggestion put to PW.1 that an electrical pole situated in the south-east corner of the house of K.Danayya, we cannot accept the submission of the learned Counsel that there was no light at the time of the alleged Occurrence and that therefore, there was no possibility of the appellant being identified by the witnesses.
Coming to the submission of the learned Counsel for the appellant that PW.5 has categorically stated that there was no electricity at the time of the alleged occurrence, **the said statement having been made by him during his cross-examination by the appellant, no legal sanctity could be attached to it, as it was evidently mentioned by the defence after making him turn hostile.** The said version spoken to by PW.5 was not even carried forward by the defence by putting any suggestions to any of the witnesses among PWs.1 to 4 and 6. **2019 2 ALD Crl 115(HC); 2019 1 ALT(Cri) 159; 2018 0 Supreme(AP) 731; Pampana Verranna Vs State of Andhra Pradesh.**

it is no more open for anyone to contend that unless a report is filed aggrieved person is without remedy. It is also no more open to contend that once crime is registered accused must be arrested and charge sheet/ final report must be filed as a matter of course. Further, delay in completing the investigation can be for various reasons. Police may be waiting for forensic report/Medical report/the accused is absconding/having regard to complex nature of crime reported more time is consumed to collect required data/information to assess the nature of crime, number of documents and/or witnesses are more.
http://distcourts.tap.nic.in/hcorders/2018/wp/wp_38397_2018.pdf; 2019 2 ALD Crl 156(TS); Govind Raju Sami vs State of Telangana and others.

On receipt of information about a cognizable offence or an incident giving rise to a cognizable offence or offences and on entering the FIR in the station house diary, the officer in charge of a police station has to investigate not merely the cognizable offence reported in the FIR but also other connected offences found to have been committed in the course of the same transaction or the same occurrence and **file one or more reports as provided in Section 173 CrPC.**
an FIR is neither a piece of substantive evidence nor does it form the spine of a criminal case. It basically sets the criminal law in motion for the purpose of investigation relating to an offence or offences with regard to an incident. It is noticeable that a particular incident can have number of offences forming a different part of the same transaction and some times may constitute distinct crimes which would come in a larger spectrum. That apart, there can be a chain of events. In certain cases, counter FIRs are lodged. There is no illegality in lodging a counter FIR as per the pronouncements in T.T. Antony (2001 SCC Cri 1048) and Upkar Singh (2005 SCC Cri 211), and investigation can be carried out in that regard. What is observed in certain cases, as we find, when an investigation continues on the basis of **the second FIR**, pertaining to the same transaction, on being challenged the whole investigation is quashed. There can be no shadow of doubt that registration of an FIR or a second matter is done by the police authorities. The informant or victim, in reality, brings certain facts which he comes to know at a later stage to the knowledge of the investigating agency and the investigating agency without recording a statement under Section 161 of the Code of Criminal Procedure or treating it as a part of a material collected through investigation records an FIR. As is seen, if an investigation proceeds on that basis, it has been made liable for quashment.

The principle in criminal jurisprudence requires a fair and truthful investigation. If an investigating agency which has been conferred the power to investigate on the basis of an FIR, if a second FIR as regards the same transaction is introduced, as viewed, it is likely to be abused, i.e. keeping in mind the interest of the accused. From the point of view of the victim when such information comes within the knowledge of the Investigating Officer, he can treat it as a part of continuing investigation under the Code and eventually file the charge sheet or an additional charge sheet as contemplated under Section 173 of the Code. **2019 2 SCC Cri 698; 2019 5 SCC 667; 2014 0 Supreme(SC) 1149; Manoj Kumar Vs State of Uttrakhand.**

the evidence of Yamuna Prabhakar Dekate PW-6 who was just a **passerby and was called by the police as a pointer witness,** does not inspire confidence and the conviction of the appellants ought not have been based on such evidence. **2019 5 SCC 63; 2019 2 Supreme 739; 2019 0 Supreme(SC) 317; Dharmendra & Anr. Vs. State of Maharashtra**

Further, both the trial Court and the High Court placed reliance on the injuries found on the face of the accused. It is pertinent to note that the accused failed to provide any explanation as to how he had incurred the aforesaid injuries. Further, the injuries on the body of the deceased also indicate signs of struggle. Furthermore, the postmortem suggests that the death of deceased was not suicidal but rather she was hanged after she had lost consciousness. All the aforesaid circumstances further substantiate the voluntary extrajudicial confession of the accused made before P.W4. Moreover, the fact of the commission of death by hanging corroborated by the Exhibit P12, (Panchayatnama) which notes that the deceased was hanging from the roof with the help of a bed sheet. It is noted that the Exhibit P12, (Panchayatnama) stands proved by the Sub-Inspector (P.W.8). **The extrajudicial confession of the accused,** therefore, finds independent reliable corroboration from the aforesaid circumstances. (See Ram Singh v. State of U.P., 1967 Cri LJ 9) In light of the aforementioned chain of events, there exists sufficient evidence on record to connect the appellant with the death of the deceased, the motive of which is apparent.
In the absence of any existing enmity between the accused and the witnesses there exists no ground to question the veracity of the witnesses or to raise a ground of false implication. Therefore, considering the totality of the facts and circumstances, we conclude that the chain of events has been rightly analysed by both the courts below and the same leads towards proving the culpability of the accused. (See Prakash v. State of Rajasthan, (2013) 4 SCC 668) - **2019 2 SCC Cri 694; 2019 0 AIR(SC) 1787; 2019 5 SCC 663; 2019 4 Supreme 124; 2019 0 Supreme(SC) 398; MANOJ KUMAR Vs. THE STATE OF UTTARAKHAND**

There is a case of the appellant that the evidence would make out a case of **consensual sex.** It is true that in the High Court, it is recorded that there is no case of consensual sexual intercourse as such argued but we have to decide the case on the basis of evidence. We would think in the circumstances of this case that the appellant cannot be convicted for the offence under **Section 376.** It would indeed be unsafe to convict him based on the testimony of the prosecutrix.- **2019 2 SCC Cri 665; 2019 0 AIR(SC) 1037; 2019 1 MLJ(Cri) 750; 2019 2 RCR(Cri) 40; 2019 3 Scale 289; 2019 5 SCC 628; 2019 0 Supreme(SC) 148; PARKASH CHAND Vs. STATE OF HIMACHAL PRADESH (THREE JUDGE BENCH)**

Opinion of expert witness cannot be given preference over primary statement of witnesses in respect of manner of injuries suffered by them or the timings of the injury.- **2019 0 AIR(SC) 1719; 2019 1 ALT(Cri)(SC) 225; 2019 1 Crimes(SC) 191; 2019 4 Scale 707; 2019 5 SCC 67; 2019 3 Supreme 438; 2019 0 Supreme(SC) 192; MAHENDRAN Vs. THE STATE OF TAMIL NADU**

Normally, the Court may reject the case of the prosecution in case of inordinate **delay in lodging the first information report** because of the possibility of concoction of evidence by the prosecution. However, if the delay is satisfactorily explained, the Court will decide the matter on merits without giving much importance to such delay. The Court is duty bound to determine whether the explanation afforded is plausible enough given the facts and circumstances of the case. The delay may be condoned if the complainant appears to be reliable and without any motive for implicating the

accused falsely. **2019 2 SCC Cri 565; 2019 0 AIR(SC) 2866; 2019 2 PLJR(SC) 294; 2019 5 SCC 403; 2019 0 Supreme(SC) 375; P. Rajagopal & Ors. Vs. The State of Tamil Nad**

Thus, the dying declaration involving the appellant came to be established and proved by the prosecution, by examining the doctor as well as the metropolitan magistrate who record the dying declaration. Despite the above overwhelming evidence in the form of medical evidence as well as the dying declaration and the deposition of the metropolitan magistrate, the learned trial Court discarded the same on some minor contradictions/omissions. It also appears from the judgment and order passed by the learned trial Court that the learned trial **Court gave undue importance to the initial statement of the victim while giving the history to the doctor** when she was admitted and when she gave the history of accidental burns while cooking in kitchen. However, the trial Court did not consider her explanation on the above gave in the dying declaration. Even considering the surrounding circumstances and the medical evidence and the other evidence, the defence has miserably failed and proved that it was an accidental burns/death. **2019 2 SCC Cri 586; 2019 0 AIR(SC) 2418; 2019 5 SCC 436; 2019 4 Supreme 258; 2019 0 Supreme(SC) 430; VIJAY MOHAN SINGH Vs. STATE OF KARNATAKA**

Falsity of a particular material witness or material particular would not ruin it from the beginning to end. The maxim **falsus in uno falsus in omnibus has no application in India** and the witnesses cannot be branded as liars. The maxim falsus in uno falsus in omnibus has not received general acceptance nor has this maxim come to occupy the status of a rule of law. It is merely a rule of caution. All that it amounts to, is that in such cases testimony may be disregarded, and not that it must be disregarded. The doctrine merely involves the question of weight of evidence which a Court may apply in a given set of circumstances, but it is not what may be called “a mandatory rule of evidence”. (Nisar Ali v. State of U. P. AIR 1957 SC 366). **Merely because some of the accused persons have been acquitted,** though evidence against all of them, so far as direct testimony went, was the same does not lead as a necessary corollary that those who have been convicted must also be acquitted. It is always open to a Court to differentiate accused who had been acquitted from those who were convicted. (Gurcharan Singh v. State of Punjab AIR 1956 SC 460). The doctrine is a dangerous one, specially in India for if a whole body of the testimony were to be rejected, because a witness was evidently speaking an untruth in some aspect, it is to be feared that administration of criminal justice would come to a dead-stop. Witnesses just cannot help in giving embroidery to a story, however, true in the main. Therefore, it has to be appraised in each case as to what extent the evidence is worthy of acceptance, and merely because in some respects the Court considers the same to be insufficient for placing reliance on the testimony of a witness, it does not necessarily follow as a matter of law that it must be disregarded in all respects as well. The evidence has to be shifted with care. The aforesaid dictum is not a sound rule for the reason that one hardly comes across a witness whose evidence does not contain a grain of untruth or at any rate exaggeration, embroideries or embellishment. (Sohrab v. State of M. P. 1972(3) scc 751 and Ugar Ahir v. State of Bihar AIR 1965 SC 277).

It would have been unreasonable on our part if we could have mechanically rejected such evidence available on record on the sole ground that it is partisan would invariably lead to failure of justice. No hard-and-fast rule can be laid down as to how much evidence should be appreciated but what is required is that judicial approach has to be cautious in dealing with such evidence; but the plea that such evidence should be rejected because it is **partisan** cannot be accepted as correct.

The submission of the learned senior counsel for the appellant that recovery has not been proved by any independent witness is of no substance for the reason that in the absence of independent witness to support the recovery in substance cannot be ignored unless proved to the contrary. There is no such legal proposition that **the evidence of police officials** unless supported by independent witness is unworthy of acceptance or the evidence of police officials can be outrightly disregarded.

2019 2 SCC Cri 680; 2019 0 AIR(SC) 947; 2019 1 CriCC 794; 2019 1 Crimes(SC) 144; 2019 73 CriR(Ori) 874; 2019 2 JT 388; 2019 1 OJR 419; 2019 3 Scale 494; 2019 5 SCC 646; 2019 3 Supreme 258; 2019 0 Supreme(SC) 162; KRIPAL SINGH Vs. STATE OF RAJASTHAN

Sec 320 CrPC- Considering the law on the point and the other decisions of this Court on the point, referred to hereinabove, it is observed and held as under:

(i) that the power conferred under Section 482 of the Code to quash the criminal proceedings for the **non-compoundable offences under Section 320 of the Code** can be exercised having overwhelmingly and predominantly the **civil character**, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes and when the parties have resolved the entire dispute amongst themselves;

(ii) such power is not to be exercised in those prosecutions which involved heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society;

(iii) similarly, such power is not to be exercised for the offences under the special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender;

(iv) offences under Section 307 IPC and the Arms Act etc. would fall in the category of heinous and serious offences and therefore are to be treated as crime against the society and not against the individual alone, and therefore, the criminal proceedings for the offence under Section 307 IPC and/or the Arms Act etc. which have a serious impact on the society cannot be quashed in exercise of powers under Section 482 of the Code, on the ground that the parties have resolved their entire dispute amongst themselves. However, the High Court would not rest its decision merely because there is a mention of Section 307 IPC in the FIR or the charge is framed under this provision. It would be open to the High Court to examine as to whether incorporation of Section 307 IPC is there for the sake of it or the prosecution has collected sufficient evidence, which if proved, would lead to framing the charge under Section 307 IPC. For this purpose, it would be open to the High Court to go by the nature of injury sustained, whether such injury is inflicted on the vital/delegate parts of the body, nature of weapons used etc. However, such an exercise by the High Court would be permissible only after the evidence is collected after investigation and the charge sheet is filed/charge is framed and/or during the trial. Such exercise is not permissible when the matter is still under investigation. Therefore, the ultimate conclusion in paragraphs 29.6 and 29.7 of the decision of this Court in the case of Narinder Singh (supra) should be read harmoniously and to be read as a whole and in the circumstances stated hereinabove;

(v) while exercising the power under Section 482 of the Code to quash the criminal proceedings in respect of non-compoundable offences, which are private in nature and do not have a serious impart on society, on the ground that there is a settlement/compromise between the victim and the offender, the High Court is required to consider the antecedents of the accused; the conduct of the accused, namely, whether the accused was absconding and why he was absconding, how he had managed with the complainant to enter into a compromise etc. **2019 2 SCC Cri 706; 2019 0 AIR(SC) 1296; 2019 1 Crimes(SC) 231; 2019 0 CrLJ 1862; 2019 2 KHC 190; 2019 1 KLD 546; 2019 2 KLJ 226; 2019 2 KLT(SN) 21; 2019 2 RCR(Cri) 255; 2019 4 Scale 200; 2019 5 SCC 688; 2019 3 Supreme 1; 2019 0 Supreme(SC) 246; THE STATE OF MADHYA PRADESH Vs. LAXMI NARAYAN AND OTHERS (THREE JUDGE BENCH)**

it is clear that in one occurrence it may so happen that the accused might have committed several offences and the police may arrest him in connection with one or two offences on the basis of the available information and obtain police custody. If during the investigation his complicity in more serious offences during the same occurrence is disclosed, that does not authorize the police to ask for **police custody** for a further period after the expiry of the first fifteen days. The Apex Court further held that if that is permitted the police can go on adding some offence or the other of a serious nature at various stages and seek further detention in police custody repeatedly, which would defeat the very object of Section 167 of Cr.P.C. The Apex Court clarified that the said limitation shall not apply to a different occurrence in which complicity of the arrested accused is disclosed. The Court went on to hold that if it is a different transaction and if the accused is in judicial custody in connection with one case, to enable the police to complete their investigation of the other case they can require his detention in police custody, for the purpose of assisting them with the investigation in other case. In such a situation the accused must be formally arrested in connection with other case and then obtain

an order from the Magistrate for detention in police custody.- **2018 3 ALT(Cri) 50; 2019 0 CrLJ 138; 2018 0 Supreme(AP) 276; Union of India, rep. by Addl. Superintendent of Police, National Investigation Agency Vs. Md. Mahaboob Baig @ Azhar Baig and another.**

It is well settled that the **consideration applicable for cancellation of bail and consideration for challenging the order of grant of bail** on the ground of arbitrary exercise of discretion are different. While considering the application for cancellation of bail, the Court ordinarily looks for some supervening circumstances like; tampering of evidence either during investigation or during trial, threatening of witness, the accused is likely to abscond and the trial of the case getting delayed on that count etc. Whereas, in an order challenging the grant of bail on the ground that it has been granted illegally, the consideration is whether there was improper or arbitrary exercise of discretion in grant of bail. The appellant has challenged the very grant of bail on the ground of arbitrary exercise of discretion ignoring the relevant materials to be considered in the application for bail.
https://sci.gov.in/supremecourt/2019/11810/11810_2019_7_1502_15506_Judgement_30-Jul-2019.pdf; BHARATBHAI BHIMABHAI BHARWAD Vs State of Gujarat and others.

Time and again this Court has emphasized **the need for assigning the reasons while granting bail** (see Ajay Kumar Sharma vs. State of U.P. & Ors., (2005) 7 SCC 507, Lokesh Singh vs. State of U.P. & Anr., (2008) 16 SCC 753 & Dataram Singh vs. State of U.P. & Anr., (2018) 3 SCC 22). Though it may not be necessary to give categorical finding while granting or rejecting the bail for want of full evidence adduced by the prosecution as also by the defence at that stage yet it must appear from a perusal of the order that the Court has applied its mind to the relevant facts in the light of the material filed by the prosecution at the time of consideration of bail application. It is unfortunate that neither the law laid down by this Court, nor the material filed by the prosecution was taken note of by the High Court while considering the grant of bail to the respondents
https://sci.gov.in/supremecourt/2019/3723/3723_2019_6_1503_15420_Judgement_29-Jul-2019.pdf; Mauji Ram Vs State of U.P. and Anr.

JJ Act,2015-AGE Determination- Clause (i) of Section 94 (2) places the date of birth certificate from the school and the matriculation or equivalent certificate from the concerned examination board in the same category (namely (i) above). In the absence thereof category (ii) provides for obtaining the birth certificate of the corporation, municipal authority or panchayat. It is only in the absence of (i) and (ii) that age determination by means of medical analysis is provided. Section 94(2)(a)(i) indicates a significant change over the provisions which were contained in Rule 12(3)(a) of the Rules of 2007 made under the Act of 2000. Under Rule 12(3)(a)(i) the matriculation or equivalent certificate was given precedence and it was only in the event of the certificate not being available that the date of birth certificate from the school first attended, could be obtained. In Section 94(2)(i) both the date of birth certificate from the school as well as the matriculation or equivalent certificate are placed in the same category.
https://sci.gov.in/supremecourt/2018/46214/46214_2018_11_1502_15300_Judgement_25-Jul-2019.pdf; Sanjeev Kumar Gupta Vs State of U.P. & Anr;

Jurisdiction in 498A IPC Cases- It was held by this Court that at the place where the wife takes shelter after leaving or driven away from the matrimonial home on account of acts of cruelty committed by the husband or his relatives, would, dependent on the factual situation, also have jurisdiction to entertain a complaint alleging commission of offences under Section 498A of the Indian Penal Code- **NITIKA Vs YADWINDER SINGH & ORS.**
https://sci.gov.in/supremecourt/2018/43788/43788_2018_12_10_15360_Order_23-Jul-2019.pdf;

65 B IEA- We are of the considered opinion that in view of Anvar P.V. ((2014) 10 SCC 473), the pronouncement of this Court in Shafhi Mohammad ((2018) 2 SCC 801,) needs reconsideration. With the passage of time, reliance on electronic records during investigation is bound to increase. The law therefore needs to be laid down in this regard with certainty. We, therefore, consider it appropriate to **refer this matter to a larger Bench.**

https://sci.gov.in/supremecourt/2017/39058/39058_2017_11_58_15384_Order_26-Jul-2019.pdf; ARJUN PANDITRAO KHOTKAR vs. KAILASH KUSHANRAO GORANTYAL

306 IPC- If the accused plays an active role in tarnishing the self-esteem and self-respect of the victim, which eventually draws the victim to commit suicide, the accused may be held guilty of abetment of suicide. The question of mens rea on the part of the accused in such cases would be examined with reference to the actual acts and deeds of the accused and if the acts and deeds are only of such nature where the 26 accused intended nothing more than harassment or snap show of anger, a particular case may fall short of the offence of abetment of suicide. However, if the accused kept on irritating or annoying the deceased by words or deeds until the deceased reacted or was provoked, a particular case may be that of abetment of suicide. Such being the matter of delicate analysis of human behaviour, each case is required to be examined on its own facts, while taking note of all the surrounding factors having bearing on the actions and psyche of the accused and the deceased

https://sci.gov.in/supremecourt/2008/17549/17549_2008_9_1501_15279_Judgement_25-Jul-2019.pdf; UDE SINGH vs. THE STATE OF HARYANA

In order to determine the **competency of a child witness**, the judge has to form her or his opinion. The judge is at the liberty to test the capacity of a child witness and no precise rule can be laid down regarding the degree of intelligence and knowledge which will render the child a competent witness. The competency of a child witness can be ascertained by questioning her/him to find out the capability to understand the occurrence witnessed and to speak the truth before the court. In criminal proceedings, a person of any age is competent to give evidence if she/he is able to (i) understand questions put as a witness; and (ii) give such answers to the questions that can be understood. A child of tender age can be allowed to testify if she/he has the intellectual capacity to understand questions and give rational answers thereto.{ **Dalsukhbhai Nayak v State of Gujarat (2004) 1 SCC 64}.** A child becomes incompetent only in case the court considers that the child was unable to understand the questions and answer them in a coherent and comprehensible manner.10 If the child understands the questions put to her/him and gives rational answers to those questions, it can be taken that she/he is a competent witness to be examined.

https://sci.gov.in/supremecourt/2018/17912/17912_2018_11_1_14892_Judgement_09-Jul-2019.pdf; P Ramesh vs State Rep by Inspector of Police

When there is **express provision in the Special Act empowering the Special Court to take cognizance of an offence without the accused being committed**, it cannot be said that taking cognizance of offence by Special Court is in violation of Section 193 of the Code of Criminal Procedure, 1973- **Sri A.M.C.S. Swamy, ADE/DPE/Hyd (Central) Vs Mehdi Agah Karbalai & Anr.; https://sci.gov.in/supremecourt/2019/6206/6206_2019_2_1501_15295_Judgement_23-Jul-2019.pdf;**

it would not be appropriate to order **compounding of an offence not compoundable** under the Code ignoring and keeping aside statutory provisions. In our judgment, however, limited submission of the learned counsel for the appellant deserves consideration that while imposing substantive sentence, the factum of compromise between the parties is indeed a relevant circumstance which the Court may keep in mind."

https://sci.gov.in/supremecourt/2018/28781/28781_2018_7_24_15212_Judgement_22-Jul-2019.pdf; MANJIT SINGH Vs. THE STATE OF PUNJAB & ANR.

It is not an invariable rule of criminal jurisprudence that the **failure of the police to recover the corpus delecti will render the prosecution case doubtful** entitling the accused to acquittal on benefit of doubt. It is only one of the relevant factors to be considered along with all other attendant facts and circumstances to arrive at a finding based on reasonability and probability based on normal human prudence and behavior. In the facts and circumstances of the present case, the failure of the police to recover the dead body is not much of consequence

in the absence of any explanation by the appellant both with regard to the victim last being seen with him coupled with the recovery from his house of the belongings of the deceased.
https://sci.gov.in/supremecourt/2016/4461/4461_2016_6_1501_15371_Judgement_22-Jul-2019.pdf; SANJAY RAJAK Vs. THE STATE OF BIHAR

ACR's - The non-communication of the entries is, therefore, a matter in respect of which a legitimate grievance can be made by the appellant, particularly having regard to the position in law laid down in Dev Dutt ((2008) 8 SCC 725) and Sukhdev Singh ((2013) 9 SCC 566).
https://sci.gov.in/supremecourt/2017/42320/42320_2017_11_5_14904_Judgement_10-Jul-2019.pdf; Pankaj Prakash Vs. United India Insurance Co Ltd & Anr

We reiterate that though the Court's focus was not directly on this, yet, a pronouncement by this Court, even if it cannot be strictly called the **ratio decidendi** of the judgment, would certainly be binding on the High Court.
https://sci.gov.in/supremecourt/2005/26484/26484_2005_5_101_14974_Judgement_09-Jul-2019.pdf; THE PEERLESS GENERAL FINANCE AND INVESTMENT COMPANY LTD. Vs. COMMISSIONER OF INCOME TAX.

It is, however, submitted by her that the question whether the victim would also have to seek leave as would be a situation envisaged under Section 278 of the Cr.P.C as in the case of the State has been considered and is no more res integra in view of the recent Judgment of this Court in Mallikarjun Kodagalli (d) through legal representatives Vs. State of Karnataka & Ors. {2019(2) SCC 752} where this Court opined that **there is no need for a victim to apply leave to appeal against the order of acquittal while preferring an appeal under Section 372 proviso to CrPC.**
https://sci.gov.in/supremecourt/2018/2639/2639_2018_13_44_14742_Order_05-Jul-2019.pdf; NAVAL KISHORE MISHRA Vs. STATE OF U.P. & ORS

it is well established that once a special leave petition has been granted, the doors for the exercise of appellate jurisdiction of this Court have been let open. Resultantly, the order impugned before the Supreme Court became an order appealed against and any order passed thereafter would be an appellate order and attract the **doctrine of merger** despite the fact that the order is of reversal or of modification or of affirming the order appealed against and including is a speaking or non-speaking one.
https://sci.gov.in/supremecourt/2013/41045/41045_2013_9_1501_14917_Judgement_10-Jul-2019.pdf; M/S. S.E. Graphites Private Limited Vs. State of Telangana & Ors

Both Sections **437(5) and 439(2)** empowers the Court to arrest an accused and commit him to custody, who has been released on bail under Chapter XXXIII. There may be numerous grounds for exercise of power under Sections 437(5) and 439(2). The principles and grounds for cancelling a bail are well settled, but in the present case, we are concerned only with one aspect of the matter, i.e., a case where after accused has been granted the bail, new and serious offences are added in the case. A person against whom serious offences have been added, who is already on bail can very well be directed to be arrested and committed to custody by the Court in exercise of power under Sections 437(5) and 439(2). Cancelling the bail granted to an accused and directing him to be arrested and taken into custody can be one course of the action, which can be adopted while exercising power under Sections 437(5) and 439(2), but there may be cases where without cancelling the bail granted to an accused, on relevant consideration, Court can direct the accused to be arrested and committed to custody. **The addition of serious offences is one of such circumstances,** under which the Court can direct the accused to be arrested and committed to custody despite the bail having been granted with regard to the offences with which he was charged at the time when bail was considered and granted.
When the Court has power to pass a particular order, **non-mention of provision of law or wrong mention of provision of law is inconsequential.**
https://sci.gov.in/supremecourt/2018/42100/42100_2018_11_1502_14660_Judgement_01-Jul-2019.pdf; PRADEEP RAM Vs THE STATE OF JHARKHAND & ANR.

incompetence of the Investigating Officer:

The Supreme Court in the case of **H.N. Rishbud and Another vs. State of Delhi, reported in AIR 1955 SC 196** has held that incompetence of the Investigating Officer cannot be argued after the charge-sheet is filed. It is further held that invalidation of investigation would not always nullify the cognizance or trial based thereon when the charge-sheet is filed. A defect or illegality in investigation, however, serious, has no direct bearing on the competence or the procedure relating to a cognizance or trial because a valid and legal police report cannot be said to be a foundation of jurisdiction of the Court to take cognizance.

The Supreme Court in the case of **Union of India vs. Prakash P. Hinduja and Another, reported in AIR 2003 SC 2612** has held as under:-

"20. An incidental question as to what will be the result of any error or illegality in investigation on the trial of the accused before the Court may also be examined. Section 5-A of the Prevention of Corruption Act, 1947 provided that no police officer below rank of a Deputy Superintendent of Police shall investigate any offence punishable under Section 161, Section 165 and Section 165-A IPC or under Section 5 of the said Act without the order of a Magistrate of the First Class. In H.N. Rishbud (supra) the investigation was entirely completed by an officer of the rank lower than the Deputy Superintendent of Police and after permission was accorded a little or no further investigation was made. The Special Judge quashed the proceedings on the ground that the investigation on the basis of which the accused were being prosecuted was in contravention of the provisions of the Act, but the said order was set aside by the High Court. The appeal preferred by the accused to this Court assailing the judgment of the High Court was dismissed and the following principle was laid down:-

"The question then requires to be considered whether and to what extent the trial which follows such investigation is vitiated. Now, trial follows cognizance and cognizance is preceded by investigation. This is undoubtedly the basic scheme of the Code in respect of cognizable cases. But it does not necessarily follow that an invalid investigation nullifies the cognizance or trial based thereon. Here we are not concerned with the effect of the breach of a mandatory provision regulating the competence or procedure of the Court as regards cognizance or trial. It is only with reference to such a breach that the question as to whether it constitutes an illegality vitiating the proceedings or a mere irregularity arises. A defect or illegality in investigation, however serious, has no direct bearing on the competence or the procedure relating to cognizance or trial. No doubt a police report which results from an investigation is provided in section 190 of the Code of Criminal Procedure as the material on which cognizance is taken. But it cannot be maintained that a valid and legal police report is the foundation of the jurisdiction of the Court to take cognizance. Section 190 of the Code of Criminal Procedure is one out of a group of sections under the heading "Conditions requisite for initiation of proceedings." The language of this section is in marked contrast with that of the other sections of the group under the same heading, i.e. Sections 193 and 195 to 199.

These latter sections regulate the competence of the Court and bar its jurisdiction in certain cases excepting in compliance therewith. But Section 190 does not. While no doubt, in one sense, clauses (a), (b) and (c) of section 190(1) are conditions requisite for taking of cognizance, it is not possible to say that cognizance on an invalid police report is prohibited and is therefore a nullity. Such an invalid report may still fall either under clause (a) or (b) of Section 190 (1) (whether it is one or the other we need not pause to consider) and in any case cognizance so taken is only in the nature of error in a proceeding antecedent to the trial."

Similar view was taken in R.A.H.Siguran VS State, that trial would not be vitiated for the simple reason that the rank of police officer prescribed in the act, has not investigated the case.

report in a non-cognizable offence
the expression of the Apex Court in Keshav Lal Thakur v. State of Bihar [(1996) 11 SCC 557] of a registration of crime and filing of the report in a non-cognizable offence under Section 31 of the Representation of the People Act that was accepted when impugned observed that in view of the definition of Section 2(d) Cr.P.C. of complaint, **the police can file final report relating to a non-cognizable offence to treat the same as a complaint.**

Criminal Trial to have a rational, realistic and genuine approach:
in the case of **State of H.P. v. Lekh Raj, (2000) (1) SCC 247,** a criminal trial cannot be equated with a mock scene from a stunt film. Such trial is conducted to ascertain the guilt or innocence of the accused arraigned and in arriving at a conclusion about the truth, the courts are required to adopt a rational approach and judge the evidence by its intrinsic worth and the animus of the witnesses. The courts are not obliged to make efforts either to give latitude to the prosecution or loosely construe the law in favour of the accused. The traditional dogmatic hyper technical approach has to be replaced by a rational, realistic and genuine approach for administering justice in a criminal trial.

NEWS

- TS- Telangana Municipal Laws (Amendment) Ordinance, 2019. Passed
- TS-AMENDMENTS TO THE TELANGANA PANCHAYAT RAJ (AUTHORITY AND MANNER TO DISPOSE ELECTION PETITIONS IN RESPECT OF GRAM PANCHAYATS, MANDAL PRAJA PARISHADS AND ZILLA PRAJA PARISHADS) RULES, 2018- notified in gazette no.15 dt. 25-06-2019
- HIGH COURT OF ANDHRA PRADESH R.O.C.NO. SO / OP CELL/ 2O19 Dt. 17.07.2019 CIRCULAR- Directions to include the cases upto and inclusive of the Year 2Ol4 for disposal in this year.
- Courts - Criminal cases -State of Andhra Pradesh - Empowering the Additional District & Sessions Judges Courts and Additional Metropolitan Sessions ludges Courts functioning outside the District Headquarters or Metropolitan Headquarters, as the case may be, to entertain and dispose of the Bail Applications, both at pre and post committal stages, without reference to the Principal District and Sessions/Metropolitan Sessions Courts - Certain instructions - Issued. R.O.C. NO: 124O/E1/2O18 dt. 3.7.2019
- HC of TS- Permission to avail (5) days Casual Leave extra in addition to the Casual Leaves and Optional Holidays to all the Women employees working in the Subordinate Judiciary – Orders – Issued.- ROC 465/2019-C1 dt. 18.07.2019.
- **HC for TS- ROC.N0.393/S0/2019 DT:15.07.2019 CIRCULAR NO.13/SO/2019** The sampling under NDPS act shall be done under the supervision of the Magistrate.
- TS - Budget Estimates 2019-20 – Budget Release Order for Rs.944,52,000/- to the Director of Prosecutions, Telangana State, Hyderabad – Administrative Sanction -Orders – Issued.- G.O.Rt.No. 421 LAW (LA, LA&J-HOME-COURTS-B2) DEPARTMENT
  Dated: 22-07-2019.
- HC of TS- The directions for parity of disposals and institutions, cease to operate- ROC No. 1365/OP-Cell/2019 dt. 11.07.2019.

- the Muslim Women (Protection of Rights on Marriage) Act, 2019, Gazette dated 31.07.2019, to have effect from 19.09.2019.
- the Banning of Unregulated Deposit Schemes Act, 2019, Gazette dated 31.07.2019, to have effect from 21.02.2019.
- The offences under Sec 370 IPC & 370A IPC AND Sec 25 IAA of Arms Act AND 65F of IT Act brought under the jurisdiction of NIA, in addition to conferring extra territorial jurisdiction beyond INDIA, and defining the Designated Sessions courts in place of Special courts- vide NIA Act Amendment dated 24.07.2019.
- The Aadhaar and Other Laws (Amendment) Ordinance, 2019 is hereby repealed by the The Aadhaar and Other Laws (Amendment) Act, 2019- published in Government of India gazette dated 24.07.2019.

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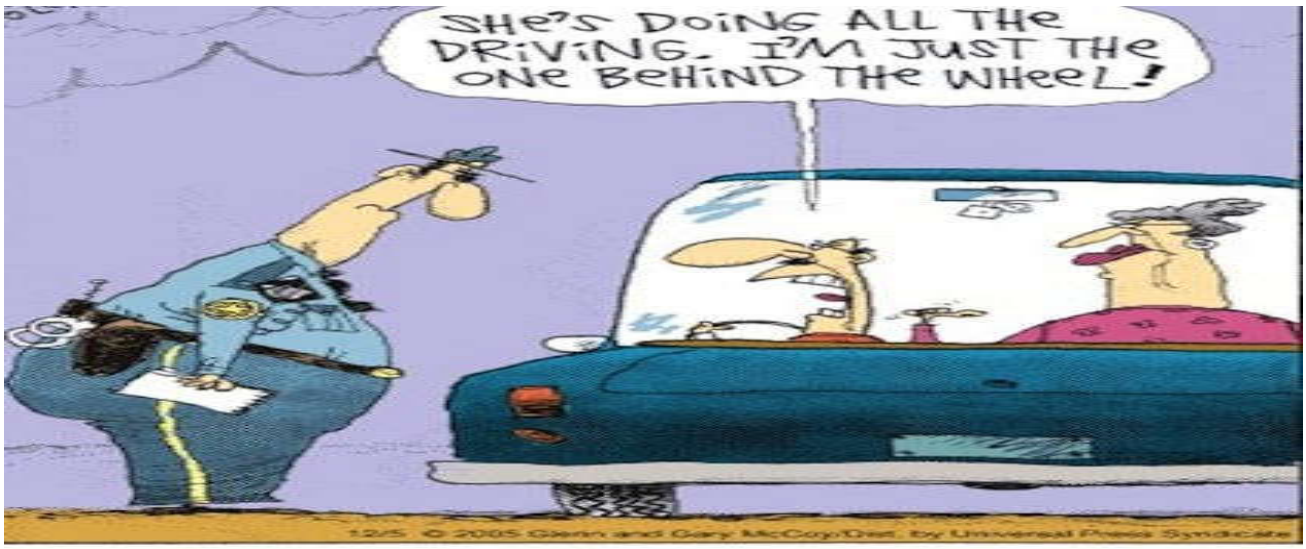

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SAVE PAPER SAVE TREES.

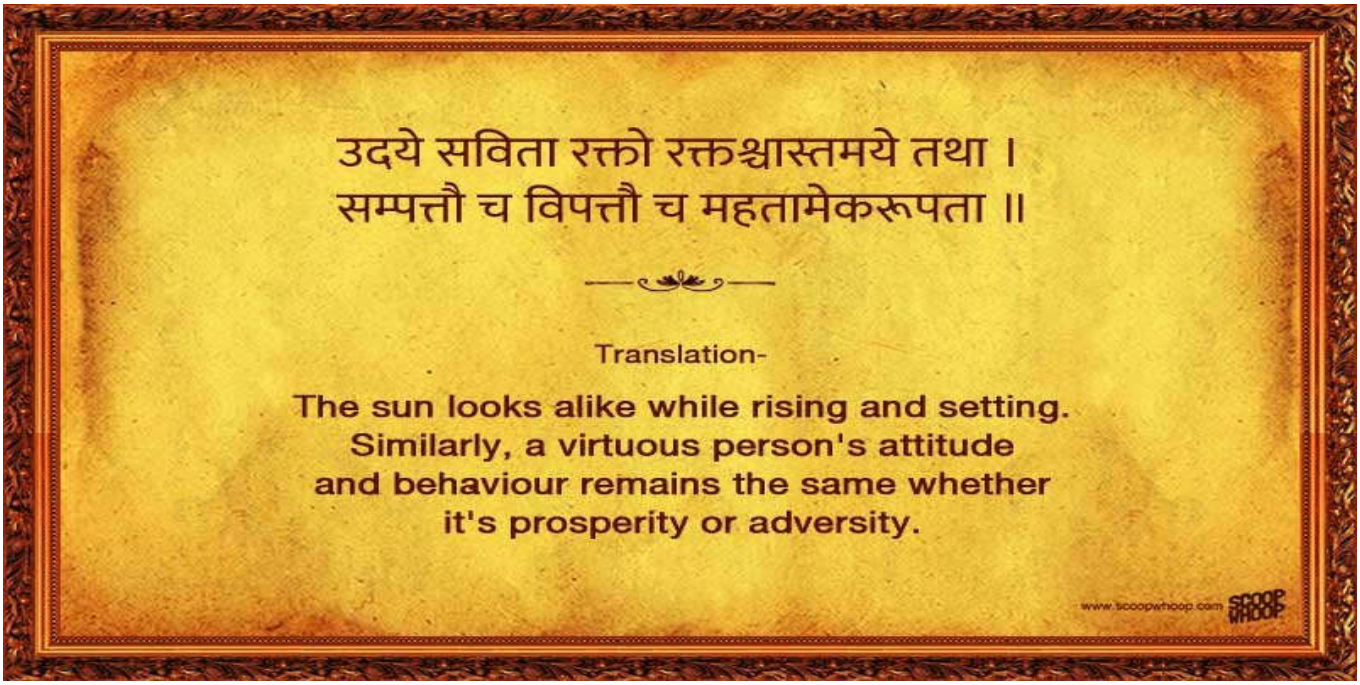
Vol- VIII
Part-9

Prosecution Replenish

An Endeavour for Learning and Excellence

September, 2019

Aano Bhadra Krtavo Yantu Vishwatah.(RIG VEDAM)
"Let Noble Thoughts Come To Me From All Directions"



CITATIONS

A priori, the exercise to be undertaken by the Court at this stage - of giving reasons for grant or non-grant of bail - is markedly different from discussing merits or demerits of the evidence. The elaborate examination or dissection of the evidence is not required to be done at this stage. The Court is merely expected to record a finding on the basis of broad probabilities regarding the involvement of the accused in the commission of the stated offence or otherwise. From the analysis of the impugned judgment, it appears to us that the High Court has ventured into an area of examining the merits and demerits of the evidence. For, it noted that the evidence in the form of statements of witnesses under Section 161 are not admissible. Further, the documents pressed into service by the Investigating Agency were not admissible in evidence. It also noted that it was unlikely that the document had been recovered from the residence of Ghulam Mohammad Bhatt till 16th August, 2017 (paragraph 61 of the impugned judgment). Similarly, the approach of the High Court in completely discarding the statements of the protected witnesses recorded under Section 164 of Cr.P.C., on the specious ground that the same was kept in a sealed cover and was not even perused by the Designated Court and also because reference to such statements having been recorded was not found in the charge-sheet already filed against the respondent is, in our opinion, in complete disregard of the duty of the Court to record its opinion that the accusation made against the concerned accused is prima facie true or otherwise. That opinion must be reached by the Court not only in reference to the accusation in the FIR but also in reference to the contents of the case diary and including the charge-sheet (report under Section 173 of Cr.P.C.) and other material gathered by the Investigating Agency during investigation. Be it noted that the special provision, Section 43D of the 1967 Act, applies right from the stage of registration of FIR for offences under Chapters IV and VI of the 1967 Act until the conclusion of the trial thereof. To wit, soon after the arrest of the accused on the basis of the FIR registered against him, but before filing of the charge-sheet by the Investigating Agency; after filing of the first charge-sheet and before the filing of the supplementary or final charge-sheet consequent to further investigation under Section 173(8) Cr.P.C., until framing of the charges or after framing of the charges by the Court and recording of evidence of key witnesses etc. However, once charges are framed, it would be safe to assume that a very strong suspicion was founded upon the materials before the Court, which prompted the Court to form a presumptive opinion as to the existence of the

factual ingredients constituting the offence alleged against the accused, to justify the framing of charge. In that situation, the accused may have to undertake an arduous task to satisfy the court that despite the framing of charge, the materials presented along with the charge-sheet (report under Section 173 of Cr.P.C.), do not make out reasonable grounds for believing that the accusation against him is prima facie true. Similar opinion is required to be formed by the Court whilst considering the prayer for bail, made after filing of the first report made under Section 173 of the Code, as in the present case.

19. For that, the totality of the material gathered by the Investigating Agency and presented along with the report and including the case diary, is required to be reckoned and not by analysing individual pieces of evidence or circumstance. In any case, the question of discarding the document at this stage, on the ground of being inadmissible in evidence, is not permissible. For, the issue of admissibility of the document/evidence would be a matter for trial. The Court must look at the contents of the document and take such document into account as it is.

2019 0 AIR(SC) 1734; 2019 5 SCC 1; 2019 4 Supreme 1; 2019 0 Supreme(SC) 384; NATIONAL INVESTIGATION AGENCY Vs. ZAHOOR AHMAD SHAH WATALI

In order to see whether any prima facie case against accused for taking its cognizable is made out or not, Court is only required to see allegations made in complaint.

Mere pendency of a civil suit is not an answer to question as to whether a criminal case is made out or not.

2019 6 SCC 107; 2019 2 SCC Cri 734; 2019 2 PLJR(SC) 323; 2019 4 Supreme 592; 2019 0 Supreme(SC) 454; Md. Allauddin Khan Vs. The State of Bihar & Ors;

The question as to whether a manager of nationalized bank can claim benefit of Section 197 Cr.P.C. is not res integra. This Court in K.CH. Prasad vs. Smt. J. Vanalatha Devi and Others, (1987) 2 SCC 52 had occasion to consider the same very question in reference to one, who claimed to be a public servant working in a nationalized bank. The application filed by appellant in above case questioning the maintainability of the prosecution for want of sanction under Section 197 Cr.P.C. was rejected by Metropolitan Magistrate and revision to the High Court also met the same fate. This Court while dismissing the appeal held that even though a person working in a nationalized bank is a public servant still provisions of Section 197 are not attracted at all.

The Magistrate, at any stage prior to final trial, is to avoid any conclusive opinion regarding any evidence collected during investigation. It is true that evidence collected in the investigation can be looked into to form an opinion as to whether prima facie charge is made out against an accused and what is the nature of offence alleged against him.

2019 6 SCC 111; 2019 2 SCC Cri 737; 2019 4 Supreme 730; 2019 0 Supreme(SC) 499; S.K. MIGLANI Vs. STATE NCT OF DELHI

Plea of juvenility can be raised at any stage of case.

2019 2 SCC Cri 750; 2019 6 SCC 132; 2019 4 Supreme 590; 2019 0 Supreme(SC) 453; Ashok Kumar Mehra & Anr. Vs. The State of Punjab

There cannot be any dispute that a dying declaration can be the sole basis for convicting the accused. However, such a dying declaration should be trustworthy, voluntary, blemishless and reliable. In case the person recording the dying declaration is satisfied that the declarant is in a fit medical condition to make the statement and if there are no suspicious circumstances, the dying declaration may not be invalid solely on the ground that it was not certified by the doctor. Insistence for certification by the doctor is only a rule of prudence, to be applied based on the facts and circumstances of the case. The real test is as to whether the dying declaration is truthful and voluntary. It is often said that man will not meet his maker with a lie in his mouth. However, since the declarant who makes a dying declaration cannot be subjected to cross-examination, in order for the dying declaration to be the sole basis for conviction, it should be of such a nature that it inspires the full confidence of the court.

In the absence of the Doctor, it is imperative for the person taking down the dying declaration to satisfy himself about the fitness of the victim to make a statement.
2019 2 SCC Cri 754; 2019 6 SCC 145; 2019 4 Supreme 726; 2019 0 Supreme(SC) 517; POONAM BAI Vs. THE STATE OF CHHATTISGARH (THREE JUDGE BENCH).

In the present case too, where the witness Dr. I. Yusuf is residing in Nigeria, in order to avoid inconvenience to the witness as also to the parties, issuing of commission and recording his evidence through video-conferencing appears to be a viable alternative; and the Trial Court need to take all the requisite steps so as to ensure that his evidence comes on record with least inconvenience and/or burden to the parties and the witness.
Though it is expected that the trial of a sessions case should proceed with reasonable expedition and pendency of such a matter for about 8-9 years is not desirable but then, the length/duration of a case cannot displace the basic requirement of ensuring the just decision after taking all the necessary and material evidence on record. In other words, the age of a case, by itself, cannot be decisive of the matter when a prayer is made for examination of a material witness.
2019 2 ALT Crl 361(SC); 2019 6 SCC 203; 2019 2 SCC Cri 765; 2019 2 PLJR(SC) 279; 2019 4 Supreme 685; 2019 0 Supreme(SC) 462; MANJU DEVI VS STATE OF RAJASTHAN

an application was filed on behalf of the prosecution under Section 242 Cr.P.C. to bring on record the authorisation for investigation issued to Shri V.K. Reddy. On 11.03.2008 it was dismissed on the ground that no proper explanation had been furnished for not filing the same along with the charge-sheet.
The failure to bring the authorisation on record, as observed, was more a matter of procedure, which is but a handmaid of justice. Substantive justice must always prevail over procedural or technical justice. To hold that failure to explain delay in a procedural matter would operate as res judicata will be a travesty of justice considering that the present is a matter relating to corruption in public life by holder of a public post. The rights of an accused are undoubtedly important, but so is the rule of law and societal interest in ensuring that an alleged offender be subjected to the laws of the land in the larger public interest. To put the rights of an accused at a higher pedestal and to make the rule of law and societal interest in prevention of crime, subservient to the same cannot be considered as dispensation of justice. A balance therefore has to be struck. A procedural lapse cannot be placed at par with what is or may be substantive violation of the law.
Sec 362 CrPC was wrongly applied for sec 242 CrPC petition.
2019 2 ALD Crl 331 SC; 2019 6 SCC 357; 2019 2 SCC Cri 796; 2019 0 Supreme(SC) 548; STATE REPRESENTED BY INSPECTOR OF POLICE CENTRAL BUREAU OF INVESTIGATION Vs. M. SUBRAHMANYAM

If the applications submitted by the Investigating Officer/SHO and the orders passed thereon are considered, those were the applications to discharge/release the appellants herein from custody as at that stage the appellants were in judicial custody. Therefore, as such, those orders cannot be said to be the orders of discharge in stricto sensu. Those are the orders discharging the appellants from custody. Under the circumstances, the submission on behalf of the accused that as they were discharged by the learned Magistrate and therefore it was not open to the learned Magistrate to exercise the power under Section 319 of the CrPC and to summon the appellants to face the trial, cannot be accepted.
2019 6 SCC 368; 2019 2 SCC Cri 801; 2019 0 AIR(SC) 2168; 2019 0 Supreme(SC) 524; Rajesh & Ors. Vs. State of Haryana

After referring to various judgments, in Sachida Nand Singh [(1998) 2 SCC 493; 1998 SCC Cri 660], it was held as under:-
“11. The scope of the preliminary enquiry envisaged in Section 340(1) of the Code is to ascertain whether any offence affecting administration of justice has been committed in respect of a document produced in court or given in evidence in a proceeding in that Court. In other words, the offence should have been committed during the time when the document was in custodia legis.

12. It would be a strained thinking that any offence involving forgery of a document if committed far outside the precincts of the Court and long before its production in the Court, could also be treated as one affecting administration of justice merely because that document later reached the court records."

2019 2 SCC Cri 826; 2019 6 SCC 477; 2019 0 AIR(SC) 2280; 2019 0 Supreme(SC) 546; Sasikala Pushpa and Others Vs. State of Tamil Nadu

Close relationship of witness with the deceased or victim is no ground to reject his evidence. On the contrary, close relative of the deceased would normally be most reluctant to spare the real culprit and falsely implicate an innocent one.

The nature of injuries especially injury in the back of head led him to believe that bullet entered from back of the head and came out of the mouth. The above impression recorded in the inquest report was only opinion of person preparing inquest report and due to the above impression recorded in the inquest report and no bullet having been found in the post mortem report, it cannot be concluded that incident did not happen in a manner as claimed by the prosecution. The mention of bullet injury was only an opinion of the officer writing the inquest report and in no manner belies the prosecution case as proved by eyewitnesses PW11 and PW13.

The mere fact that he did not mention name of Ram Pravesh Dubey cannot lead to the inference that Ram Pravesh Dubey was not involved in the incident. There may be several reasons due to which, he could not see Ram Pravesh Dubey. When PW11 and PW13, whose evidence has been relied by the trial court as well as High Court, have categorically proved the presence of Ram Pravesh Dubey and his participation in the occurrence. The mere fact that PW5 did not see Ram Pravesh Dubey fleeing is not conclusive nor on that basis, we can come to any inference that Ram Pravesh Dubey was not involved in the occurrence.

2019 2 SCC Cri 844; 2019 6 SCC 501; 2019 0 AIR(SC) 2275; 2019 0 Supreme(SC) 558; SHIO SHANKAR DUBEY & ORS.Vs. STATE OF BIHAR

However, Article 32 which is itself a fundamental right cannot be rendered nugatory in a glaring case of deprivation of liberty as in the instant case, where the jurisdictional Magistrate has passed an order of remand till 22.06.2019 which means that the petitioner's husband- Prashant Kanojia would be in custody for about 13/14 days for putting up posts/tweets on the social media. (SC DELIVERED ORDERS IN WRIT OF HABEAS CORPUS, EVEN AFTER THE VICTIM WAS REMANDED TO JUDICIAL CUSTODY)

2019 2 SCC Cri 881; 2019 6 SCC 619; 2019 0 Supreme(SC) 673; JAGISHA ARORA Vs. THE STATE OF UTTAR PRADESH & ANR.

normal discrepancies which are due to normal errors of observation which, in our view, do not affect the trustworthiness of these witnesses.

The antecedents of the prosecution witnesses cannot be the ground for doubting their version.

mention of inquest number in the FIR does not affect the prosecution case nor does it affect the credibility of the eye witnesses.

The case of prosecution, in our view, cannot be doubted on the ground of delay in receipt of the FIR in the court.

It is well settled that the oral evidence has to get primacy since medical evidence is basically opinionative.

The inconsistencies pointed out in the evidence of eyewitnesses inter se and the alleged inconsistencies between the evidence of eye-witnesses and that of the medical evidence are minor contradictions and they do not shake the prosecution case. The evidence of eye witnesses are the eyes and ears of justice.

When the case of the prosecution is based on the eye-witnesses, the indecisive opinion given by the experts would not affect the prosecution case.

The essence of liability under Section 34 IPC is simultaneous conscious mind of persons participating in the criminal action to bring about a particular result. Minds regarding sharing of common intention gets satisfied when an overt act is established qua each of the accused. Common intention implies pre-arranged plan and acting in concert pursuant to the pre-arranged plan. Criminal act mentioned in

Section 34 IPC is the result of the concerted action of more than one person and if the said result was reached in furtherance of common intention, each person is liable for the offence as if he has committed the offence by himself.
2019 2 ALD Crl 272 SC; 2019 1 Crimes(SC) 169; 2019 2 RCR(Cri) 100; 2019 4 Scale 631; 2019 3 Supreme 328; 2019 0 Supreme(SC) 184; BALVIR SINGH Vs STATE OF MADHYA PRADESH (Batch)

Magistrate cannot take cognizance of offence u/s 193 on basis of a private complaint. Procedure under sec 340 CrPC has to be adhered.
2019 2 ALD Crl 285 SC; 2019 0 AIR(SC) 2675; 2019 106 AllCriC 996; 2019 1 BomCR(Cri)(SC) 634; 2019 1 Crimes(SC) 49; 2019 0 CrLR 174; 2019 1 JLJR(SC) 505; 2019 1 PLJR(SC) 577; 2019 2 Scale 591; 2019 3 SCC 318; 2019 2 Supreme 314; 2019 0 Supreme(SC) 110; SH. NARENDRA KUMAR SRIVASTAVA Vs. THE STATE OF BIHAR & ORS.

It is held in the Gangadhar Behera's case that the words of a judgment cannot be treated as words in a legislative enactment. It is to be remembered that judicial orders are made in the setting of the facts of a particular case. Circumstantial flexibility, one additional or different fact may make a world of difference between conclusions in two cases, therefore, whether there was common object of the accused in each case would depend upon cumulative effects of the facts of that particular case.
the delay in the receipt of the FIR by the Judicial Magistrate is explained and cannot be made basis to reject the case of the prosecution as the FIR was proved to be lodged soon after the occurrence
Opinion of expert witness cannot be given preference over primary statement of witnesses in respect of manner of injuries suffered by them.
2019 2 ALD Crl 300 SC; 2019 0 AIR(SC) 1719; 2019 1 ALT(Cri)(SC) 225; 2019 1 Crimes(SC) 191; 2019 2 RCR(Cri) 128; 2019 4 Scale 707; 2019 5 SCC 67; 2019 3 Supreme 438; 2019 0 Supreme(SC) 192; MAHENDRAN Vs. THE STATE OF TAMIL NADU

Section 199(5) Cr.P.C made a special provision that in all cases where the Public Prosecutor made the complaint, it shall be filed within six months from the date on which the offence is alleged to have been committed and the power under Section 473 Cr.P.C cannot be invoked to extend the period of limitation prescribed under Section 199(5) Cr.P.C.
2019 2 ALD Crl 321 (HC); Ramachandra Samal Vs State of Andhra Pradesh.

The expression `circumstantial evidence' has been the subject matter of consideration in a catena of decisions wherein it has been precisely defined as a combination of such facts that there is no escape for the accused because the facts taken as a whole do not admit to any inference but of his guilt. It has also been coined as a Complete Chain Link Theory, putting onus on the prosecution to prove beyond reasonable doubt, the chain of events which lead to only one conclusion, namely, the culpability of the accused.
The statement made by an accused while in police custody can be split in two parts and to the extent of it being a disclosure statement which is the immediate cause of discovering new facts, would be legally admissible in evidence though the remainder of such statement may be liable to be discarded.
It is no longer debatable that the Identification Parade of the accused before the Court is not the main substantive piece of evidence, rather it is corroborative in nature. [Please see: (i) Rafikul Alam v. State of West Bengal (2007) SCC Online Cal. 728 or (2008) 1 CHN 685; (ii) Navaneethakrishnan v. State by Inspector of Police (2018) 16 SCC 161].
2019 (2) ALT Crl 339(SC); 2019 LF(SC) 655; AIR 2019 SC 3119, AIR 2019 SCW 3119, 2019 (3) CRIMES(SC) 132; Ramesh Dasu Chauhan & Anr V/S The State of Maharashtra

As regards the contention that all the eye-witnesses are close relatives of the deceased, it is by now well-settled that a related witness cannot be said to be an 'interested' witness merely by virtue of being a relative of the victim.
"Related" is not equivalent to "interested". A witness may be called "interested" only when he or she derives some benefit from the result of a litigation; in the decree in a civil case, or in seeing an accused person punished. A witness who is a natural one and is the only possible eye witness in the

circumstances of a case cannot be said to be "interested"..."
Furthermore, though the counsel for the appellants tried to convince the Court with regard to minor discrepancies in the evidence of the six eye-witnesses with respect to the manner in which the assault took place, such attempt remains futile and cannot be accepted, inasmuch as minor variations in the evidence of the witnesses are bound to occur in a case like the one on hand, wherein a number of accused came in a group and assaulted a few persons suddenly and mercilessly, out of which a few died and others sustained injuries. We do not find any major contradiction in the evidence of the eye-witnesses.
2019 2 ALD Crl 349 (SC); 2019 0 AIR(SC) 1128; 2019 1 Crimes(SC) 165; 2019 2 RCR(Cri) 108; 2019 3 Scale 877; 2019 3 Supreme 324; 2019 0 Supreme(SC) 182; Md. Rojali Ali And Others Vs. The State Of Assam Ministry of Home Affairs through the Secretary

A person against whom serious offences have been added, who is already on bail can very well be directed to be arrested and committed to custody by the Court in exercise of power under Sections 437(5) and 439(2). Cancelling the bail granted to an accused and directing him to arrest and taken into custody can be one course of the action, which can be adopted while exercising power under Sections 437(5) and 439(2), but there may be cases where without cancelling the bail granted to an accused, on relevant consideration, Court can direct the accused to be arrested and committed to custody. The addition of serious offences is one of such circumstances, under which the Court can direct the accused to be arrested and committed to custody despite the bail having been granted with regard to the offences with which he was charged at the time when bail was considered and granted.
2019 LF(SC) 695; 2019 2 ALT Crl 387(SC); AIR 2019 SC 3193, AIR 2019 SCW 3193, 2019 (3) CRIMES(SC) 110; Pradeep Ram V/S State of Jharkhand & Anr

In terms of the scheme of Rule 12 of the Juvenile Justice (Care and Protection of Children) Rules 2007, the committee constituted has been entrusted to hold inquiry by seeking evidence in support of the respective claim has to first consider if there is a matriculation certificate available, in the first instance. In absence thereof, the date of birth certificate from the school (other than the play school) first attended; and in absence, the birth certificate given by the Corporation or a Municipal Corporation or a Panchayat in the descending form has to be considered as the basis for the purpose of determination of age of the juvenile.
2019 LF(SC) 673; 2019 2 ALT Crl 413(SC); AIR 2019 SC 3419, AIR 2019 SCW 3419, 2019 (3) CRIMES(SC) 143; PRATAP SINGH @ PIKKI V/S STATE OF UTTARAKHAND

if the Magistrate was convinced on the basis of the consideration of the final report, the statements under Section 161 of the Code that no prima facie case is made out, certainly the Magistrate could not be compelled to take cognizance by treating the protest petition as a complaint. The fact that he may have jurisdiction in a case to treat the protest petition as a complaint, is a different matter. Undoubtedly, if he treats the protest petition as a complaint, he would have to follow the procedure prescribed under Section 200 and 202 of the Code if the latter Section also commends itself to the Magistrate. In other words, necessarily, the complainant and his witnesses would have to be examined. No doubt, depending upon the material which is made available to a Magistrate by the complainant in the protest petition, it may be capable of being relied on in a particular case having regard to its inherent nature and impact on the conclusions in the final report. That is, if the material is such that it persuades the court to disagree with the conclusions arrived at by the Investigating Officer, cognizance could be taken under Section 190(1)(b) of the Code for which there is no necessity to examine the witnesses under Section 200 of the Code. But as the Magistrate could not be compelled to treat the protest petition as a complaint, the remedy of the complainant would be to file a fresh complaint and invite the Magistrate to follow the procedure under Section 200 of the Code or Section 200 read with Section 202 of the Code.
It is true that law mandates notice to the informant/complainant where the Magistrate contemplates accepting the final report. On receipt of notice, the informant may address the court ventilating his objections to the final report. This he usually does in the form of the protest petition.
2019 2 ALT Crl 445 (SC); https://indiankanoon.org/doc/80081494/; Vishnu Kumar Tiwari vs The State Of Uttar Pradesh.

Although the learned counsel for the appellant is justified in pointing out the lacunae in the investigation, but the benefit of a faulty investigation cannot be given to the accused, especially, when the prosecution has produced cogent and convincing evidence against the accused persons.

Repeatedly, it has come to the notice of this Court that the investigating agencies leave gaping holes in their investigation. Despite the availability of ample clues, the investigation is not taken to its logical conclusion. At times, the statement of the eyewitness is not recorded by the police; at times, the statements recorded under Section 161 Cr.P.C. are not submitted along with the charge-sheet. Many a times, the weapon of crime, although recovered at the instance of the alleged accused, is not sent to the FSL for its opinion. Most of the time, the blood of the deceased is never collected and sent to the FSL for its grouping. Some of the times, even if the clothes worn by the accused are bloodstained, they are seldom recovered by the police. Even if they are 12 recovered, they are hardly sent to the FSL for serological report. A few times, objects recovered, or persons arrested are not subjected to Test Identification Parade. These lacunae give easy exist to the accused to escape from the clutches of the law.

Instead of collecting the tell-tale signs of a crime, invariably, both the investigating agency, and the prosecution rely on the alleged “confessional statement” made by the accused while he is in the police custody. Despite the bar contained in Section 25 of the Evidence Act, against the use of such a “confessional statement”, the trial Courts rely on such “statements” in order to convict the accused. Needlesstosay, the lacunae left by the investigating agencies prevent the Court from convicting the accused persons. Invariably, this leads to a high rate of acquittal, and to a low rate of conviction. Therefore, the police department needs to train its officers well with regard to importance of fair and impartial investigation, and with regard to the depth of investigation. It further needs to issue circulars with regard to the extent of investigation. It also needs to supervise the investigation, in grave offences, by its senior and experienced officers, rather than leaving the investigation at the mercy of over-burdened investigating officers. It is trite to state that poor investigation lessens the rate of conviction, which, in turn, shakes the faith of the people in the functioning of the judiciary and in the administration of criminal justice system. Therefore, a faulty investigation undermines the rule of law. Hence, faulty investigations have to be taken seriously by the investigating agencies.

2019 2 ALT Crl 322(DB)(TS); Kadamanchi Laxmi Vs. State of Andhra Pradesh

In fact, it is only at the crime stage and as per Section 156(2) Cr.P.C. on the police officer’s power to investigate a cognizable offence no proceedings of a police officer shall at any stage of the investigation be called in question on the ground that the case was one which such officer is not empowered under the sections to investigate. The jurisdiction aspect arises only for cognizance and not for investigation and it is premature to go into as to the territorial jurisdiction aspect, but for to raise if at all any cognizance taken at the later stage

2019 2 ALT Crl 343 (TS); Villa Veera Nagendra Kumar Vs State of Telangana.

NOSTALGIA

Evidence through Video conferencing:

in State of Maharashtra v. Dr. Praful B. Desai : (2003) 4 SCC 601 where this Court approved of the process of recording the evidence of a witness in the criminal trial through video-conferencing when the witness was found residing/situate in the United States of America but whose evidence was essential for the case set up by the prosecution. This Court observed, inter alia, as under:-

"20. Recording the evidence by video-conferencing also satisfies the object of providing, in Section 273, that evidence be recorded in the presence of the Accused. The Accused and his pleader can see the witness as clearly as if the witness was actually sitting before them. In fact the Accused may be able to see the witness better than he may have been able to if he was sitting in the dock in a crowded Court room. They can observe his or her

demeanour. In fact the facility to play back would enable better observation of demeanour. They can hear and rehear the deposition of the witness. The Accused would be able to instruct his pleader immediately and thus cross-examination of the witness is as effective if not better. The facility of play back would give an added advantage whilst cross-examining the witness. The witness can be confronted with documents or other material or statement in the same manner as if he/she was in Court. All these objects would be fully met when evidence is recorded by video-conferencing. Thus no prejudice, of whatsoever nature, is caused to the Accused. Of course, as set out hereinafter, evidence by videoconferencing has to be on some conditions."

Thereafter, with reference to Sections 284 and 285 Cr.P.C, this Court further observed that,-

"22. ..... Thus in cases where the witness is necessary for the ends of justice and the attendance of such witness cannot be procured without an amount of delay, expense or inconvenience which, under the circumstances of the case would be unreasonable, the Court may dispense with such attendance and issue a commission for examination of the witness. ..... Normally a commission would involve recording evidence at the place where the witness is. However advancement in science and technology has now made it possible to record such evidence by way of video-conferencing in the town/city where the Court is. Thus in case where the attendance of a witness cannot be procured without an amount of delay, expense or inconvenience the Court could consider issuing a commission to record the evidence by way of videoconferencing."

Court to give notice of Charge sheet filed by police, by deleting some accused:

In the case of S. Mohammed Ispahani v. Yogendra Chandak (2017) 16 SCC 226 in para 35, this Court has observed and held as under:

"35. It needs to be highlighted that when a person is named in the FIR by the complainant, but police, after investigation, finds no role of that particular person and files the charge-sheet without implicating him, the Court is not powerless, and at the stage of summoning, if the trial court finds that a particular person should be summoned as accused, even though not named in the charge-sheet, it can do so. At that stage, chance is given to the complainant also to file a protest petition urging upon the trial court to summon other persons as well who were named in the FIR but not implicated in the charge-sheet. Once that stage has gone, the Court is still not powerless by virtue of Section 319 CrPC. However, this section gets triggered when during the trial some evidence surfaces against the proposed accused."

NEWS

- GOVERNMENT OF ANDHRA PRADESH- Public Services – Prosecution Department - Additional Public Prosecutors Grade-II fit for promotion to the category of Additional Public Prosecutors Grade-I/Deputy Director of Prosecutions for the panel year 2018-19- Inclusion of the names of eligible Additional Public Prosecutors Grade-II - Orders – Issued- G.O.MS.No. 102 HOME (COURTS.A) DEPARTMENT Dated: 29-08-2019.
- The Protection of Children from Sexual Offences (Amendment) Act, 2019 is published in the Gazette of India Dt. 6.8.2019.
- The Motor Vehicles (Amendment) Act, 2019 (32 of 2019)came into force from the 1st day of September, 2019
- The Protection of Children from Sexual Offences (Amendment) Act, 2019 (25 of 2019) has come into force from 16th August, 2019.

THE COPIES OF THESE CIRCULARS, GAZETTES MENTIONED IN NEWS SECTION OF THIS LEAFLET ARE AVAILABLE IN OUR "PROSECUTION REPLENISH" CHANNEL IN TELEGRAM APP. "*http://t.me/prosecutionreplenish*"

ON A LIGHTER VEIN

The Seven Wonders

Anna was a 9-year-old girl from the small village. She finished attending elementary school till 4th grade at her village. For the 5th grade onwards, she will have to get an admission in a school at a city nearby. She got very happy knowing that she was accepted in a very reputed school in a city. Today was the first day of her school and she was waiting for her school bus. Once the bus came, she got in it quickly. She was very excited.

Once the bus reached to her school, all students started going to their classes. Anna also made it to her classroom after asking fellow students for direction. Upon seeing her simple clothing and knowing she is from a small village, other students started making fun of her. The teacher soon arrived and she asked everyone to keep quiet. She introduced Anna to the class and told that she will be studying with them only from today.

Then the teacher told the students to be ready for the surprise test now! She told everyone to write down the 7 wonders of the world. Everyone started writing the answer quickly. Anna started to write the answer slowly.

When everyone except Anna had submitted their answer paper, the teacher came and asked Anna, "What happened Dear? Don't worry, Just write what you know as other students have learned about it just a couple of days back".

Anna replied, "I was thinking that there are so many things, which 7 I can pick to write!" And, then she handed her answer paper to the teacher.

The teacher started reading everyone's answers and the majority had answered them correctly such as The Great Wall of China, Colosseum, Stonehedge, Great Pyramid of Giza, Leaning Tower of Pisa, Tajmahal, Hanging Gardens of Babylon etc.

The teacher was happy as students had remembered what she had taught them. At last the teacher picked up Anna's answer paper and started reading.

"The 7 Wonders are – To be able to See, To be able to Hear, To be able to Feel, To Laugh, To Think, To be Kind, To Love!"

The teacher stood stunned and the whole class was speechless. Today, a girl from the small village reminded them about the precious gifts that god has given us, which are truly a wonder.

Moral: Value what you have, use what you have, trust what you have. You don't always have to look away to find an inspiration. God has given you all the strength to reach your goals.

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BOOK-POST

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Suggestions; articles and responses welcome to make this as the most informative leaflet

SAVE PAPER SAVE TREES.

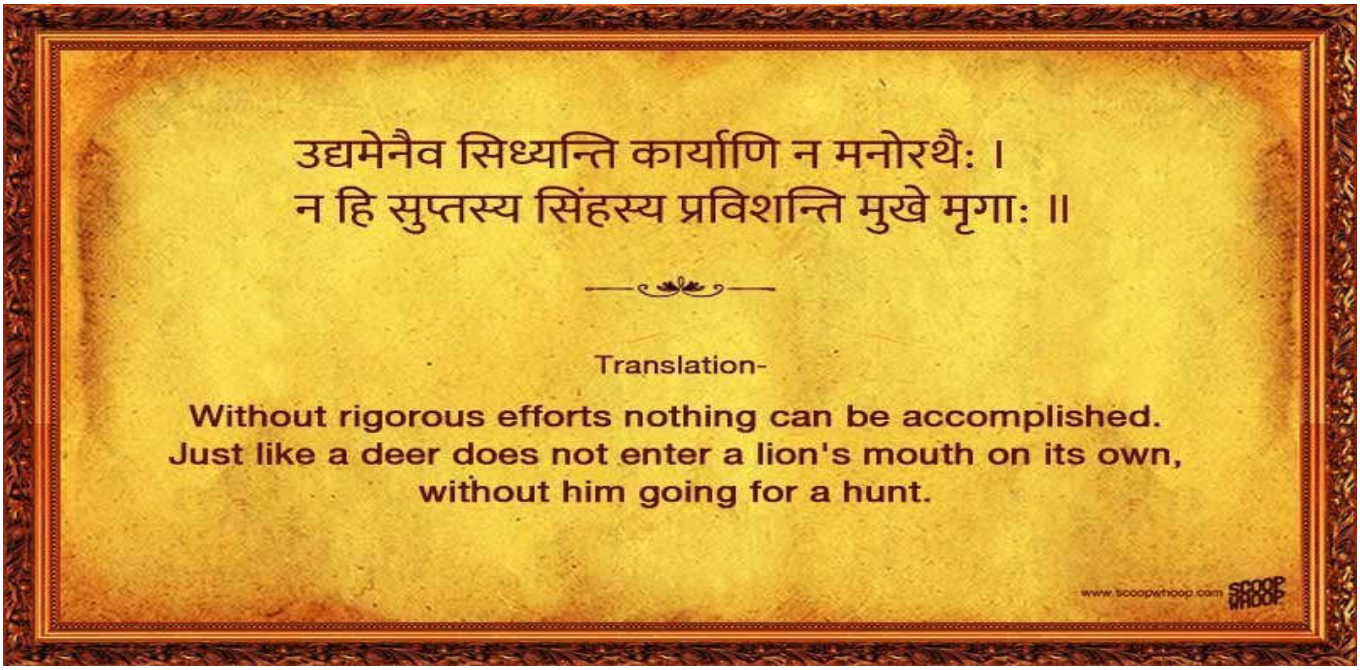
Vol- VIII
Part-10

Prosecution Replenish

An Endeavour for Learning and Excellence

October, 2019

Aano Bhadra Krtavo Yantu Vishwatah.(RIG VEDAM)
"Let Noble Thoughts Come To Me From All Directions"



CITATIONS

Accused 'X' VS State of Maharashtra, 12 Apr 2019 ; 2019 0 AIR(SC) 3031; 2019 2 ALT(Cri)(SC) 167; 2019 2 ALD Crl 428(SC); 2019 2 BomCR(Cri)(SC) 609; 2019 2 JLJ 604; 2019 2 KHC 856; 2019 1 KLD 762; 2019 2 KLJ 704; 2019 2 KLT 527; 2019 7 SCC 1; 2019 4 Supreme 454; 2019 0 Supreme(SC) 450;

When minimum sentence is proposed to be imposed upon the accused, the question of providing an opportunity under Section 235(2) would not arise.

The Trial court need not adjourn the case for hearing on 235(2) CrPC.

If Trial court failed to hear the accused on sentence, the appellate court can hear the accused on the sentence. There is no need for remand of the case.

Sec 465 CrPC saves the hearing on sentence, and the trial is not vitiated.

Post conviction mental illness is a mitigating factor to reduce the Death sentence to life sentence.

In order to address the same, the Mental Healthcare Act, 2017 was brought into force. The aspiration of the Act was to provide mental health care facility for those who are in need including prisoners. The State Governments are obliged under Section 103 of the Act to setup a mental health establishment in the medical wing of at least one prison in each State and Union Territory, and prisoners with mental illness may ordinarily be referred to and cared for in the said mental health establishment.

Srilekha Sentilkumar VS Deputy Superintendent of Police, CBI, ACB, Chennai, 01 Jul 2019; 2019 0 AIR(SC) 3126; 2019 7 SCC 82; 2019 0 Supreme(SC) 701;

the issues urged by the appellant and the same having been refuted by the respondent are such that they can be decided more appropriately and properly during trial after evidence is adduced by the parties rather than at the time of deciding the application made under Section 239 of the Cr.P.C.

ASIM SHARIFF VS NATIONAL INVESTIGATION AGENCY, 01 Jul 2019; 2019 0 AIR(SC) 3083; 2019 7 SCC 148; 2019 0 Supreme(SC) 700;

Taking note of the exposition of law on the subject laid down by this Court, it is settled that the Judge while considering the question of framing charge under Section 227 CrPC in sessions cases(which is akin to Section 239 CrPC pertaining to warrant cases) has the undoubted power to sift and weigh the evidence for the limited purpose of finding out whether or not a prima facie case against the accused has been made out; where the material placed before the Court discloses grave suspicion against the accused which has not been properly explained, the Court will be fully justified in framing the charge;

by and large if two views are possible and one of them giving rise to suspicion only, as distinguished from grave suspicion against the accused, the trial Judge will be justified in discharging him. It is thus clear that while examining the discharge application filed under Section 227 CrPC, it is expected from the trial Judge to exercise its judicial mind to determine as to whether a case for trial has been made out or not. It is true that in such proceedings, the Court is not supposed to hold a mini trial by marshalling the evidence on record.

RAM GOPAL VS CENTRAL BUREAU OF INVESTIGATION, DEHRADUN, 22 Jul 2019
2019 7 SCC 204; 2019 0 Supreme(SC) 764;
The hand writing expert DW1 relied upon by the appellants gave his report based on photocopies of the writing and signatures of the appellants and not on the basis of their specimen signatures. During the course of hearing we asked the counsel for the appellants if they had filed any objection to the report of the handwriting expert relied upon by the prosecution. It was fairly stated that they did not do so.
merely because the investigation may not have been of the standard and nature that it ought to have been cannot enure to the benefit of the appellants in view of the nature of materials and evidence available against them.

PRATAP SINGH @ PIKKI VS STATE OF UTTARAKHAND, 12 Jul 2019: 2019 0 AIR(SC) 3419; 2019 7 SCC 424; 2019 3 SCC(Cri) 60; 2019 0 Supreme(SC) 737;
In the instant case, admittedly, the secondary school certificate was issued to the appellant in the year 1993 on 5th June, 1993 in which his recorded date of birth is 13th June, 1977. In the given circumstances, when the appellant has failed to place any supporting material on record while obtaining the date of birth certificate at the later stage on 14th September, 2010, the reliable evidence on record can be discerned from his own certificate issued by the statutory board(CBSE) from where he passed out Secondary and Senior School Examination in the year 1993 and 1995 where his recorded date of birth is 13th June, 1977. In the given circumstances this Court is clear in its view that the appellant was not a juvenile and has crossed the age of 18 years by few days on the date of incident, i.e. 18th June, 1995 and the protection of the Juvenile Justice Act was not available to him.

Ramesh Dasu Chauhan VS State of Maharashtra, 04 Jul 2019; 2019 0 AIR(SC) 3119; 2019 7 SCC 476; 2019 3 SCC(Cri) 73; 2019 0 Supreme(SC) 718;
The statement made by an accused while in police custody can be split in two parts and to the extent of it being a disclosure statement which is the immediate cause of discovering new facts, would be legally admissible in evidence though the remainder of such statement may be liable to be discarded. The Investigating Officer, Sevakram Thaokar (P.W.11) has very emphatically deposed that out of the stolen items, Onida T.V. set was got recovered at the instance of the first appellant from his house. Similarly, the silver coin and a part of the stolen currency was recovered from the second appellant. This is not the appellants' case that they were forced to make the incriminating statements under any threat. They have chosen to defend themselves only on the basis of denial. The revelation made by the Investigating Officer to the limited extent of recovery of the stolen items pursuant to the disclosure statements made by the appellants, therefore, falls within the four-corners of Section 27 of the Evidence Act and has been rightly relied upon by the Courts below.
It is no longer debatable that the Identification Parade of the accused before the Court is not the main substantive piece of evidence, rather it is corroborative in nature.
There are more than one reasons to trust P.W.9 (Raisaheb Chourasyia). Firstly, there is no suggestion or even a whisper of any animosity between Raisaheb Chourasyia and the appellants. He had no motive to falsely implicate the appellants. Secondly, the presence of the appellants coming on red coloured motorcycle and their entry to Rajnigandha Apartments, as seen by the witness, has not been expressly denied in his cross-examination. Thirdly, P.W.9 being resident of the same Complex, is a natural and not a `chance' witness. Fourthly, Raisaheb Chourasiya's version has been fully corroborated by the other prosecution witnesses like Rani Trivedi (P.W.1), Baliram Fulari (P.W.3) and Purnima Trivedi (P.W.4). Fifthly, he is consistent throughout, be it may his statement under Section 164, Cr.PC and/or deposition on oath. Sixthly, the attempt made on the character assassination of the witness has miserably failed. We thus find no ground to suspect P.W.9 for non-existent reasons.

State By Karnataka Lokayukta Police Station, Bengaluru VS M. R. Hiremath, 01 May 2019: 2019 0 AIR(SC) 2377; 2019 2 MLJ(Cri) 676; 2019 7 SCC 515; 2019 3 SCC(Cri) 109; 2019 0 Supreme(SC) 590;

The High Court erred in coming to the conclusion that the failure to produce a certificate under Section 65B(4) of the Evidence Act at the stage when the charge-sheet was filed was fatal to the prosecution. The need for production of such a certificate would arise when the electronic record is sought to be produced in evidence at the trial. It is at that stage that the necessity of the production of the certificate would arise.

Bharatkumar Rameshchandra Barot VS State of Gujarat, 26 Mar 2018; 2018 0 AIR(SC) 1598; 2018 1 ALD(Cri)(SC) 768; 2018 2 ALT(Cri)(SC) 56; 2018 2 Crimes(SC) 360; 2018 0 CrLJ 3684; 2018 3 MLJ(Cri)(SC) 140; 2018 0 Supreme(SC) 259;

Any punishment less than the life imprisonment, as prescribed under Section 302 IPC, if awarded by any Court is per se illegal and without authority of law. Indeed, there is no such discretion left with the Court in awarding the punishment except to award the punishment which is prescribed under Section 302 IPC as mentioned above.

Abdul Wahab K. VS State of Kerala, 13 Sep 2018: 2018 0 AIR(SC) 4265; 2018 2 ALD(Cri)(SC) 902; 2018 3 Crimes(SC) 420; 2018 4 ILR(Ker) 1; 2018 4 KHC 715; 2018 0 Supreme(SC) 883;

the petitioners could not have been treated as strangers, for they had brought it to the notice of the High Court and hence, it should have applied its mind with regard to the correctness of the order. It may be said with certitude that the revision petitions filed before the High Court were not frivolous ones. They were of serious nature. It is a case where the Public Prosecutor had acted like a post office and the learned Chief Judicial Magistrate has passed an order not within the parameters of Section 321 CrPC. He should have applied the real test stipulated under Section 321 CrPC and the decisions of this Court but that has not been done.

13. We are compelled to recapitulate that there are frivolous litigations but that does not mean that there are no innocent sufferers who eagerly wait for justice to be done. That apart, certain criminal offences destroy the social fabric. Every citizen gets involved in a way to respond to it; and that is why the power is conferred on the Public Prosecutor and the real duty is cast on him/her. He/she has to act with responsibility. He/she is not to be totally guided by the instructions of the Government but is required to assist the Court; and the Court is duty bound to see the precedents and pass appropriate orders.

PERIYASAMI VS S. NALLASAMY, 14 Mar 2019; 2019 0 AIR(SC) 1426; 2019 1 Crimes(SC) 272; 2019 0 CrLJ 2054; 2019 3 JT 294; 2019 2 PLJR(SC) 275; 2019 5 Scale 234; 2019 4 SCC 342; 2019 3 Supreme 478; 2019 0 Supreme(SC) 284;

In the statements recorded under Section 161 of the Code during the course of investigation, the Complainant and his witnesses have not disclosed any other name except the 11 persons named in the FIR. Thus, the Complainant has sought to cast net wide so as to include numerous other persons while moving an application under Section 319 of the Code without there being primary evidence about their role in house trespass or of threatening the Complainant. Large number of people will not come to the house of the Complainant and would return without causing any injury as they were said to be armed with weapons like crowbar, knife and ripper etc.

The additional accused cannot be summoned under Section 319 of the Code in casual and cavalier manner in the absence of strong and cogent evidence. Under Section 319 of the Code additional accused can be summoned only if there is more than prima facie case as is required at the time of framing of charge, but which is less than the satisfaction required at the time of conclusion of the trial convicting the accused.

Sham Lal VS State of Haryana, 09 Apr 2019; 2019 0 AIR(SC) 1898; 2019 2 MPWN 1; 2019 5 SCC 460; 2019 4 Supreme 564; 2019 0 Supreme(SC) 449;

Possibility of another view cannot be a ground for reversing acquittal by the Appellate Court.

Anurag Soni VS State of Chhattisgarh, 09 Apr 2019; 2019 0 AIR(SC) 1857; 2019 0 CrLJ 2508; 2019 4 Supreme 411; 2019 0 Supreme(SC) 445;

Consent given for intercourse on false promise of marriage is a consent on misconception of fact and the accused will be guilty of rape.

Naval Kishore Mishra VS State of U. P., 05 Jul 2019: 2019 0 AIR(SC) 3352; 2019 4 KHC 241; 2019 3 KLT 510; 2019 0 Supreme(SC) 862;

In the present case the victim, thus, includes him or her guardians or legal heirs. The deceased was unmarried and the victim is the real brother and, thus, would fall under the category of legal heir of the deceased.

10. It is, however, submitted by her that the question whether the victim would also have to seek leave as would be a situation envisaged under Section 278 of the Cr.P.C. as in the case of the State has been considered and is no more res-integra in view of the recent Judgment of this Court in Mallikarjun Kodagalli (d) through legal Representatives vs. State of Karnataka and Others, 2019(2) SCC 752, where this Court opined that there is no need for a victim to apply leave to appeal against the order of acquittal while preferring an appeal under Section 372 proviso to Cr.P.C.

PRADEEP RAM VS STATE OF JHARKHAND, 01 Jul 2019: 2019 2 ALD Crl 453(SC); 2019 0 AIR(SC) 3193; 2019 0 Supreme(SC) 716;

where after grant of bail to an accused, further cognizable and non-bailable offences are added:-

(i) The accused can surrender and apply for bail for newly added cognizable and non-bailable offences. In event of refusal of bail, the accused can certainly be arrested.

(ii) The investigating agency can seek order from the court under Section 437(5) or 439(2) of Cr.P.C. for arrest of the accused and his custody.

(iii) The Court, in exercise of power under Section 437(5) or 439(2) of Cr.P.C., can direct for taking into custody the accused who has already been granted bail after cancellation of his bail. The Court in exercise of power under Section 437(5) as well as Section 439(2) can direct the person who has already been granted bail to be arrested and commit him to custody on addition of graver and non-cognizable offences which may not be necessary always with order of cancelling of earlier bail.

(iv) In a case where an accused has already been granted bail, the investigating authority on addition of an offence or offences may not proceed to arrest the accused, but for arresting the accused on such addition of offence or offences it need to obtain an order to arrest the accused from the Court which had granted the bail.

Katta Srinivas Rao @ Srinivas Vs State of A.P; June,13,2019; 2019 2 ALD Crl 483(AP);

The provision of the NDPS act, cannot be watered down by adopting a mathematical method of dividing the quantity of the substance by the number of accused.

Kancharana Venkatesh Vs State of Andhra Pradesh; 2019 2 ALD Crl 514 (AP); physical relationship on false promise of marriage and unless given a dowry of Rs.50 lakhs, attracts 417 IPC and not 420 IPC.

Old Students Association, Osmania University VS State of Andhra Pradesh, 27 Mar 2019
2019 0 Supreme(AP) 43;

The respondent – State is directed

(a) not to compel the children or college students who are not willing to participate in any State programmes, as it amounts to captive audience, except in the events celebrated on Republic day and Independence day or in any event organized in compliance with Article 51-A, clauses (a), (b), (c), (e) and (f) of the Constitution of India.

(b) If for any reason, the State authorities compel the school children or college students or any other children to participate in any programmes other than the programmes referred in clause (a) above, it would amount to violation of fundamental right guaranteed under the Constitution of India and in violation of Article 355 of Constitution of India, so also, violation of human rights of children as per United Nations Convention on the Rights of the Child, 1989 (referred supra).

(c) If for any reason, any untoward incident takes place due to such participation in future, Government shall pay compensation to such children or their families depending upon the circumstances.

Indukuri Prasada Rama Mohana Raju VS Central Bureau of Investigation, Visakhapatnam, 20 Mar 2019 ; 2019 1 ALD(Cri) 856; 2019 2 ALT(Cri) 104; 2019 0 Supreme(AP) 22;

The High Court, as was held by the Supreme Court, has not at all considered the fact that the offences alleged are not compoundable offences as per Section 320 Cr.P.C. and the High Court has not at all considered the relevant facts and circumstances of the case, more particularly the seriousness of the offences and its social impact. It is very clear that compromise between the parties shall not alone be the basis for quashing the criminal proceedings involving the heinous offences, which are not private in nature and have serious impact on society. In this case, there is every possibility of the petitioner being convicted, as the bank has specifically mentioned in the settlement terms that there shall be no prejudice caused to the criminal proceedings, which indicates that the bank would come forward with testifying all the allegations that were made in the complaint given by the Bank. Mere repayment of the amount would not exonerate the petitioner from the criminal liability and the quash of the proceedings. Cases of this sort would have serious ramifications and impact on the society.

V. Siva Lakshmi VS State of Telangana, 08 Mar 2019; 2019 0 Supreme(Telangana) 12;

MAINTENANCE AND WELFARE OF PARENTS AND SENIOR CITIZENS ACT is applicable to parents who have not crossed sixty years.

The SP/CP shall take all necessary steps, subject to such guidelines as the State Government may issue from time to time, for the protection of life and property of senior citizens.

complaints/problems of senior citizens shall be promptly attended to, by the local Police.

NEVADA PROPERTIES PRIVATE LIMITED THROUGH ITS DIRECTORS VS STATE OF MAHARASHTRA, 24 Sep 2019; 2019 0 Supreme(SC) 1066;

Section 102 postulates seizure of the property. Immovable property cannot, in its strict sense, be seized, though documents of title, etc. relating to immovable property can be seized, taken into custody and produced. Immovable property can be attached and also locked/sealed. It could be argued that the word ‘seize’ would include such action of attachment and sealing. Seizure of immovable property in this sense and manner would in law require dispossession of the person in occupation/possession of the immovable property, unless there are no claimants, which would be rare. Language of Section 102 of the Code does not support the interpretation that the police officer has the power to dispossess a person in occupation and take possession of an immovable property in order to seize it. In the absence of the Legislature conferring this express or implied power under Section 102 of the Code to the police officer, we would hesitate and not hold that this power should be inferred and is implicit in the power to effect seizure. Equally important, for the purpose of interpretation is the scope and object of Section 102 of the Code, which is to help and assist investigation and to enable the police officer to collect and collate evidence to be produced to prove the charge complained of and set up in the charge sheet. The Section is a part of the provisions concerning investigation undertaken by the police officer. After the charge sheet is filed, the prosecution leads and produces evidence to secure conviction. Section 102 is not, per se, an enabling provision by which the police officer acts to seize the property to do justice and to hand over the property to a person whom the police officer feels is the rightful and true owner. This is clear from the objective behind Section 102, use of the words in the Section and the scope and ambit of the power conferred on the Criminal Court vide Sections 451 to 459 of the Code. The expression ‘circumstances which create suspicion of the commission of any offence’ in Section 102 does not refer to a firm opinion or an adjudication/finding by a police officer to ascertain whether or not ‘any property’ is required to be seized. The word ‘suspicion’ is a weaker and a broader expression than ‘reasonable belief’ or ‘satisfaction’. The police officer is an investigator and not an adjudicator or a decision maker. This is the reason why the Ordinance was enacted to deal with attachment of money and immovable properties in cases of scheduled offences.

GARGI VS STATE OF HARYANA, 19 Sep 2019; 2019 0 Supreme(SC) 1042;

We would hasten to observe that merely for the reason of acquittal of co-accused, another accused in a criminal case may not be acquitted if cogent evidence against him is available and his case could be segregated from the case against the acquitted co-accused.

Karnataka Power Transmission Corporation Limited, Represented by Managing Director (Admin. and HR) VS C. Nagaraju, 16 Sep 2019; 2019 0 Supreme(SC) 1022;

Acquittal by a criminal court would not debar an employer from exercising the power to conduct departmental proceedings in accordance with the rules and regulations. The two proceedings, criminal and departmental, are entirely different. They operate in different fields and have different objectives.

P. CHIDAMBARAM VS DIRECTORATE OF ENFORCEMENT, 05 Sep 2019; 2019 0 Supreme(SC) 991;

It is well-settled that the court can peruse the case diary/materials collected during investigation by the prosecution even before the commencement of the trial inter-alia in circumstances like:- (i) to satisfy its conscience as to whether the investigation is proceeding in the right direction; (ii) to satisfy itself that the investigation has been conducted in the right lines and that there is no misuse or abuse of process in the investigation; (iii) whether regular or anticipatory bail is to be granted to the accused or not; (iv) whether any further custody of the accused is required for the prosecution; (v) to satisfy itself as to the correctness of the decision of the High Court/trial court which is under challenge. The above instances are only illustrative and not exhaustive. Where the interest of justice requires, the court has the powers, to receive the case diary/materials collected during the investigation. As held in Mukund Lal, ultimately there can be no better custodian or guardian of the interest of justice than the court trying the case. Needless to point out that when the Court has received and perused the documents/materials, it is only for the purpose of satisfaction of court's conscience. In the initial stages of investigation, the Court may not extract or verbatim refer to the materials which the Court has perused (as has been done in this case by the learned Single Judge) and make observations which might cause serious prejudice to the accused in trial and other proceedings resulting in miscarriage of justice.

Ordinarily, arrest is a part of procedure of the investigation to secure not only the presence of the accused but several other purposes. Power under Section 438 Cr.P.C. is an extraordinary power and the same has to be exercised sparingly. The privilege of the pre-arrest bail should be granted only in exceptional cases. The judicial discretion conferred upon the court has to be properly exercised after application of mind as to the nature and gravity of the accusation; possibility of applicant fleeing justice and other factors to decide whether it is a fit case for grant of anticipatory bail. Grant of anticipatory bail to some extent interferes in the sphere of investigation of an offence and hence, the court must be circumspect while exercising such power for grant of anticipatory bail. Anticipatory bail is not to be granted as a matter of rule and it has to be granted only when the court is convinced that exceptional circumstances exist to resort to that extraordinary remedy.

Submitting that custodial interrogation is a recognised mode of interrogation which is not only permissible but has been held to be more effective, the learned Solicitor General placed reliance upon State Rep. By The CBI v. Anil Sharma (1997) 7 SCC 187; Sudhir v. State of Maharashtra and Another (2016) 1 SCC 146; and Assistant Director, Directorate of Enforcement v. Hassan Ali Khan (2011) 12 SCC 684.

The legality of the proposed arrest cannot be gone into in an application under Section 438 of the Code.

Observing that economic offences constitute a class apart and need to be visited with different approach in the matter of bail, in Y.S. Jagan Mohan Reddy v. CBI (2013) 7 SCC 439, the Supreme Court held as under:-

"34. Economic offences constitute a class apart and need to be visited with a different approach in the matter of bail. The economic offences having deep-rooted conspiracies and involving huge loss of public funds need to be viewed seriously and considered as grave offences affecting the economy of the country as a whole and thereby posing serious threat to the financial health of the country.

STATE OF UTTAR PRADESH VS AMAN MITTAL, 04 Sep 2019; 2019 0 Supreme(SC) 987;

Therefore, the directions issued including in respect of change of Investigating Officer and that the District Judge to be associated with various action, falling exclusively in the domain of the Investigating Agency are patently beyond the scope of the petition under Section 482 of the Code and are, therefore, liable to be set aside

Rameshwar VS State of Madhya Pradesh, 21 Aug 2019: 2019 0 Supreme(SC) 897;

As rightly held by the High Court, the evidence against the appellants-accused is not identical as against the co-accused Umacharan who was acquitted.

Ravinder Kaur VS Manjeet Singh (Dead) Through Lrs., 21 Aug 2019; 2019 0 Supreme(SC) 898;

Needless to mention that irretrievable breakdown of marriage by itself is not a ground provided under the statute for seeking dissolution of marriage. To this effect it would be apposite to refer to the decision rendered by this Court to that effect in the case of Vishnu Dutt Sharma vs. Manju Sharma (2009) 6 SCC 379 relied upon by the learned counsel for the appellant. No doubt on taking note of the entire material and evidence available on record, in appropriate cases the courts may have to bring to an end, the marriage so as not to prolong the agony of the parties.

BHARAT SANCHAR NIGAM LIMITED VS PRAMOD V. SAWANT, 19 Aug 2019; 2019 0 Supreme(SC) 883;

Employees of public sector corporations not entitled to the protection u/s 197, CrPC.

R. Jayapal VS State Of Tamil Nadu, 09 Aug 2019; 2019 0 Supreme(SC) 844;

The question relating to the propriety of conviction of one accused even while the co-accused persons are acquitted has received attention of this Court in several decisions. With reference to the principles enunciated in the past decisions, this Court observed in the case of Yanob Sheikh alias Gagu v. State of West Bengal: (2013) 6 SCC 428 that acquittal of co-accused per se is not sufficient to result in acquittal of the other accused; and the Court ought to examine the entire prosecution evidence in its correct perspective before it could conclude on the effect of acquittal of one accused on the other in the facts and circumstance of the given case. In the case of Dalbir Singh v. State of Haryana: (2008) 11 SCC 425, this Court extracted the principles propounded in the case of Krishna Mochi v. State of Bihar: (2002) 6 SCC 81

MALLIKARJUN VS STATE OF KARNATAKA, 08 Aug 2019; 2019 0 Supreme(SC) 838;

Minor discrepancies and inconsistent version in evidence, if it is otherwise found to be creditworthy is not fatal to prosecution case.

Evidence of a witness cannot be disbelieved simply because he/she appears partisan or is related to the deceased/prosecution witness.

Doctor's evidence is primarily an evidence of opinion. It is only a corroborative piece of evidence.

Plausible delay in lodging of FIR and its production before Magistrate is not fatal to prosecution case.

Recovery of weapon does not become vitiated merely because Panch witnesses have turned hostile.

PSI can conduct investigation of offence u/s 302 IPC in absence of Circle Inspector.

AMIR HAMZA SHAIKH VS STATE OF MAHARASHTRA, 07 Aug 2019; 2019 0 Supreme(SC) 833;

we find that though the Magistrate is not bound to grant permission at the mere asking but the victim has a right to assist the Court in a trial before the Magistrate. The Magistrate may consider as to whether the victim is in a position to assist the Court and as to whether the trial does not involve such complexities which cannot be handled by the victim. On satisfaction of such facts, the Magistrate would be within its jurisdiction to grant of permission to the victim to take over the inquiry of the pendency before the Magistrate.

Bhagwan VS State Of Maharasahtra Through Secretary Home, Mumbai, Maharashtra, 07 Aug 2019; 2019 0 Supreme(SC) 834;

(1) A dying declaration if it otherwise inspires confidence of Court can be sole basis for conviction.

(2) Mere fact that patient suffered 92% burn injuries as in this case would not stand in way of patient giving a dying declaration which otherwise inspires confidence of Court and is free from tutoring and can be found reliable.

Anand Ramachandra Chougule VS Sidarai Laxman Chougala, 06 Aug 2019; 2019 0 Supreme(SC) 823;
We find it difficult to concur with the submission on behalf of the appellants that the failure of the prosecution to investigate the F.I.R. lodged by the accused with regard to the same occurrence or to place their injury reports on record was merely a defective investigation. We are of the considered opinion that the failure of the prosecution to act fairly and place all relevant materials with regard to the occurrence before the court enabling it to take just and fair decision has caused serious prejudice to them. A fair criminal trial encompasses a fair investigation at the pre-trial stage, a fair trial where the prosecution does not conceal anything from the court and discharges its obligations in accordance with law impartially to facilitate a just and proper decision by the court in the larger interest of justice concluding with a fairness in sentencing also.

Ritesh Sinha VS State of Uttar Pradesh, 02 Aug 2019; 2019 4 KHC 183; 2019 3 KLT 709; 2019 0 Supreme(SC) 818; 2019 (3) ALT (Crl) 10 (SC);
Would a judicial order compelling a person to give a sample of his voice violate the fundamental right to privacy under Article 20(3) of the Constitution, is the next question. The issue is interesting and debatable but not having been argued before us it will suffice to note that in view of the opinion rendered by this Court in Modern Dental College and Research Centre and others vs. State of Madhya Pradesh and others ((2016) 7 SCC 353), Gobind vs. State of Madhya Pradesh and another, ((1975) 2 SCC 148) and the Nine Judge's Bench of this Court in K.S. Puttaswamy and another vs. Union of India and others, (2017) 10 SCC 1 the fundamental right to privacy cannot be construed as absolute and but must bow down to compelling public interest. We refrain from any further discussion and consider it appropriate not to record any further observation on an issue not specifically raised before us.

25. In the light of the above discussions, we unhesitatingly take the view that until explicit provisions are engrafted in the Code of Criminal Procedure by Parliament, a Judicial Magistrate must be conceded the power to order a person to give a sample of his voice for the purpose of investigation of a crime. Such power has to be conferred on a Magistrate by a process of judicial interpretation and in exercise of jurisdiction vested in this Court under Article 142 of the Constitution of India. We order accordingly and consequently dispose the appeals in terms of the above.

Manoharan VS State by Inspector of Police, Variety Hall Police Station, Coimbatore, 01 Aug 2019: 2019 0 Supreme(SC) 805;
Court should rely on voluntary confessional statement recorded by Magistrate.
Absence of seamen or blood on body of deceased becomes insignificant on DNA matching.

Ude Singh VS State of Haryana, 25 Jul 2019; 2019 0 Supreme(SC) 785; 2019 (3) ALT Crl 61 (SC);
"Abetment" involves a mental process of instigating a person in doing something. A person abets the doing of a thing when: (i) he instigates any person to do that thing; or (ii) he engages with one or more persons in any conspiracy for the doing of that thing; or (iii) he intentionally aids, by acts or illegal omission, the doing of that thing. These are essential to complete the abetment as a crime. The word "instigate" literally means to provoke, incite, urge on or bring about by persuasion to do anything.

16. In cases of alleged abetment of suicide, there must be a proof of direct or indirect act/s of incitement to the commission of suicide. It could hardly be disputed that the question of cause of a suicide, particularly in the context of an offence of abetment of suicide, remains a vexed one, involving multifaceted and complex attributes of human behaviour and responses/reactions. In the case of accusation for abetment of suicide, the Court would be looking for cogent and convincing proof of the act/s of incitement to the commission of suicide. In the case of suicide, mere allegation of harassment of the deceased by another person would not suffice unless there be such action on the

part of the accused which compels the person to commit suicide; and such an offending action ought to be proximate to the time of occurrence. Whether a person has abetted in the commission of suicide by another or not, could only be gathered from the facts and circumstances of each case.

16.1 For the purpose of finding out if a person has abetted commission of suicide by another, the consideration would be if the accused is guilty of the act of instigation of the act of suicide. As explained and reiterated by this Court in the decisions above-referred, instigation means to goad, urge forward, provoke, incite or encourage to do an act. If the persons who committed suicide had been hypersensitive and the action of accused is otherwise not ordinarily expected to induce a similarly circumstanced person to commit suicide, it may not be safe to hold the accused guilty of abetment of suicide. But, on the other hand, if the accused by his acts and by his continuous course of conduct creates a situation which leads the deceased perceiving no other option except to commit suicide, the case may fall within the four-corners of Section 306 IPC. If the accused plays an active role in tarnishing the self-esteem and self-respect of the victim, which eventually draws the victim to commit suicide, the accused may be held guilty of abetment of suicide. The question of mens rea on the part of the accused in such cases would be examined with reference to the actual acts and deeds of the accused and if the acts and deeds are only of such nature where the accused intended nothing more than harassment or snap show of anger, a particular case may fall short of the offence of abetment of suicide. However, if the accused kept on irritating or annoying the deceased by words or deeds until the deceased reacted or was provoked, a particular case may be that of abetment of suicide. Such being the matter of delicate analysis of human behaviour, each case is required to be examined on its own facts, while taking note of all the surrounding factors having bearing on the actions and psyche of the accused and the deceased.

16.2. We may also observe that human mind could be affected and could react in myriad ways; and impact of one's action on the mind of another carries several imponderables. Similar actions are dealt with differently by different persons; and so far a particular person’s reaction to any other human’s action is concerned, there is no specific theorem or yardstick to estimate or assess the same. Even in regard to the factors related with the question of harassment of a girl, many factors are to be considered like age, personality, upbringing, rural or urban set ups, education etc. Even the response to the ill-action of eve-teasing and its impact on a young girl could also vary for a variety of factors, including those of background, self-confidence and upbringing. Hence, each case is required to be dealt with on its own facts and circumstances.

STATE OF MADHYA PRADESH VS KANHA @ OMPRAKASH, 04 Feb 2019; 2019 0 AIR(SC) 713; 2019 0 CrLJ 1416; 2019 0 CrLR 215; 2019 2 JLJ 138; 2019 1 JLJR(SC) 519; 2019 1 KLJ 655; 2019 1 PLJR(SC) 591; 2019 2 Scale 454; 2019 3 SCC 605; 2019 1 Supreme 756; 2019 0 Supreme(SC) 106;

Proof of grievous or life-threatening hurt is not a sine qua non for the offence under Section 307 of the Penal Code.

The lack of forensic evidence to prove grievous or a life-threatening injury cannot be a basis to hold that Section 307 is inapplicable.

Kameshwar Singh VS State of Bihar, 09 Apr 2018; 2018 2 ACR 1999; 2018 0 AIR(SC) 1916; 2018 103 AllCriC 602; 2018 2 Crimes(SC) 53; 2018 2 EastCrC(SC) 139; 2018 2 JLJR(SC) 253; 2018 4 JT 227; 2018 2 PLJR(SC) 271; 2018 5 Scale 412; 2018 6 SCC 433; 2018 3 Supreme 550; 2018 0 Supreme(SC) 313; 2019 3 ALT Crl. 105(SC);

So, it is a solemn duty of the Courts, not to merely conclude and leave the case the moment suspicions are created. It is the onerous duty of the Court, within permissible limits to find out the truth. It means, on one hand that no innocent man should be punished, but on the other hand to see no person committing an offence should go scot free.

Nadella Puma Chandra Rao Vs State of A.P; 2019 3 ALT Crl.13(AP);

Although, no specific period of limitation is provided for an offence under Section 420 IPC, etc., still the application has to be filed within the reasonable period of time.

Dr. Mohammed Ahmed Ali Khan and another AND The State of Telangana; 2019 3 ALT Crl 28(A.P & T.S);

since the petitioners were the partners and there was no specific entrustment of the properties, accounts and monies to them and therefore, the offence under Section 406 IPC cannot be imputed and so also since there was no inducement by the petitioners and delivery of property within the meaning of Section 420 IPC, the offence under Section 420 IPC is also not made out.

mere pendency of the arbitration proceedings, is not an obstacle to proceed with the criminal prosecution, provided the acts of the petitioners prima facie give rise to criminal prosecution.

M.V. Srinivasa Rao, Prop:M/s.Essel Pharma, Solan Vs. $ State of Andhra Pradesh; 2019 3 ALT Crl.58(AP)

By the time, the State Analyst report was furnished to the accused, the shelf-life of the drug in question already expired long back. Therefore, the accused lost his valuable right conferred on him by the Statute under Section 25(3) & 25(4) of the Act to test the correctness or genuineness of the report of the State Analyst by sending the drug in question for test and analysis by the Central Drugs Laboratory.

State Of Rajasthan Vs Sahi Ram, 27 Sep 2019; 2019 0 Supreme(SC) 1082;

If the seizure of the material is otherwise proved on record and is not even doubted or disputed the entire contraband material need not be placed before this Court. If the seizure is otherwise not in doubt, there is no requirement that the entire material ought to be produced before the Court. At times the material could be so bulky, for instance as in the present material when those 7 bags weighed 223 kgs that it may not be possible and feasible to produce the entire bulk before the Court. If the seizure is otherwise proved, what is required to be proved is the fact that the samples taken from and out of the contraband material were kept intact, that when the samples were submitted for forensic examination the seals were intact, that the report of the forensic experts shows the potency, nature and quality of the contraband material and that based on such material, the essential ingredients constituting an offence are made out.

NEVADA PROPERTIES PRIVATE LIMITED THROUGH ITS DIRECTORS VS STATE OF MAHARASHTRA, 24 Sep 2019; 2019 0 Supreme(SC) 1066;

Before we proceed further, we would like to refer to the Criminal Law Amendment Ordinance, 1944 (No. XXXVIII of 1944) which was promulgated in exercise of powers conferred under Section 72 of the Ninth Schedule of the Government of India Act, 1935 to prevent disposal or concealment of property procured by means of offences specified in its Schedule, which include offences punishable under Sections 406, 408, 409, 411 and 414 of the IPC in respect of Government property, property of local authority or a Corporation established by or under a Central, Provincial or State Act, etc., and an offence punishable under the Prevention of Corruption Act, 1988, an insertion made by the Prevention of Corruption Act, 1988. It sets out the procedure when the Central/ State Government has a reason to believe that a person has committed any scheduled offence, whether or not the Court has taken cognisance of the said offence, by attachment of money or other property which the Central/State Government believes that the person has procured by means of the scheduled offence, and if such money or property cannot for any reason be attached, any other property of the said person of value as nearly as may be equivalent to that of the aforesaid money or property. This enactment mandates application of provisions of Order XXVII of the Code of Civil Procedure, 1908 with a provision for filing an application before the District Judge who is entitled to pass an ad interim attachment order after following the prescribed procedure including examination and investigation of objections to attachment of the property. The District Judge can pass an order either making the interim attachment absolute or varying it by releasing the property or portion thereof or withdrawing the order on satisfaction of certain conditions. Other sections contained in the Ordinance provide for attachment of property of mala fide transferees, execution of orders of attachment, security in lieu of attachment, administration of attached property, duration of attachment, appeals, power of Criminal Court to evaluate property procured by scheduled offences and disposal of attached property upon termination of criminal proceedings. Section 14 bars legal proceedings in other Courts in respect of the property attached under the Ordinance. The Ordinance is a permanent Ordinance which was promulgated during the Second World War. It was adopted by the Presidential Adaptation of Laws

Order, 1950 issued under the powers conferred by clause (2) of Article 372 of the Constitution, thus, making it effective in the territory of India and, therefore, continues to remain in force.
The expression 'any property' appearing in Section 102 of the Code would not include immovable property. We would elucidate and explain.

GARGI VS STATE OF HARYANA, 19 Sep 2019; 2019 0 Supreme(SC) 1042;
The presence of marks of resistance would depend on a variety of factors, including the method and manner of execution of the act of strangulation by the culprits; and mere want of such marks cannot be decisive of the matter. Equally, it is not laid down as an absolute rule in medical jurisprudence that in all cases of strangulation, hyoid bone would invariably be fractured. On the contrary, medical jurisprudence suggests that only in a fraction of such cases, a fracture of hyoid bone is found [Modi: A textbook of Medical Jurisprudence and Toxicology, 26th Edition page 529 where it is also noted:
"In the Journal of Forensic Sciences Volume 41 under the Title - Fracture of the Hyoid Bone in Strangulation: Comparison of Fractured and Unfractured Hyoids from Victims of Strangulation, it is stated:

> The hyoid is the U-shaped bone of the neck that is fractured in one-third of all homicides by strangulation. On this basis, post-mortem detection of hyoid facture is relevant to the diagnosis of strangulation. However, since many cases lack a hyoid fracture, the absence of this finding does not exclude strangulation as a cause of death. The reasons why some hyoids fracture and others do not may relate to the nature and magnitude of force applied to the neck, age of the victim, nature of the instrument (ligature or hands) used to strangle, and intrinsic anatomic features of the hyoid bone....."]. In other words, absence of fracture of hyoid bone would not lead to the conclusion that the deceased did not die of strangulation.

merely for the reason of acquittal of co-accused, another accused in a criminal case may not be acquitted if cogent evidence against him is available and his case could be segregated from the case against the acquitted co-accused.

Karuppanna Gounder VS State Rep. by the Inspector of Police, 17 Sep 2019; 2019 0 Supreme(SC) 1036;
the High Court held that the injury on the centre of the head could not have been caused by the Koduval (sickle) only on the ground that the injury was a lacerated wound and, therefore, could not have been caused with a sharp-edged weapon. We are of the view that this view of the High Court may not be correct because a Koduval (sickle) has a sharp side on the inner portion and a blunt side on the outer portion. Injury could have been caused by the outer side of the Koduval (sickle). Unfortunately, the State has not filed any appeal and since the occurrence took place 19 years back, we may not reopen the matter.

Serious Fraud Investigation Office VS Nittin Johari, 12 Sep 2019; 2019 0 Supreme(SC) 1010;
it must be noted that even as per Section 212(7) of the Companies Act, the limitation under Section 212(6) with respect to grant of bail is in addition to those already provided in the Cr.P.C. Thus, it is necessary to advert to the principles governing the grant of bail under Section 439 of the Cr.P.C. Specifically, heed must be paid to the stringent view taken by this Court towards grant of bail with respect of economic offences. In this regard, it is pertinent to refer to the following observations of this Court in Y.S. Jagan Mohan Reddy (2013) 7 SCC 439):

> "34. Economic offences constitute a class apart and need to be visited with a different approach in the matter of bail. The economic offences having deep-rooted conspiracies and involving huge loss of public funds need to be viewed seriously and considered as grave offences affecting the economy of the country as a whole and thereby posing serious threat to the financial health of the country.
>
> 35. While granting bail, the court has to keep in mind the nature of accusations, the nature of evidence in support thereof, the severity of the punishment which conviction will entail, the character of the accused, circumstances which are peculiar to the accused, reasonable possibility of securing the presence of the accused at the trial, reasonable apprehension of the witnesses being tampered with, the larger interests of the public/State and other similar considerations."

Laxminath VS State of Chhattisgarh, 05 Sep 2019; 2019 0 Supreme(SC) 1052;
It was contended that axe was not sent for forensic examination. That may be true and the investigating officer may have committed lapse in this regard, but the statement of doctor does show that this injury can be caused by an axe and furthermore recovery of the axe, which has been stated to by the investigating officer, has not been subjected to any cross-examination. Even otherwise on the statements of PW-1, 2 and 3 alone, we are of the considered opinion that prosecution has proved its case beyond reasonable doubt.
NON CROSS EXAMINATION ON VITAL ASPECT

NOSTALGIA

RECALL OF CONTEST WITNESS LONG AFTER HIS CHIEF:
Harijana Peddinti Erikalanna VS State Rep by its Public Prosecutor High Court of A. P. , Hyderabad, 27 Jul 2018; 2018 0 Supreme(AP) 588;
In a situation of this nature, the court has to test the conduct of the witness coupled with the attitude of the accused in making every effort to win over the witness by not proceeding with the case on the day, when he was asked to cross-examine the witness. Situation would have been different had the witnesses were not declared hostile. But as stated earlier, both the witnesses were declared hostile by the prosecutor and then they were cross-examined. This conduct of the accused in not making an application to recall the witness immediately after the evidence of P.Ws.1 and 2 was closed and making an application nearly couple of months later, i.e., after examination of other witnesses, has to be viewed with suspicion and the said conduct needs to be condemned. Allowing such applications is nothing but making mockery of the criminal trial.

In **Y.Narasimha Rao v. Y.Venkata Lakshmi [(1991) 3 SCC 451]** it was held that as per Section 13 of CPC., the English Courts judgment is not binding, if it refuses to recognize the law of India, which is applicable to the facts of the case. In the said case, the Circuit Court of St.Louis County granted divorce on the ground of irretrievable break down. The ground of irretrievable break down is not a ground to dissolve the marriage in India.

In the case of **Thota Venkateswarlu vs. State of A.P. tr. Princl Secretary [AIR 2011 SC 2900]** while discussing about Sec 188 CrPC, at para 29, the Hon'ble Supreme Court held as follows: "29. Language of the section is plain and simple. It operates where an offence is committed by a citizen of India outside the country. Requirements are, therefore, one - commission of an offence; second - by an Indian citizen; and third - that it should have been committed outside the country.

NEWS

The Notification for recruitment of 50 APP's in the department of Prosecutions, A.P, has been notified.

- The Prohibition of Electronic Cigarettes (Production, Manufacture, Import, Export, Transport, Sale, Distribution, Storage, and Advertisement) Ordinance, 2019 was promulgated on September 18, 2019. The Ordinance prohibits the production, trade, storage, transport, and advertisement of electronic cigarettes.
- **Electronic cigarettes:** The Ordinance defines electronic cigarettes (e-cigarettes) as electronic devices that heat a substance (natural or artificial) to create vapour for inhalation. These e-cigarettes may contain nicotine and flavours, and include all forms of electronic nicotine delivery systems, heat-not-burn products, e-hookahs, and other similar devices.
- **Banning of e-cigarettes**: The Ordinance prohibits the production, manufacture, import, export, transport, sale, distribution and advertisement of e-cigarettes in India. Any person who contravenes these provisions will be punishable with imprisonment of up to one year, or a fine of up to one lakh

rupees, or both. For any subsequent offence, the person will be punishable with imprisonment of up to three years, and a fine of up to five lakh rupees.

- **Storage of e-cigarettes:** No person is allowed to use any place for the storage of any stock of e-cigarettes. If any person stores any stock of e-cigarettes, he will be punishable with an imprisonment of up to six months, or a fine of up to Rs 50,000, or both.
- The owners of existing stocks of e-cigarettes will have to declare and deposit these stocks at the nearest office of an authorised officer. Such an authorised officer may be a police officer (at least at the level of a sub-inspector), or any other officer as notified by the central or state government.
- **Powers of authorised officers:** If an authorised officer believes that any provision of the Ordinance has been contravened, he may search any place where trade, production, storage, or advertising of e-cigarettes is being undertaken. The authorised officer can seize any record or property connected to e-cigarettes found during the search. Further, he may take the person connected to the offence into custody.
- If the property or records found during the search cannot be seized, the authorised officer may make an order to attach such property, stocks or records.
- **Offences by companies:** Under the Ordinance, if an offence is committed by a company, then the persons in-charge of the company will be held liable. Further, if it is proved that the offence was committed with the consent of, or due to neglect on the part of any director, manager or secretary, then they will be held liable and punished accordingly.

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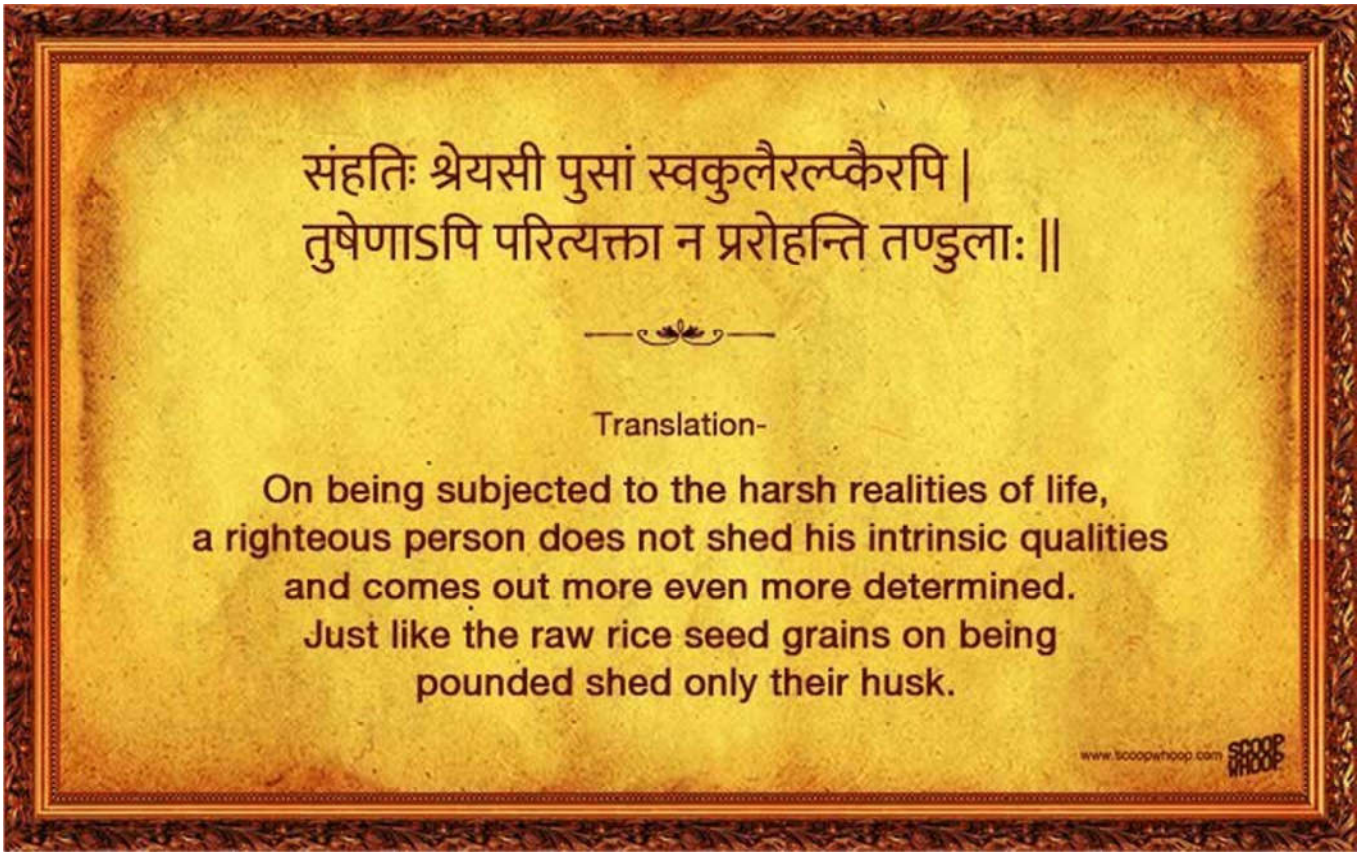
An Endeavour for Learning and Excellence

November, 2019

Aano Bhadra Krtavo Yantu Vishwatah.(RIG VEDAM)
"Let Noble Thoughts Come To Me From All Directions"



CITATIONS

Ritesh Sinha VS State of Uttar Pradesh, 02 Aug 2019; 2019 3 Crimes(SC) 207; 2019 2 GLH 728; 2019 4 KHC 183; 2019 3 KLT 709; 2019 0 Supreme(SC) 818;2019 3 SCC Cri 252; 2019 8 SCC 1; 2019 2 ALD Crl 591(SC) (FULL BENCH)

In view of the opinion rendered by this Court in Modern Dental College and Research Centre and others vs. State of Madhya Pradesh and others ((2016) 7 SCC 353), Gobind vs. State of Madhya Pradesh and another, ((1975) 2 SCC 148) and the Nine Judge's Bench of this Court in K.S. Puttaswamy and another vs. Union of India and others, (2017) 10 SCC 1 the fundamental right to privacy cannot be construed as absolute and but must bow down to compelling public interest.

In the light of the above discussions, we unhesitatingly take the view that until explicit provisions are engrafted in the Code of Criminal Procedure by Parliament, a Judicial Magistrate must be conceded the power to order a person to give a sample of his voice for the purpose of investigation of a crime. Such power has to be conferred on a Magistrate by a process of judicial interpretation and in exercise of jurisdiction vested in this Court under Article 142 of the Constitution of India. We order accordingly and consequently dispose the appeals in terms of the above.

Vishnu Kumar Tiwari VS State of Uttar Pradesh through Secretary Home, Civil Secretariat Lucknow, 09 Jul 2019; 2019 3 Crimes(SC) 312; 2019 0 Supreme(SC) 923; 2019 3 SCC Cri 269; 2019 8 SCC 27;

when he proceeds to take action by way of cognizance by disagreeing with the conclusions arrived at in the police report, he would be taking cognizance on the basis of the police report and not on the complaint. And, therefore, the question of examining the complainant or his witnesses under Section 200 of the Code would not arise. This was the view clearly enunciated.

In H.S. Bains ((1980) 4 SCC 631), there was a private complaint within the meaning of Section 190(1)(a) of the Code. The matter was referred to the Police under Section 156(3). The Investigating Officer filed a final report. Therein, the court took the view that apart from the power of the Magistrate to take cognizance notwithstanding the final report, under Section 190(1)(b), he could also fall back

upon the private complaint which was initially lodged but after examining the complainant and his witnesses, as contemplated under Sections 200 and 202 of the Code. In regard to taking cognizance under Section 190(1)(b) of the Code of a final report, undoubtedly, it is not necessary to examine the complainant or his witnesses though he may do so.
It may be true that till process is issued, the accused may not have the right to be heard (See the judgment of this court in Iris Computers Limited v. Askari Infotech Private Limited and others, (2015) 14 SCC 399).
If a protest petition fulfills the requirements of a complaint, the Magistrate may treat the protest petition as a complaint and deal with the same as required under Section 200 read with Section 202 of the Code. In this case, in fact, there is no list of witnesses as such in the protest petition. The prayer in the protest petition is to set aside the final report and to allow the application against the final report.

Bhagwan VS State Of Maharasahtra Through Secretary Home, Mumbai, Maharashtra, 07 Aug 2019; 2019 3 Crimes(SC) 233; 2019 0 Supreme(SC) 834; 2019 3 SCC Cri 289; 2019 8 SCC 95;
The degree of the burn is not clear in this case. However, once the dermis is completely affected when there is third degree burn there would be no pain for the reason that the pain receptor found in the dermis would die. In fact P.W.14 doctor in his deposition has stated that it is not necessary in severe burn that there must be pain. It is true that the pain killer may have been given as was stated by the doctor as burns may not have evenly impacted the skin. But what is important is whether despite the extensive burn, the patient was conscious and mentally and physically in a condition to understand the questions put to her and to give answers to the same.

Anand Ramachandra Chougule VS Sidarai Laxman Chougala, 06 Aug 2019; 2019 3 Crimes(SC) 188; 2019 0 Supreme(SC) 823; 2019 3 SCC Cri 309; 2019 8 SCC 50;
If the accused takes a defence, which is not improbable and appears likely, there is material in support of such defence, the accused is not required to prove anything further. The benefit of doubt must follow unless the prosecution is able to prove its case beyond all reasonable doubt.
We find it difficult to concur with the submission on behalf of the appellants that the failure of the prosecution to investigate the F.I.R. lodged by the accused with regard to the same occurrence or to place their injury reports on record was merely a defective investigation. We are of the considered opinion that the failure of the prosecution to act fairly and place all relevant materials with regard to the occurrence before the court enabling it to take just and fair decision has caused serious prejudice to them. A fair criminal trial encompasses a fair investigation at the pre-trial stage, a fair trial where the prosecution does not conceal anything from the court and discharges its obligations in accordance with law impartially to facilitate a just and proper decision by the court in the larger interest of justice concluding with a fairness in sentencing also.

Manoharan VS State by Inspector of Police, Variety Hall Police Station, Coimbatore, 01 Aug 2019; 2019 0 Supreme(SC) 805; 2019 3 SCC Cri 337; 2019 7 SCC 716;
no semen or blood was found on the body of the dead girl pales into insignificance in view of the DNA evidence.

KATHI DAVID RAJU VS STATE OF ANDHRA PRADESH, 05 Aug 2019; 2019 3 Crimes(SC) 215; 2019 3 KLT 816; 2019 3 MPWN 1; 2019 0 Supreme(SC) 820; 2019 3 SCC Cri 382; 2019 7 SCC 769; 2019 3 ALT Crl 161 (SC); There can be no dispute to the right of police authorities to seek permission of the Court for conducting DNA test in an appropriate case. In the present case, FIR alleges obtaining false caste certificate by the appellant by changing his name and parentage. The order impugned itself notices that investigation is not yet completed and material evidence are yet to be collected. The police authorities without being satisfied on material collected or conducting substantial investigation have requested for DNA test which is nothing but a step towards roving and fishing enquiry on a person, his mother and brothers. It is a serious matter which should not be lightly to be resorted to without there being appropriate satisfaction for requirement of such test.

Balwan Singh VS State of Chhattisgarh, 06 Aug 2019; 2019 3 Crimes(SC) 217; 2019 4 KHC 300; 2019 0 Supreme(SC) 826; 2019 3 SCC Cri 392; 2019 7 SCC 781;

The prosecution also relies upon the evidence relating to recovery of sticks and tabbal which were bloodstained. Such evidence may not be helpful to the prosecution in this case inasmuch as there is no evidence to show that these articles were stained with human blood, and more particularly with blood of the same blood group as that of the deceased. As per the Forensic Science Laboratory Report, the blood stains were disintegrated, and their origin could not be determined.

Sharad Hiru Kolambe VS State of Maharashtra, 20 Sep 2018; 2018 3 ACR 3252; 2018 0 AIR(SC) 4595; 2018 2 ALD(Cri)(SC) 964; 2019 0 AllMR(Cri)(SC) 448; 2018 4 Crimes(SC) 159; 2018 2 OLR 807; 2019 1 Supreme 325; 2018 0 Supreme(SC) 894; 2019 3 SCC Cri 419; 2018 18 SCC 718.

Section 63 of IPC generally lays down that fine should not be excessive wherever no sum is expressed to which the fine may extend. Naturally, in cases where the concerned provision itself indicates a sum to which the fine may extend, or prescribes a minimum quantum of fine, such element may not apply. In cases covered by Section 64 of IPC the Court is competent to impose sentence of "imprisonment for non-payment of fine" and such sentence for non-payment of fine "shall be in excess of any imprisonment" to which the offender may have been sentenced or to which he may be liable under commutation of a sentence. Sections 30 and 429(2) of the Code also touch upon the principle that default sentence shall be in addition to substantive sentence. In terms of said Section 30(2) the default sentence awarded by a Magistrate is not to be counted while considering the maximum punishment that can be substantively awarded by the Magistrate, while under Section 429(2), in cases where two or more substantive sentences are to be undergone one after the other, the default sentence, if awarded, would not begin to run till the substantive sentences are over. Similarly, under Section 428 of the Code, the period undergone during investigation, inquiry or trial has to be set off against substantive sentence but not against default sentence. The idea is thus clear, that default sentence is not to be merged with or allowed to run concurrently with a substantive sentence. Thus, the sentence of imprisonment for non-payment of fine would be in excess of or in addition to the substantive sentence to which an offender may have been sentenced or to which he may be liable under commutation of a sentence.

10. There are two provisions in the Code namely Sections 31 and 427 which speak of consecutive and concurrent running of sentences. Section 31 deals with cases where a person is convicted at one trial of two or more offences. The reading of Section 31 makes it clear that unless the Court directs that punishments for such two or more offences at same trial should run concurrently, the normal principle is that the punishments would commence one after the expiration of the other. The provision thus gives discretion to the Court to direct running of such punishments either concurrently or consecutively. Similar discretion is available in Section 427 which deals with cases where a person already undergoing a sentence is later imposed sentence in respect of an offence tried at subsequent trial. These two provisions namely Sections 31 and 427 thus deal with discretion available to the Court to specify whether the substantive sentences should run concurrently or consecutively.

State of Karnataka VS Yenkareddy, 06 Sep 2018; 2018 4 Crimes(SC) 537; 2018 6 KarLJ 721; 2018 0 Supreme(SC) 1045; 2019 3 SCC Cri 440; 2018 18 SCC 768;

The High Court has observed that accused No.1 alone had previous enmity with the deceased-Siddaramreddy and the other accused appeared to have joined accused no.1 only to help him. Considering the weapons used, namely, sticks and the nature of the injuries, the High Court thought it fit to modify the sentence of imprisonment under Section 302 I.P.C. to Section 304 Part-II I.P.C.

The respondents though initially entered appearance through a counsel but by the time when the matter was taken up for hearing learned counsel appearing for the respondents had become the standing counsel of the State of Karnataka. Therefore, **the respondents-accused were remained unrepresented.** We have heard Mr. Joseph Aristotle S., learned counsel appearing for the appellant-

State, who has taken us through the impugned order. We have also perused the materials on record.

PRABHU @ KULANDAIVELU VS STATE OF TAMIL NADU, 18 Sep 2018; 2018 0 Supreme(SC) 1014; 2019 3 SCC Cri 456; 2018 18 SCC 798;
By the evidence of PW-1, the prosecution has established that the appellant herein had induced PW-1 to have sexual intercourse with him by falsely promising her that he will marry her. The conviction of the appellant-accused under Section 417 I.P.C. is based upon proper appreciation of the evidence of PW-1 and we do not find any reason to interfere with the same.

C. R. Kariyappa VS State of Karnataka, 05 Sep 2018; 2018 0 AIR(SC) 4312; 2018 2 ALD(Cri)(SC) 884; 2018 105 AllCriC 602; 2019 1 ALT(Cri)(SC) 155; 2018 4 Crimes(SC) 345; 2018 5 RCR(Cri) 1006; 2019 2 Supreme 244; 2018 0 Supreme(SC) 1041; 2019 3 SCC Cri 458; 2018 18 SCC 801;
The evidence of PW-2 injured-child witness in his cross examination stated that the admitted suggestions put to him by the defence counsel that he was tutored, in our considered view, the same cannot be the reason for discarding the evidence of PW-2. When PW-2 was examined in the Court some time after the occurrence, being a child witness (PW-2) who is not conversant with the court's proceedings, has to be necessarily apprised about the court's proceedings and that he has to speak about the occurrence. It cannot be said that he was tutored about the occurrence itself to depose against the appellant.

State of Rajasthan VS Hazi Khan, 26 Jul 2017; 2017 0 AIR(SC) 4001; 2017 2 ALD(Cri)(SC) 871; 2017 0 AllSCR(Cri) 1855; 2017 4 Crimes(SC) 387; 2017 5 RCR(Cri) 798; 2018 15 SCC 328; 2017 0 Supreme(SC) 1037; 2019 3 SCC Cri 470;
No charge insofar as the substantive offence under Section 302 IPC or under Section 307 IPC with the aid of either Section 34 IPC and Section 149 IPC had been framed. The evidence on record is not sufficient to attribute any specific injury suffered by the deceased to any particular accused. In such a situation, the High Court was perfectly justified in acquitting the accused of the offences under Section 302 IPC or under Section 307 IPC.

7. However, we have noticed that charge was also framed against the accused respondents under Section 326 read with Section 149 IPC. If all the accused were present at the place of occurrence and had participated in the assault on the deceased as we are inclined to hold, regardless of the weapon that the accused were carrying, all the accused would be liable with the aid of Section 149 IPC. In the present case, there is no doubt that consequent to the assault committed by the accused, the injuries, already noticed above, had been caused to the deceased. If that is so, all the accused can be held to be constructively liable with the aid of Section 149 IPC. A reading of the medical evidence would go to show that serious injuries i.e. injury Nos.4,5 and 6 had been caused to the deceased. In such situation, we will have no hesitation to hold all the accused respondents liable for the offence under Section 326 read with Section 149 IPC.

Shashi Bhusan Prasad VS Inspector General Central Industrial Security Force, 01 Aug 2019; 2019 0 Supreme(SC) 807; 2019 3 SCC Cri 474; 2019 7 SCC 797;
Criminal and departmental proceedings are entirely different and they operate in different fields and have different objectives.
Acquittal by Court of competent jurisdiction in a judicial proceeding does not ipso facto absolve delinquent from liability under disciplinary jurisdiction of authority.

DIPAKBHAI JAGDISHCHANDRA PATEL VS STATE OF GUJARAT, 24 Apr 2019' 2019 0 AIR(SC) 3363; 2019 4 Supreme 618; 2019 0 Supreme(SC) 485; 2019 2 ALD Crl 545(SC);
At the stage of framing the charge in accordance with the principles which have been laid down by this Court, what the Court is expected to do is, it does not act as a mere post office. The Court must indeed sift the material before it. The material to be sifted would be the material which is produced and relied upon by the prosecution. The sifting is not to be meticulous in the sense that the Court

dons the mantle of the Trial Judge hearing arguments after the entire evidence has been adduced after a full-fledged trial and the question is not whether the prosecution has made out the case for the conviction of the accused. All that is required is, the Court must be satisfied that with the materials available, a case is made out for the accused to stand trial. A strong suspicion suffices. However, a strong suspicion must be founded on some material. The material must be such as can be translated into evidence at the stage of trial. The strong suspicion cannot be the pure subjective satisfaction based on the moral notions of the Judge that here is a case where it is possible that accused has committed the offence. Strong suspicion must be the suspicion which is premised on some material which commends itself to the court as sufficient to entertain the prima facie view that the accused has committed the offence.
only on the basis of statement of the co-accused, no case is made out, even for framing a charge.
a person who stands in the shoes of the accused being named in the First Information Report, can be examined by the Police Officer under Section 161 of the Cr.PC.
Such a person, viz., person who is named in the FIR, and therefore, the accused in the eyes of law, can indeed be questioned and the statement is taken by the Police Officer. A confession, which is made to a Police Officer, would be inadmissible having regard to Section 25 of the Evidence Act. A confession, which is vitiated under Section 24 of the Evidence Act would also be inadmissible. A confession unless it fulfills the test laid down in Pakala Narayana Swami (supra) and as accepted by this Court, may still be used as an admission under Section 21 of the Evidence Act. This, however, is subject to the bar of admissibility of a statement under Section 161 of the Cr.PC. Therefore, even if a statement contains admission, the statement being one under Section 161, it would immediately attract the bar under Section 162 of the Cr.PC.

41. Bar under Section 162 Cr.PC, no doubt, operates in regard to the statement made to aPolice Officer in between two points of time, viz., from the beginning of the investigation till the termination of the same. In a case where statement containing not a confession but admission, which is otherwise relevant and which is made before the investigation commences, may be admissible.
a statement made by an accused person is admissible against others who are being jointly tried with him only if the statement amounts to a confession. Where the statement falls short of a confession, it is admissible only against its maker as an admission and not against those who are being jointly tried with him. Therefore, from the point of view of Section 30 of the Evidence Act also the distinction between an admission and a confession is of fundamental importance
Proceeding on the basis that it is a confession by a co-accused and still proceeding further that there is a joint trial of the accused and that they are accused of the same offences (ignoring the fact that other accused are absconding and appellant appears to be proceeded against on his own) and having found that there is no recovery from the residence of the appellant of the counterfeit notes and that there is no other material on the basis of which even a strong suspicion could be aroused, we would find that the mandate of the law requires us to free the appellant from being proceeded against. Accordingly, we allow the appeal and the petition filed under Section 482 of the Cr.PC. The Order impugned passed by the Sessions Judge framing the charge against the appellant will stand set aside and the appellant will stand discharged.

PRATAP SINGH @ PIKKI VS STATE OF UTTARAKHAND, 12 Jul 2019; 2019 0 AIR(SC) 3419; 2019 3 Crimes(SC) 143; 2019 7 SCC 424; 2019 3 SCC(Cri) 60; 2019 6 Supreme 545; 2019 0 Supreme(SC) 737; 2019 2 ALD Crl 573(SC);

PW-2 Sanjay Goswami who too was injured eyewitness of the incident supported the case of the prosecution and examination-in-chief was recorded on 27th March, 1997. On that day, the cross was deferred on the application of the accused but later on 30th March, 1997 unfortunately he died and it was not possible for the prosecution to produce him for cross-examination.
The presence of PW-3 Harshvardhan Verma cannot be doubted. The medical evidence supports the prosecution story including his injury report, supported by the postmortem report of deceased (Rajesh Sah) furnished by PW-4 Dr. J.P. Bhatt. We are of the considered view that the evidence of PW-3 Harshvardhan Verma is reliable, believable and inspire implicit confidence as well as the corroboration of statement of PW-2 Sanjay Goswami. Conviction confirmed.

SANJAY RAJAK VS STATE OF BIHAR, 22 Jul 2019; 2019 3 PLJR(SC) 325; 2019 6 Supreme 363; 2019 0 Supreme(SC) 766; 2019 2 ALD Crl 600 (SC);

The mere acquittal of a co-accused in the facts and circumstances of the case can be of no benefit to the appellant.

It is not an invariable rule of criminal jurisprudence that the failure of the police to recover the corpus delecti will render the prosecution case doubtful entitling the accused to acquittal on benefit of doubt. It is only one of the relevant factors to be considered along with all other attendant facts and circumstances to arrive at a finding based on reasonability and probability based on normal human prudence and behavior. In the facts and circumstances of the present case, the failure of the police to recover the dead body is not much of consequence in the absence of any explanation by the appellant both with regard to the victim last being seen with him coupled with the recovery from his house of the belongings of the deceased.

THE STATE OF MAHARASHTRA Vs. SURENDRA PUNDLIK GADLING & ORS 2019 0 AIR(SC) 975; 2019 1 Crimes(SC) 134; 2019 2 JLJR(SC) 58; 2019 2 KHC(SN) 2; 2019 2 PLJR(SC) 69; 2019 3 Scale 379; 2019 2 Supreme 387; 2019 0 Supreme(SC) 158; 2019 2 SCC Cri 472; 2019 5 SCC 178; 2019 2 ALD Crl 616(SC);(FULL BENCH)

We may notice that it has been very clearly set out that it is not merely a question of the form in which the request for extension is to be made, but one of substance, as it is to assist the designated court to independently decide whether or not to grant such extension. It cannot be a mere presentation and forwarding of the request of the IO to the Court. The mere labelling of the document as a report or an application was stated to be not of much consequence, but what was held to be of consequence was that there could not be a mere reproduction of the application or request of the IO by the Public Prosecutor in his report, without demonstration of the application of his mind and a recording of his own satisfaction.

the request of an IO for extension of time is not a substitute for the report of the public prosecutor but since we find that there has been, as per the comparison of the two documents, an application of mind by the public prosecutor as well as an endorsement by him, the infirmities in the form should not entitle the respondents to the benefit of a default bail when in substance there has been an application of mind. The detailed grounds certainly fall within the category of “compelling reasons” as enunciated in Sanjay Kumar Kedia alias Sanjay Kedia v. Intelligence Officer, Narcotics Control Bureau & Anr.,[(2009) 17 SCC 631,] case.

State Of Madhya Pradesh VS Dhruv Gurjar, 22 Feb 2019; 2019 0 AIR(SC) 1106; 2019 1 ALT(Cri)(SC) 263; 2019 0 CrLJ 1807; 2019 3 JLJ 148; 2019 2 JLJR(SC) 32; 2019 3 JT 82; 2019 2 MLJ(Cri) 10; 2019 2 PLJR(SC) 43; 2019 2 RCR(Cri) 194; 2019 4 Scale 642; 2019 5 SCC 570; 2019 2 Supreme 472; 2019 0 Supreme(SC) 198; 2019 2 ALD Crl 628(SC);

The invocation of the jurisdiction of the High Court to quash a first information report or a criminal proceeding on the ground that a settlement has been arrived at between the offender and the victim is not the same as the invocation of jurisdiction for the purpose of compounding an offence. While compounding an offence, the power of the court is governed by the provisions of Section 320 CrPC. The power to quash under Section 482 is attracted even if the offence is non-compoundable.

when it comes to the question of compounding an offence under Sections 307, 294 and 34 IPC (as in the appeal @ SLP(Crl.) No. 9859/2013) along with Sections 25 and 27 of the Arms Act (as in the appeal @ SLP(Crl.) No. 9860/2013), by no stretch of imagination, can it be held to be an offence as between the private parties simpliciter. It is observed that such offences will have a serious impact on the society at large. It is further observed that where the accused are facing trial under Sections 307, 294 read with Section 34 IPC as well as Sections 25 and 27 of the Arms Act, as the offences are definitely against the society, accused will have to necessarily face trial and come out unscathed by demonstrating their innocence.

P. CHIDAMBARAM VS CENTRAL BUREAU OF INVESTIGATION, 22 Oct 2019; 2019 0 Supreme(SC) 1179;

The jurisdiction to grant bail has to be exercised on the basis of the well-settled principles having regard to the facts and circumstances of each case. The following factors are to be taken into consideration while considering an application for bail:-(i) the nature of accusation and the severity of the punishment in the case of conviction and the nature of the materials relied upon by the prosecution; (ii) reasonable apprehension of tampering with the witnesses or apprehension of threat to the complainant or the witnesses; (iii) reasonable possibility of securing the presence of the accused at the time of trial or the likelihood of his abscondence; (iv) character behaviour and standing of the accused and the circumstances which are peculiar to the accused; (v) larger interest of the public or the State and similar other considerations (vide Prahlad Singh Bhati v. NCT, Delhi and another (2001) 4 SCC 280). There is no hard and fast rule regarding grant or refusal to grant bail. Each case has to be considered on the facts and circumstances of each case and on its own merits.

State of West Bengal VS Indrajit Kundu, 18 Oct 2019; 2019 0 Supreme(SC) 1164;

From the material placed on record, it is clear that respondents are sought to be proceeded for charge under Section 306/34 mainly relying on the suicide letters written by the deceased girl and the statements recorded during the investigation. Even according to the case of de facto complainant, respondent Nos. 2 and 3 who are parents of first respondent shouted at the deceased girl calling her a call-girl. This happened on 05.03.2004 and the deceased girl committed suicide on 06.03.2004. By considering the material placed on record, we are also of the view that the present case does not present any picture of abetment allegedly committed by respondents. The suicide committed by the victim cannot be said to be the result of any action on part of respondents nor can it be said that commission of suicide by the victim was the only course open to her due to action of the respondents. There was no goading or solicitation or insinuation by any of the respondents to the victim to commit suicide.

PREM SINGH VS SUKHDEV SINGH, 17 Oct 2019; 2019 0 Supreme(SC) 1154;

The High Court held, and in our opinion rightly so, that the version of the eye-witnesses that knife blows were given by accused Sardul Singh is falsified by the testimony of the doctor, who clearly states that the injuries caused by a sharp edged weapon were post-mortem. This is a major discrepancy in the statement of eye-witnesses because both the eye-witnesses claim that the knife blows were given first by Sardul Singh and, thereafter when Satinder Pal Singh (deceased) tried to run away, the other accused came out from the Tata Sumo with fire arms.

though the licensed fire arms of the accused were seized but they were not sent to a ballistic expert and there is no forensic evidence to show that these were the guns actually used during the occurrence.

As far as the recovery of the Tata Sumo vehicle is concerned, it is not proved to be belonging to the accused. It belongs to some other person and the accused have not been linked to this.

Central Bureau of Investigation VS Arvind Khanna, 17 Oct 2019; 2019 0 Supreme(SC) 1152;

After perusing the impugned order and on hearing the submissions made by the learned senior counsels on both sides, we are of the view that the impugned order passed by the High Court is not sustainable. In a petition filed under Section 482 Cr.P.C., the High Court has recorded findings on several disputed facts and allowed the petition. Defence of the accused is to be tested after appreciating the evidence during trial. The very fact that the High Court, in this case, went into the most minute details, on the allegations made by the appellant-C.B.I., and the defence put-forth by the respondent, led us to a conclusion that the High Court has exceeded its power, while exercising its inherent jurisdiction under Section 482 Cr.P.C.

When it is mainly the defence of the respondent that the funds were received from his father, burden is on him to prove that he received such funds from his father, as such, no permission was required.

So far as the order passed by the Revisional Authority is concerned, if any adverse order is passed by the Revisional Court, without issuing notice to the respondent, it is open to the High Court to set aside the order and remit the matter back for fresh consideration but, at the same time, it is not open to allow the Revision in its entirety.

Mani Pushpak Joshi VS State of Uttarakhand, 17 Oct 2019; 2019 0 Supreme(SC) 1156;
Even if the father of the child has basis to be angry with the Management of the School but, we find that no prima-facie case of any active part on the part of the appellant is made out in violating the small child. The involvement of other persons on the statement of the child of impressionable age does not inspire confidence that the appellant is liable to be proceeded under Section 319 of the Code. In fact, it is suggestive role of the family which influences the mind of the child to indirectly implicate the appellant.
15. Obviously, the father of the child must have anger against the Management of the School as his child was violated when she was studying in the School managed by the appellant but, we find that the anger of the father against the Management of the School including the appellant is not sufficient to make him to stand trial for the offences punishable under Section 376(2) of the IPC read with Sections 5/6 of the POCSO Act.
16. The statement of the child so as to involve a person wearing spectacles as an accused does not inspire confidence disclosing more than prima-facie to make him to stand trial of the offences. Therefore, we hold that the order of summoning the appellant under Section 319 of the Code is not legal. The fact, that the prosecution after investigations has found no material to charge the present appellant is also cannot be ignored. The heinous crime committed should not be led into prosecuting a person only because he was part of the Management of the School. We have extracted the evidence led by the prosecution only to find out if there is any prima-facie case against the appellant. We are satisfied that there is no prima-facie case against the appellant, which warrants his trial for the offences pending before the Court.

EBHA ARJUN JADEJA VS STATE OF GUJARAT, 16 Oct 2019; 2019 0 Supreme(SC) 1145;
Each case is to be decided on its own facts. The police official, not being the District Superintendent of Police, may receive information of commission of an offence and may reach the scene of a crime. He can record the information on the spot and then send a rukka to the police station for recording of FIR. There may be cases of serious offences like murder, rape, offences under Narcotic Drugs and Psychotropic Substances Act, 1985, Protection of Children from Sexual Offences (POCSO) Act, 2012 etc. where any delay in investigation is fatal. In these cases, the police officer is entitled to record the information some of which may indicate an offence under TADA Act, also because non-recording of the information with regard to the main offence may delay the investigation and hamper proper investigation in the matter. In such cases, while recording the information and recording the FIR, for the offences falling under TADA Act, the police officials concerned can approach the District Superintendent of Police for sanction under Section 20-A(1) of TADA Act. The investigation in serious cases of murder, rape, smuggling, narcotics, POCSO Act etc. cannot be delayed only because TADA Act is also involved.

V.Balaiah Vs State of Andhra Pradesh; 2019 2 ALD Crl 666(T.S);
Law is well settled that non-examination of panch witnesses is not fatal to the prosecution case. However, in the absence of evidence of panch witnesses, evidence of official witnesses (police officials) is required to be scrutinized with due care and caution. The testimony of a witness cannot be brushed aside merely because he is a Police Officer. The credibility of the witnesses has to be tested on the touchstone of truthfulness. Therefore, wherever the evidence of police officials, after careful scrutiny, inspires confidence and is found to be trustworthy and reliable, it can form basis of conviction, even in absence of corroboration with the independent witnesses. No infirmity attaches to the testimony of the police officials, merely because they are police officials and there is no rule of law or evidence, which lays down that conviction cannot be recorded on the sole testimony of the police officials. Where a police witness bore no grudge or animosity against the accused, his/her

testimony, if otherwise reliable, can be believed. It may be indicated here that as a rule of prudence, corroboration of police witness probably by a reliable witness is desirable, but in all cases such corroboration cannot be insisted as a matter of course, because it may not be possible in all cases to get corroboration from an independent witness. The mere fact that the prosecution witnesses are police officers is not enough to discard their evidence in the absence of evidence of their hostility to the accused.

Jupudi Prakash Vs State of A.P; 2019 2 ALD Crl 696;
The documents referred above, which are sought to be marked are Xerox copies, as the originals of those documents are said to be destroyed. In this regard, Section 65 of the Act clearly makes a provision with regard to cases in which secondary evidence relating to documents may be given.
There is a clear provision under Section 65 (c) of the Act for receiving document when the original has been destroyed or lost. The case of the prosecution is that the originals were destroyed and therefore, they want to file Xerox copies of those documents. The trial Court on consideration of contentions of both sides, has passed appropriate order permitting the prosecution to file those documents, subject to proof and relevancy. Therefore, there is no prejudice caused to the accused by receiving the documents by the trial Court in view of the above provision.
The petitioner is the 4th respondent in the above Crl.M.P.No.4191 of 2018, filed under Section 242 (2) Cr.P.C. seeking permission to receive the documents through P.W.1 in view of provision under Section 65 (c) of the Indian Evidence Act, 1872 (for short 'the Act').

Rajender @ Rajesh @ Raju VS State (NCT of Delhi), 24 Oct 2019; 2019 0 Supreme(SC) 1195;
A statement made by an accused under Section 313, Cr.P.C. can be used as an aid to lend credence to the evidence led by the prosecution
Section 106 of the Indian Evidence Act, 1872 provides that the burden of proof for any fact that is especially within the knowledge of a person lies upon such person. Thus, if a person is last seen with the deceased, he must offer an explanation as to how and when he parted company with the deceased. In other words, he must furnish an explanation that appears to the Court to be probable and satisfactory, and if he fails to offer such an explanation on the basis of facts within his special knowledge, the burden cast upon him under Section 106 is not discharged. Particularly in cases resting on circumstantial evidence, if the accused fails to offer a reasonable explanation in discharge of the burden placed on him, such failure by itself can provide an additional link in the chain of circumstances proved against him. This, however, does not mean that Section 106 shifts the burden of proof of a criminal trial on the accused. Such burden always rests on the prosecution. Section 106 only lays down the rule that when the accused does not throw any light upon facts which are specially with in his/her knowledge and which cannot support any theory or hypothesis compatible with his innocence, the Court can consider his failure to adduce an explanation as an additional link which completes the chain of incriminating circumstances.
Though the High Court has held that these records have not been proved, as no certificate was issued in terms of Section 65-B(4) of the Indian Evidence Act, 1872, we find that these records can be relied upon. This is because an objection relating to the non-production of a certificate under Section 65-B(4) relates to the mode and method of proof and cannot be raised at the appellate stage

Vinubhai Haribhai Malaviya VS State of Gujarat, 16 Oct 2019; 2019 0 Supreme(SC) 1148;
There is no good reason given by the Court in these decisions as to why a Magistrate's powers to order further investigation would suddenly cease upon process being issued, and an accused appearing before the Magistrate, while concomitantly, the power of the police to further investigate the offence continues right till the stage the trial commences
To say that a fair and just investigation would lead to the conclusion that the police retain the power, subject, of course, to the Magistrate's nod under Section 173(8) to further investigate an offence till charges are framed, but that the supervisory jurisdiction of the Magistrate suddenly ceases mid-way through the pre-trial proceedings, would amount to a travesty of justice, as certain cases may cry out for further investigation so that an innocent person is not wrongly arraigned as an accused or that a

prima facie guilty person is not so left out. There is no warrant for such a narrow and restrictive view of the powers of the Magistrate, particularly when such powers are traceable to Section 156(3) read with Section 156(1), Section 2(h), and Section 173(8) of the CrPC, as has been noticed hereinabove, and would be available at all stages of the progress of a criminal case before the trial actually commences. It would also be in the interest of justice that this power be exercised suo motu by the Magistrate himself, depending on the facts of each case. Whether further investigation should or should not be ordered is within the discretion of the learned Magistrate who will exercise such discretion on the facts of each case and in accordance with law. If, for example, fresh facts come to light which would lead to inculpating or exculpating certain persons, arriving at the truth and doing substantial justice in a criminal case are more important than avoiding further delay being caused in concluding the criminal proceeding,

State Of Arunachal Pradesh VS Ramchandra Rabidas @ Ratan Rabidas, 04 Oct 2019; 2019 0 Supreme(SC) 1132;

When a person drives a vehicle so recklessly, rashly or negligently that it causes the death of a person, and of which he had knowledge as a reasonable man, that such act was dangerous enough to cause death, he may be attributed with the knowledge of the consequence, and may held liable for culpable homicide not amounting to murder, which is punishable under Section 304 Part II IPC.

5.14 Sections 279, 304A, 337 and 338 IPC may be invoked only if the act of the accused is a negligent or rash act. It is manifest from the scheme of Sections 279, 304A, 336, 337 and 338 IPC that these offences are punishable because of the inherent danger of the acts specified therein, irrespective of the knowledge or intention of the offender.

In our view there is no conflict between the provisions of the IPC and the MV Act. Both the statutes operate in entirely different spheres. The offences provided under both the statutes are separate and distinct from each other. The penal consequences provided under both the statutes are also independent and distinct from each other. The ingredients of offences under the both statutes, as discussed earlier, are different, and an offender can be tried and punished independently under both statutes. The principle that the special law should prevail over the general law, has no application in cases of prosecution of offenders in road accidents under the IPC and M.V. Act.

AMIR HAMZA SHAIKH VS STATE OF MAHARASHTRA, 07 Aug 2019; 2019 0 Supreme(SC) 833; 2019 3 ALT Crl 169(SC);

we find that though the Magistrate is not bound to grant permission at the mere asking but the victim has a right to assist the Court in a trial before the Magistrate. The Magistrate may consider as to whether the victim is in a position to assist the Court and as to whether the trial does not involve such complexities which cannot be handled by the victim. On satisfaction of such facts, the Magistrate would be within its jurisdiction to grant of permission to the victim to take over the inquiry of the pendency before the Magistrate.

Raj Kumar VS State Of Uttar Pradesh, 04 Oct 2019: 2019 0 AIR(SC) 4902; 2019 0 Supreme(SC) 1109;

there was delay in analysing the sample and, therefore, marginal shortfall in MSNF should be overlooked, since it would have been caused by the delay in testing the sample. We cannot accept this contention because there is no material on record to support this assertion. The appellant did not even deem it fit to summon the Public Analyst for cross-examination for this purpose. In similar circumstances where the delay in testing the samples was of 44 days, this Court in Shambhu Dayal vs. State of U.P., (1979) 1 SCC 202 held that since the sample had been preserved by using formalin, as in the present case, the accused cannot get any benefit.

The complaint may not have been complete in the sense that the list of witnesses was not filed but this, in any way, did not impact the right given to the appellant to get the second sample analysed from CFL. If the appellant had exercised his option and the Magistrate had not sent the second sample to the CFL, or if the CFL had reported that the sample is not fit for analysis, then alone the appellant could have got some benefit. The appellant waived his right by not applying to the

Magistrate for sending the second sample for analysis to the CFL, and he cannot have any grievance in this behalf.
We are of the considered view that once standards are laid down by the Legislature then those standards have to be followed. In items like milk which is a primary food, under the Act, it is not necessary to also prove that the food item had become unfit for human consumption or injurious to health. In cases of food coming under the Act, it is not required to prove that article of food was injurious to health. In this case, the only question to be determined is whether the article complies with the standards laid down or not? If it fails to comply with the standards then it will have to be treated as an adulterated article even if it is not rendered injurious to health. Even marginal deviation from the prescribed standard cannot be ignored.

Ravi S/o Ashok Ghumare VS State of Maharashtra, 03 Oct 2019; 2019 0 Supreme(SC) 1100;
The globally acknowledged medical literature coupled with the statement of PW-11 Assistant Director, Forensic Science Laboratory leaves nothing mootable that in cases of sexual assault, DNA of the victim and the perpetrator are often mixed. Traditional DNA analysis techniques like "autosomal- STR" are not possible in such cases. Y-STR method provides a unique way of isolating only the male DNA by comparing the Y-Chromosome which is found only in males. It is no longer a matter of scientific debate that Y-STR screening is manifestly useful for corroboration in sexual assault cases and it can be well used as excalpatory evidence and is extensively relied upon in various jurisdictions throughout the world. ["Y-STR analysis for detection and objective confirmation of child sexual abuse" authored by Frederick C. Delfin - Bernadette J. Madrid - Merle P. Tan - Maria Corazon A. De Ungria and "Forensic DNA Evidence: Science and the Law" authored by Justice Ming W. Chin, Michael Chamberlain, A, Y Roja, Lance Gima] Science and Researches have emphatically established that chances of degradation of the 'Loci' in samples are lesser by this method and it can be more effective than other traditional methods of DNA analysis. Although Y-STR does not distinguish between the males of same lineage, it can, nevertheless, may be used as a strong circumstantial evidence to support the prosecution case. Y-STR techniques of DNA analysis are both regularly used in various jurisdictions for identification of offender in cases of sexual assault and also as a method to identify suspects in unsolved cases. Considering the perfect match of the samples and there being nothing to discredit the DNA analysis process, the probative value of the forensic report as well as the statement of PW-11 are very high. Still further, it is not the case of the appellant that crime was committed by some other close relative of him. Importantly, no other person was found present in the house except the appellant.
This Court has held in a catena of decisions that lack of motive would not be fatal to the case of prosecution as sometimes human beings act irrationally and at the spur of the moment.

Ravishankar @ Baba Vishwakarma VS State of Madhya Pradesh, 03 Oct 2019; 2019 0 Supreme(SC) 1102;
Essentially, this is a case of circumstantial evidence which is supported by occular and medico-scientific evidence. The prosecution has effectively proved that deceased was `last seen' with the appellant and on earlier occasions too was seen being enticed by the appellant. DNA evidence using the established STR technique has proved that appellant committed sexual intercourse with the deceased. Deceased has been proven to be a minor using school records. Various injuries on her body along with signs of struggle proved that such crime was committed in a barbaric manner. Death has been established as being homicidal and caused by throttling, and has been estimated during the time when the deceased was seen with the appellant. A slipper have been recovered through the appellant which has later been identified as belonging to the deceased, giving finality to the circumstantial chain. The appellant has been unable to offer any alibi and his defence merely rests on deflecting guilt on to the family of the deceased, which is without a shred of evidence. Further, no effective challenge has been made against any medical or DNA reports. There can thus be no second opinion against the guilt of the appellant and his consequential conviction.
38. The findings of kidnapping, rape, resultant death and destruction of evidence have hence been proven beyond reasonable doubt, as evidenced by concurrent findings of the Courts below. Even this

Court on 10th January, 2018 has confirmed the conviction of the appellant keeping in view the fact that DNA typing carries high probative value for scientific evidence, is often more reliable than ocular evidence. It goes without saying that in (i) Pantangi Balarama Venkata Ganesh vs. State of Andhra Pradesh, (2009) 14 SCC 607 and (ii) Dharam Deo Yadav vs. State of Uttar Pradesh, (2014) 5 SCC 509, this Court has unequivocally held that DNA test, even if not infallible, is nearly an accurate scientific evidence which can be a strong foundation for the findings in a criminal case.

M. Ramalingam VS State Represented By Inspector Of Police SBE/CBI/ACB, Madras, 03 Oct 2019; 2019 0 AIR(SC) 4907; 2019 0 Supreme(SC) 1095;

In all bonafides, it reveals from the record that applications were submitted by the loanee who are illiterate agriculturists and loan was got sanctioned by the appellant T. Maran(A1Bank Manager) with the connivance of the Nagrajan(deceased) in violating the rules and regulations for their personal gains.

Union of India VS State Of Maharashtra, 01 Oct 2019; 2019 0 AIR(SC) 4917; 2019 5 KHC 57; 2019 0 Supreme(SC) 1085;

The Directions iii, iv & v in Subash Kashinath Mahajan judgment in respect of cases under S.C> & S.T.POA Act, which are

(iii) In view of acknowledged abuse of law of arrest in cases under the Atrocities Act, arrest of a public servant can only be after approval of the appointing authority and of a nonpublic servant after approval by the S.S.P. which may be granted in appropriate cases if considered necessary for reasons recorded. Such reasons must be scrutinized by the Magistrate for permitting further detention.

(iv) To avoid false implication of an innocent, a preliminary enquiry may be conducted by the DSP concerned to find out whether the allegations make out a case under the Atrocities Act and that the allegations are not frivolous or motivated.

(v) Any violation of direction (iii) and (iv) will be actionable by way of disciplinary action as well as contempt.

Are recalled.

Pramod Suryabhan Pawar VS State of Maharashtra, 21 Aug 2019; 2019 0 AIR(SC) 4010; 2019 0 Supreme(SC) 901; 2019 3 ALT Crl 216 (SC);

To summarise the legal position that emerges from the above cases, the “consent” of a woman with respect to Section 375 must involve an active and reasoned deliberation towards the proposed act. To establish whether the “consent” was vitiated by a “misconception of fact” arising out of a promise to marry, two propositions must be established. The promise of marriage must have been a false promise, given in bad faith and with no intention of being adhered to at the time it was given. The false promise itself must be of immediate relevance, or bear a direct nexus to the woman’s decision to engage in the sexual act.

Without entering into a detailed analysis of the content of the WhatsApp messages sent by the appellant and the words alleged to have been spoken, it is apparent that none of the offences set out above are made out. The messages were not in public view, no assault occurred, nor was the appellant in such a position so as to dominate the will of the complainant. Therefore, even if the allegations set out by the complainant with respect to the WhatsApp messages and words uttered are accepted on their face, no offence is made out under SC/ST Act (as it then stood). The allegations on the face of the FIR do not hence establish the commission of the offences alleged.

Girish Singh VS State of Uttarakhand, 23 Jul 2019; 2019 0 AIR(SC) 4529; 2019 2 DMC 874; 2019 3 MLJ(Cri) 463; 2019 6 Supreme 688; 2019 0 Supreme(SC) 772; 2019 3 ALT Crl 232 (SC);

Truth in a criminal trial is discovered by not merely going through the cross- examination of the witnesses. There must be an analysis of the chief-examination of the witnesses in conjunction with the cross examination and the re-examination, if any. The effect of what other witnesses have deposed must also enter into consideration of the matter.

NEVADA PROPERTIES PRIVATE LIMITED THROUGH ITS DIRECTORS VS STATE OF MAHARASHTRA, 24 Sep 2019; 2019 0 Supreme(SC) 1066; 2019 3 ALT Crl 247(SC);

Section 102 postulates seizure of the property. Immovable property cannot, in its strict sense, be seized, though documents of title, etc. relating to immovable property can be seized, taken into custody and produced. Immovable property can be attached and also locked/sealed. It could be argued that the word 'seize' would include such action of attachment and sealing. Seizure of immovable property in this sense and manner would in law require dispossession of the person in occupation/possession of the immovable property, unless there are no claimants, which would be rare. Language of Section 102 of the Code does not support the interpretation that the police officer has the power to dispossess a person in occupation and take possession of an immovable property in order to seize it. In the absence of the Legislature conferring this express or implied power under Section 102 of the Code to the police officer, we would hesitate and not hold that this power should be inferred and is implicit in the power to effect seizure. Equally important, for the purpose of interpretation is the scope and object of Section 102 of the Code, which is to help and assist investigation and to enable the police officer to collect and collate evidence to be produced to prove the charge complained of and set up in the charge sheet. The Section is a part of the provisions concerning investigation undertaken by the police officer. After the charge sheet is filed, the prosecution leads and produces evidence to secure conviction. Section 102 is not, per se, an enabling provision by which the police officer acts to seize the property to do justice and to hand over the property to a person whom the police officer feels is the rightful and true owner. This is clear from the objective behind Section 102, use of the words in the Section and the scope and ambit of the power conferred on the Criminal Court vide Sections 451 to 459 of the Code. The expression 'circumstances which create suspicion of the commission of any offence' in Section 102 does not refer to a firm opinion or an adjudication/finding by a police officer to ascertain whether or not 'any property' is required to be seized. The word 'suspicion' is a weaker and a broader expression than 'reasonable belief' or 'satisfaction'. The police officer is an investigator and not an adjudicator or a decision maker. This is the reason why the Ordinance was enacted to deal with attachment of money and immovable properties in cases of scheduled offences.

Bojja Samatha Vijaya Vs State of Telangana; dt 09.09.2019; 2019 3 ALT Crl 81(T.S)

In Narendra K.Amin(Dr.) Vs. State of Gujarat (3 supra) relied upon by the learned counsel for the accused also, the Apex Court in para-23 held that "the Court dealing with an application for cancellation of bail invariably under Section 439(2) of Cr.P.C. can consider whether irrelevant material was taken into consideration or relevant material was not taken into consideration in granting bail".

Even subsequent to the grant of bail in the aforesaid matter, which clearly provided that the respondents/accused have given an undertaking before the Court concerned that they will not tamper with the evidence and threaten the witnesses after their release on bail and shall co-operate with the trial of the case by the trial Court. But the fact remains that there has been gross violation of the said undertaking as there is evidence on record to show that the respondents/accused have been tampering with the evidence, threatened the witnesses, for which criminal case has already been filed by an eye witness (Bojja Ravinder) and on this ground also the present Criminal Petitions filed for cancellation of bail deserves to be allowed. As such the bail granted to the respondents/accused Nos.1 to 15 is hereby cancelled.

Kacharagarala Venkateswarlu @ Venkatesh Naidu VS State of Andhra Pradesh, 23 Aug 2018; 2018 4 Crimes(HC) 379; 2019 0 CrLJ 149; 2018 0 Supreme(AP) 410; 2019 3 ALT Crl 105(TS & AP)

In view of the judicial jurimetrics on the subject in issue, it can only be held that the Court at the post-cognizance stage, cannot direct the I.O to conduct further investigation at the request of the accused. As rightly observed by the Trial Court, the petitioners/accused should vindicate their defence by way

of exposing the lacunae in the investigation if any, and also by way of cross-examination of the prosecution witnesses and by way of producing the defence witnesses if they are so advised.

State of A.P. Vs Dudekala Nagendra; dt.2.11.2018; 2019 3 ALT Crl 122(DB)(TS & AP);
The mere fact that the parents of the deceased were with the victim, does not lead to an automatic inference that there was tutoring. Unnaturality lies in the parents and relatives not being with the deceased but not in they being by her side, in the state in which she was. Unless some other circumstances are proved in favour of tutoring, the mere presence of her parents and her relatives cannot be taken as a factor suggesting tutoring. There is absolute consistency in the statements of the deceased. The finding of the Court below that the two statements are inconsistent, is absolutely groundless. It appears that the court below was immensely influenced by the fact of the hostility of the witnesses and somehow was inclined to support the said hostility, by getting over all the formidable facts that glare in the evidence. The court below blindfolded itself to the principles laid down by the Apex Court in several of its judgments, including in MAFABHAI NAGARBHAI RAVAL V. STATE OF GUJARAT [(1992) 4 SCC 69], wherein it was held that a person suffering 99% burn injuries could be deemed capable enough for the purpose of making a dying declaration and that unless there existed some inherent and apparent defect, the trial court should not have substituted its opinion for that of the doctor. The said principle was reiterated in VIJAY PAL VS. STATE (GOVERNMENT OF NCT DELHI) [(2015) 4 SCC 749], which dealt with 100% burns case.
The Court below, ignoring the chief examination and the cross-examination of the material witnesses, which proved the guilt of the accused beyond all reasonable doubt, relied upon only the cross-examination, which was done at a later point of time and which exhibited hostility to the case of the prosecution. As to how the witnesses were permitted to be recalled and on what grounds they sought to be recalled is not reflected in the judgment. The questions put to the witnesses, after recall, are the same, which were put to the witnesses, when they were cross-examined in the first instance. Unless there are any questions, which were not put to the witnesses in the earlier cross-examination, the recall of witnesses cannot be permitted. Having not only permitted the recall of the witness, the Court below relied only on that part of the evidence, which came before it after such unwarranted recall was permitted. The evidence of the witnesses proves the guilt of the accused, for the alleged offences, beyond all reasonable doubt. The law is well settled that even the evidence of a hostile witness cannot be thrown away totally and any part of his evidence, which is in support of the prosecution, can be relied upon. When such is the law, the approach of the lower court, in ignoring the evidence which is in absolute support of the prosecution case, is strange.
18. “Culture of compromise” is a term evolved by the Supreme Court, to describe witnesses turning hostile, in the judgment reported in RAMESH v. STATE OF HARYANA (2017) 1 SCC 529. Witnesses may have several reasons for compromising the cases, but the courts can have no reasons to compromise on the very well established principles of law and to ignore the evidence.

Safdar Abbas Zaidi VS State of Telangana, Through SHO, Malkajgiri Police Station, Rachakonda, 27 Aug 2018;2018 0 Supreme(AP) 393; 2019 3 ALT Crl 128(TS & AP)
the facts in its saying from the FIR contents and the statement of the victim, it shows that the accused lured her with a promise to marry and enjoyed her sexually, but for that she could not even given consent from which it comes under the offence of rape under Section 375 IPC, for no free consent as contemplated by Sections 39 and 90 IPC as already observed on the scope of law by this Court in Bhumpaka Praveen Kumar Vs. State of Telangana, (2015) 2 ALT Crl. 239, Deelip, Mangoo Ram Supra, Deepak Gulati Vs. State of Haryana, 2013 (3) ALT Crl.339 SCC, Yedla Srinivasa Rao Vs. State of A.P., 2007 (1) ALT Crl.61 SCC, Pradeep Kumar supra and State of UP Vs. Noushad, 2014 (1) ALD Crl.634 SCC. For that conclusion, the other expression of the Apex Court in Karti Vs.State, 2013 12 SCC 710 also lends support by almost reiterating the principle laid down in Deelip Singh supra.

D. Chandra Sekhar VS State of Telangana, by Traffic Police Station, Banjara Hills, Hyderabad, rep. , by Public Prosecutor, High court of Judicature at Hyderabad, 03 Jul 2018; 2019 1 ALD(Cri) 75; 2018 0 Supreme(AP) 283; 2019 3 ALT Crl 133 (TS & AP)

the presence of alcohol content in the petitioner was at 214 mg/100 ml, which is exceeding the permissible BAC level of 30 mg/ml as mentioned in Section 185 of the Act i.e., seven times more than the permissible level. Though the petitioner has violated the mandatory procedure as contemplated under the provisions of the Act, more particularly, Section 185 of the Act and though no untoward incident has taken place even he was under the high influence of liquor, it cannot be said that the petitioner is not guilty of the offence nor a lenient view can be taken. In fact, the petitioner has committed the same offence within two years. The drunken driving has become a menace for our society. In many cases it is leading to many casualties. The innocent pedestrians are losing their lives and families are being shattered. The punishment to be awarded to a drunken driver at least should act as a deterrent for others, who are resorting to such type of violations. In these circumstances, this Court is not inclined to interfere with the judgment passed by the lower appellate Court in confirming the judgment of the Court below.

NON DETECTION OF PARTICULARS OF THE BLOOD:

In the case of Jagroop Singh v. State of Punjab, (2012) 11 SCC 768, this Court had ruled that as the recovery was made pursuant to a disclosure statement made by the accused, and the serological report had found that the blood was of human origin, the non-determination of the blood group had lost its significance.

In the case of State of Rajasthan v. Teja Ram and Others, (1999) 3 SCC 507, the Court had observed that the failure of the serologist to detect the origin of the blood, due to disintegration of the serum, did not mean that the blood stuck on the weapon could not have been human blood at all. In this context, it was noted that it could not be said that in all cases where there was a failure in detecting the origin of blood, the circumstance arising from recovery of the weapon would stand relegated to disutility. It was thus observed that unless the doubt was of a reasonable dimension which a judicially conscientious mind entertained with some objectivity, no benefit could be claimed by the accused.

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While on confession, it is important to understand as to what will amount to a confession. The Privy Council in Pakala Narayana Swami v. Emperor, (1939) PC 47(20.01.1939) :-

"... Moreover, a confession must either admit in terms the offence, or at any rate substantially all the facts which constitute the offence. An admission of a gravely incriminating fact, even a conclusively incriminating fact is not of itself a confession, e.g. an admission that the accused is the owner of and was in recent possession of the knife or revolver which caused a death with no explanation of any other man's possession. Some confusion appears to have been caused by the definition of 'confession' in Article 22 of Stephen's "Digest of the Law of Evidence" which defines a confession as a admission made iafc (sic) any time by a person charged with a crime stating or suggesting the inference that he committed that crime. If the surrounding articles are examined it will be apparent that the learned author after dealing with admissions generally is applying himself to admissions in criminal cases, and for this purpose defines confessions so as to cover all such admissions, in order to have a general term for use in the three following articles, confession secured by inducement, made upon oath, made under a promise of secrecy. The definition is not contained in the Evidence Act, 1872: and in that Act it would not be consistent with the natural use of language to construe confession as a statement by an accused "suggesting the inference that he committed" the crime."

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In State of Bombay vs. Kathi Kalu Oghad, AIR 1961 SC 1808, a Bench of 11 learned Judges of this Court had an occasion to consider the true width of the expression "person accused of an offence". Speaking on behalf of the majority, Sinha, C.J., held as follows:

"14. In this connection the question was raised before us that in order to bring the case within the prohibition of clause (3) of Article 20, it is not necessary that the statement should have been made by the accused person at a time when he fulfilled that character; it is enough that he should have been an accused person at the time when the statement was sought to be proved in court, even though he may not have been an accused person at the time he had made that statement. The correctness of the decision of the Constitution Bench of this Court in the case of Mohamed Dastagir vs. State of Madras [(1960) 3 SCR 116] was questioned because it was said that it ran counter to the observations of the Full Court in Sharma case (1954) SCR 1077. In the Full Court decision of this Court this question did not directly arise; nor was it decided. On the other hand, this Court, in Sharma case (1954) SCR 1077 held that the protection under Article 20(3) of the Constitution is available to a person against whom a formal accusation had been levelled, inasmuch as a First Information Report had been lodged against him. Sharma case (1954) SCR 1077 therefore, did not decide anything to the contrary of what this Court said in Mohamed Dastagir v. State of Madras [(1960) 3 SCR 116]. The latter decision in our opinion lays down the law correctly.

15. In order to bring the evidence within the inhibitions of clause (3) of Article 20 it must be shown not only that the person making the statement was an accused at the time he made it and that it had a material bearing on the criminality of the maker of the statement, but also that he was compelled to make that statement. ..." (Emphasis supplied)

The Court also laid down its conclusions in paragraph-16:

"16. In view of these considerations, we have come to the following conclusions:

(1) An accused person cannot be said to have been compelled to be a witness against himself simply because he made a statement while in police custody, without anything more. In other words, the mere fact of being in police custody at the time when the statement in question was made would not, by itself, as a proposition of law, lend itself to the inference that the accused was compelled to make the statement, though that fact, in conjunction with other circumstances disclosed in evidence in a particular case, would be a relevant consideration in an enquiry whether or not the accused person had been compelled to make the impugned statement.

(2) The mere questioning of an accused person by a police officer, resulting in a voluntary statement, which may ultimately turn out to be incriminatory, is not "compulsion".

(3) "To be a witness" is not equivalent to "furnishing evidence" in its widest significance; that is to say, as including not merely making of oral or written statements but also production of documents or giving materials which may be relevant at a trial to determine the guilt or innocence of the accused.

(4) Giving thumb impressions or impressions of foot or palm or fingers or specimen writings or showing parts of the body by way of identification are not included in the expression "to be a witness".

(5) "To be a witness" means imparting knowledge in respect of relevant facts by an oral statement or a statement in writing, made or given in court or otherwise.

(6) "To be a witness" in its ordinary grammatical sense means giving oral testimony in court. Case law has gone beyond this strict literal interpretation of the expression which may now bear a wider meaning, namely, bearing testimony in court or out of court by a person accused of an offence, orally or in writing.

(7) To bring the statement in question within the prohibition of Article 20(3), the person accused must have stood in the character of an accused person at the time he made the statement. It is not enough that he should become an accused, any time after the statement has been made."

Accused right of audience at the stage of investigation:

Union of India and Anr. v. W.N Chadha (1993) Supp. 4 SCC 260, is a judgment which states that the accused has no right to participate in the investigation till process is issued to him, provided there is strict compliance of the requirements of fair investigation Likewise, the judgments in Smt. Nagawwa v. Veeranna Shivalongappa Konjalgi & Ors. (1976) 3 SCC 736, Prabha Mathur and Anr. v. Pramod Aggarwal & Ors., (2008) 9 SCC 469, Narender G. Goel v. State of Maharashtra (2009) 6 SCC 65 and Dinubhai Bhogabhai Solanki v. State of Gujarat

& Ors. (2014) 4 SCC 626, which state that the accused has no right to be heard at the stage of investigation, has very little to do with the precise question before us. All these judgments are, therefore, distinguishable. Further, Babubhai v. State of Gujarat & Ors. (2010) 12 SCC 254, is a judgment which distinguishes between further investigation and re-investigation, and holds that a superior court may, in order to prevent miscarriage of criminal justice if it considers necessary, direct investigation de novo, whereas a Magistrate's power is limited to ordering further investigation. Since the present case is not concerned with re-investigation, this judgment also cannot take us much further. Likewise, Romila Thapar v. Union of India, (2018) 10 SCC 753, held that an accused cannot ask to change an investigating agency, or to require that an investigation be done in a particular manner, including asking for a court-monitored investigation. This judgment also is far removed from the question that has been decided by us in the facts of this case.

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NEWS

- **GOVERNMENT OF TELANGANA**- Criminal Cases - Appointment of Sri K.Chandra Sekhar, Public Prosecutor (Retired) as Special Public Prosecutor to conduct prosecution in certain cases pending on the file of 1st Additional District & Sessions Court-cum-Special Sessions Court for POCSO Act Cases, Nalgonda - Orders – Issued- G.O.Rt.No. 1153, HOME (COURTS.A1) DEPARTMENT- Dated: 07-10-2019

- **GOVERNMENT OF ANDHRA PRADESH-** General Administration (I&PR) Department – Delegation of powers to Secretaries of respective Departments to lodge complaints and to file appropriate legal cases through Public Prosecutor against false, baseless and defamatory news items published/Telecast/posted in Print/ Electronic/ Social Media–Orders – Issued- G.O.RT.No. 2430, GENERAL ADMINISTRATION (I&PR) DEPARTMENT, Dated: 30-10-2019.

- **GOVERNMENT OF ANDHRA PRADESH-** Public Services – A.P.State Prosecution Services- Prosecuting Officers – Promotions – Certain Additional Public Prosecutors Grade-II (Cat.5) promoted to the post of Additional Public Prosecutor Grade-I/ Deputy Director of Prosecutions (Cat.4) on temporary basis – Posting - Orders – Issued- **G.O.MS.No. 130 , HOME (COURTS.A) DEPARTMENT Dated: 11-10-2019**

Sl. No	Name of the Officer S/Sri/Smt.	Place of posting on promotion as Additional Public Prosecutor Grade-I /Deputy Director of Prosecutions
1	2	3
1	J.S.Neelamanjari Additional Public Prosecutor Grade-II/ Legal Advisor, in the O/o. the Commissioner, Prohibition & Excise, AP, Vijayawada.	Promoted as Additional Public Prosecutor Grade-I and posted in the Office of the Commissioner, Prohibition & Excise, AP, Vijayawada.
2	C.Sarala Devi, working on deputation as Special Officer in the Office of the Advocates-On-Record, New Delhi.	Promoted as Additional Public Prosecutor Grade-I and posted as Special Officer in the Office of the Advocates-On-Record, New Delhi on deputation duly relaxing the terms and conditions of deputation for foreign services

		issued vide G.O.Ms.No.2 Finance (FR-II) Department, Dated: 2.1.2010.
3	S.Tarakeswarlu, Additional Public Prosecutor Grade-II, Principal Assistant Sessions Judge Court, Kadapa.	Promoted as Additional Public Prosecutor Grade-I/Special Public Prosecutor and posted at Special Court for SC & ST(POA) Act,1989-Cum-VIII Additional District & Sessions Judge Court, Ananthapuramu.

Prosecution Replenish Congratulates all the promote officers

- **GOVERNMENT OF ANDHRA PRADESH-** Prosecution Services – Transfer and posting of Senior Assistant Public Prosecutors on administrative grounds in relaxation of ban on transfers – Orders – Issued- **G.O.RT.No. 885, HOME (COURTS.A) DEPARTMENT, Dated: 15-10-2019.**

- **GOVERNMENT OF ANDHRA PRADESH-** Prosecution Services – Sri P.Kesava Rao, Assistant Public Prosecutor – Transfer from JFCM Court, Bobbili, Vizianagaram District to Judicial First Class Magistrate Court, Srungavarapu Kota, Vijayanagaram District in the existing vacancy in relaxation of ban on transfers – Orders – Issued **G.O.RT.No. 871, HOME (COURTS.A) DEPARTMENT, Dated: 10-10-2019.**

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ON A LIGHTER VEIN

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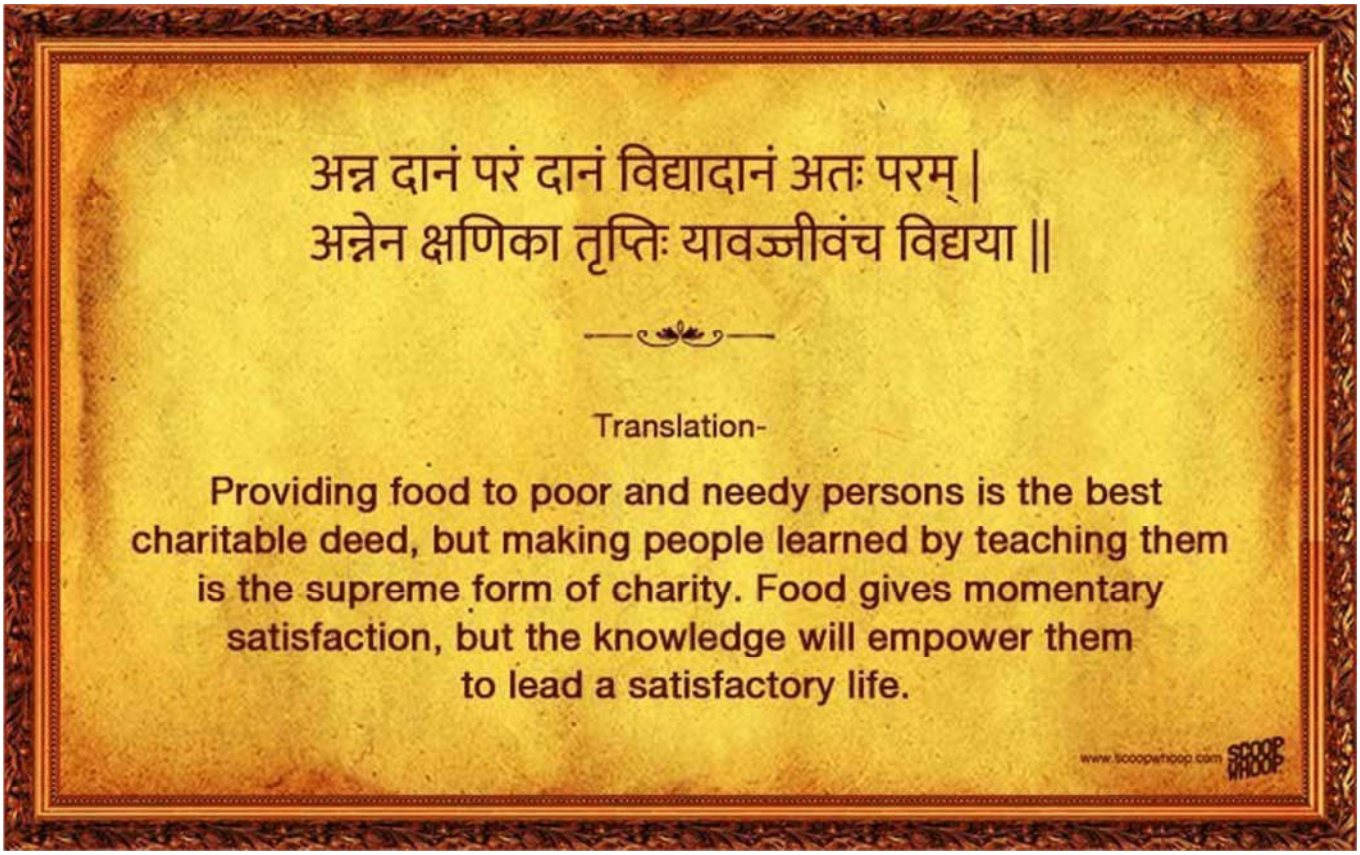
Aano Bhadra Krtavo Yantu Vishwatah.(RIG VEDAM)
"Let Noble Thoughts Come To Me From All Directions"



CITATIONS

Vinubhai Haribhai Malaviya VS State of Gujarat, 16 Oct 2019; 2019 3 ALT Crl 284(SC); 2019 0 Supreme(SC) 1148; THREE JUDGE BENCH; To say that a fair and just investigation would lead to the conclusion that the police retain the power, subject, of course, to the Magistrate's nod under Section 173(8) to further investigate an offence till charges are framed, but that the supervisory jurisdiction of the Magistrate suddenly ceases mid-way through the pre-trial proceedings, would amount to a travesty of justice, as certain cases may cry out for further investigation so that an innocent person is not wrongly arraigned as an accused or that a prima facie guilty person is not so left out. There is no warrant for such a narrow and restrictive view of the powers of the Magistrate, particularly when such powers are traceable to Section 156(3) read with Section 156(1), Section 2(h), and Section 173(8) of the CrPC, as has been noticed hereinabove, and would be available at all stages of the progress of a criminal case before the trial actually commences. It would also be in the interest of justice that this power be exercised suo motu by the Magistrate himself, depending on the facts of each case.

Mohammed Fasrin VS State rep. by the Intelligence Officer, 04 Sep 2019; 2019 3 ALT Crl 320(SC); 2019 0 AIR(SC) 4427; 2019 8 SCC 811; 2019 0 Supreme(SC) 1051;
Therefore, other than the two confessional statements – one of the co-accused and the other of the accused, the prosecution has gathered no evidence to link the appellant with the commission of the offence. As such, without going into the legality of the admissibility of the confession, we hold that even if these confessions are admissible then also the evidence is not sufficient to convict the accused.

SUDRU VS STATE OF CHATTISGARH, 22 Aug 2019: 2019 3 ALT Crl 342(SC); 2019 8 SCC 333; 2019 3 SCC(Cri) 485; 2019 0 Supreme(SC) 911; it is settled principle of law, that such part of the evidence of a hostile witness which is found to be credible could be taken into consideration and it is not necessary to discard the entire evidence.

In a case based on circumstantial evidence where no eye-witness account is available there is another principle of law which must be kept in mind. The principle is that when an incriminating circumstance is put to the accused and the said accused either offers no explanation or offers an explanation which is found to be untrue, then the same becomes an additional link in the chain of circumstances to make it complete.

STATE OF MADHYA PRADESH VS UDHAM, 22 Oct 2019; 2019 3 ALT Crl 377 (SC); 2019 0 Supreme(SC) 1184; THREE JUDGE BENCH
Sentencing for crimes has to be analyzed on the touch stone of three tests viz., crime test, criminal test and comparative proportionality test. Crime test involves factors like extent of planning, choice of weapon, modus of crime, disposal modus (if any), role of the accused, anti-social or abhorrent character of the crime, state of victim. Criminal test involves assessment of factors such as age of the criminal, gender of the criminal, economic conditions or social background of the criminal, motivation for crime, availability of defense, state of mind, instigation by the deceased or any one from the deceased group, adequately represented in the trial, disagreement by a judge in the appeal process, repentance, possibility of reformation, prior criminal record (not to take pending cases) and any other relevant factor (not an exhaustive list).
Additionally, we may note that under the crime test, seriousness needs to be ascertained. The seriousness of the crime may be ascertained by (i) bodily integrity of the victim; (ii) loss of material support or amenity; (iii) extent of humiliation; and (iv) privacy breach.

Kokkirigadda Devaraj. Vs State of Andhra Pradesh; 2019 3 ALT Crl 172(HC);
merely because the police have not taken steps to conduct the 'examination' as mentioned in Section 53 Cr.P.C. during investigation stage, that should not be the end of the matter and on the other hand, the prosecution can make a request for such examination during trial stage as well.
there can be no demur that the power under Section 53 r/w 173(8) Cr.P.C. can be used by the Court even during the stage of trial.

Chintamaneni Prabhakara Rao @ Prabhakar Vs SIP, Pedapadu PS, WG Dist; 2019 3 ALT Crl 184(AP); Though Special courts are established for trial of cases against MLA's and M.P's, if the offences charged against them are triable by special courts, then such cases are to be dealt with by such special courts only.

Himagiri Enterprises Pvt Limited VS State of Telangana; 2019 3 ALT Crl 211 (TS)
no party to the trial can be denied an opportunity to produce relevant documents which were not brought on record due to inadvertence and if the said documents are received, no prejudice would be caused to the defence as an adequate opportunity would be available to the accused to cross-examine the witnesses and to lead rebuttal evidence.

Rameshwar VS State of Madhya Pradesh, 21 Aug 2019; 2019 0 AIR(SC) 3959; 2019 3 JLJ 561; 2019 8 SCC 303; 2019 3 SCC(Cri) 481; 2019 0 Supreme(SC) 897;
The High Court held that even though there are contradictions in the statement of PW-1 recorded in the court and her statement in the FIR, since the prosecution has proved that the appellants have shared the common intention to commit the murder of the deceased, the court can invoke Section 34 IPC and in such a situation, it was not necessary for the prosecution to prove that the gun shot injuries which has resulted in the death of the deceased was caused by which of the two appellants. The High Court affirmed the conviction of the appellants under Section 302 IPC read with Section 34 IPC and the sentence of life imprisonment imposed upon them- Upheld by Supreme Court.
When evidence against two accused are not identical, acquittal of one will help the other.

P. CHIDAMBARAM VS DIRECTORATE OF ENFORCEMENT, 05 Sep 2019; 2019 0 AIR(SC) 4198; 2019 3 Crimes(SC) 410; 2019 9 SCC 24; 2019 3 SCC(Cri) 509; 2019 0 Supreme(SC) 991; Grant of anticipatory bail at the stage of investigation may frustrate the investigating agency in interrogating

the accused and in collecting the useful information and also the materials which might have been concealed. Success in such interrogation would elude if the accused knows that he is protected by the order of the court. Grant of anticipatory bail, particularly in economic offences would definitely hamper the effective investigation.
Interrogation of the accused and the answers elicited from the accused and the opinion whether the answers given by the accused are “satisfactory” or “evasive”, is purely within the domain of the investigating agency and the court cannot substitute its views by conducting mini trial at various stages of the investigation.
It is well-settled that the court can peruse the case diary/materials collected during investigation by the prosecution even before the commencement of the trial inter-alia in circumstances like:- (i) to satisfy its conscience as to whether the investigation is proceeding in the right direction; (ii) to satisfy itself that the investigation has been conducted in the right lines and that there is no misuse or abuse of process in the investigation; (iii) whether regular or anticipatory bail is to be granted to the accused or not; (iv) whether any further custody of the accused is required for the prosecution; (v) to satisfy itself as to the correctness of the decision of the High Court/trial court which is under challenge. The above instances are only illustrative and not exhaustive. Where the interest of justice requires, the court has the powers, to receive the case diary/materials collected during the investigation. As held in Mukund Lal, ultimately there can be no better custodian or guardian of the interest of justice than the court trying the case. Needless to point out that when the Court has received and perused the documents/materials, it is only for the purpose of satisfaction of court’s conscience. In the initial stages of investigation, the Court may not extract or verbatim refer to the materials which the Court has perused (as has been done in this case by the learned Single Judge) and make observations which might cause serious prejudice to the accused in trial and other proceedings resulting in miscarriage of justice.

R. Jayapal VS State Of Tamil Nadu, 09 Aug 2019; 2019 0 AIR(SC) 3727; 2019 8 SCC 342; 2019 0 Supreme(SC) 844; 2019 3 SCC Cri 549; As observed by this Court in State of Rajasthan v. Kalki [(1981) 2 scc 752] normal discrepancies in evidence are those which are due to normal errors of observations, normal errors of memory due to lapse of time, due to mental disposition such as shock and horror at the time of occurrence and these are always there however honest and truthful a witness may be. Material discrepancies are those which are not normal and not expected of a normal person. Courts have to label the category to which a discrepancy may be categorised. While normal discrepancies do not corrode the credibility of a party’s case, material discrepancies do so.
the prosecution has not been able to remove all the obvious doubts as to the place and manner of occurrence, particularly as to who was the aggressor and how it started. On the other hand, the defence version that the deceased barged into the house of the appellant with 5-6 persons and assaulted and molested his wife is also unacceptable for want of cogent and convincing evidence. However, the preponderance remains that the occurrence, in all likelihood, took place just at the door-step of the house of the appellant. In the given circumstances, the likelihood of the deceased, who was on inimical terms with the wife of the appellant, having given the reasons for provocation by way of aggression or attempted intrusion into the house of the appellant is not ruled out.

MALLIKARJUN VS STATE OF KARNATAKA, 08 Aug 2019; 2019 8 SCC 359; 2019 0 Supreme(SC) 838; 2019 3 SCC Cri 563; If the evidence of eye witness is found to be credible and trustworthy, minor discrepancies which do not affect the core of the prosecution case, cannot be made a ground to doubt the trustworthiness of the witness.
Evidence of a witness is not to be disbelieved simply because he/she appears partisan or is related to the deceased/prosecution witness. It is to be ascertained whether the witness was present or not and whether he/she is telling the truth or not.
The expert is not a witness of fact. Opinionative evidence of the doctor is primarily an evidence of opinion and not of fact. It is only a corroborative piece of evidence as to the possibility that the injuries could have been caused in the manner alleged by the prosecution. Unless the medical evidence rules out such possibility of injury being caused in the manner alleged by the prosecution version, the

testimony of the eye witness cannot be doubted on the ground of its inconsistency with medical evidence.
There may be cases where the delay in FIR gives rise to the suspicion as to the false implication; but when the delay is satisfactorily explained, delay in registration of the FIR or receipt of the same in the court would not affect the prosecution case.
There is no merit in the contention that merely because the panch witnesses turned hostile, the recovery of the weapon would stand vitiated. It is fairly well settled that the evidence of the Investigating Officer can be relied upon to prove the recovery even when the panch witnesses turned hostile.
When a grave crime is registered, the PSI who is in-charge of the police station cannot wait for the arrival of the Circle Inspector or wait for the instruction to commence the investigation.

Sachin Kumar Singhraha VS State Of Madhya Pradesh, 12 Mar 2019 : 2019 0 AIR(SC) 1416; 2019 2 ALD(Cri)(SC) 67; 2019 1 Crimes(SC) 278; 2019 0 CrLJ 2257; 2019 5 Scale 39; 2019 8 SCC 371; 2019 3 Supreme 643; 2019 0 Supreme(SC) 272; 2019 3 SCC Cri 575; (3 JUDGE)
we would like to recall that it is well-settled that criminal justice should not become a casualty because of the minor mistakes committed by the Investigating Officer. We may hasten to add here itself that if the Investigation Officer suppresses the real incident by creating certain records to make a new case altogether, the Court would definitely strongly come against such action of the Investigation Officer. There cannot be any dispute that the benefit of doubt arising out of major flaws in the investigation would create suspicion in the mind of the Court and consequently such inefficient investigation would accrue to the benefit of the accused. As observed by this Court in the case of State of H.P. v. Lekh Raj, (2000) (1) scc 247, a criminal trial cannot be equated with a mock scene from a stunt film. Such trial is conducted to ascertain the guilt or innocence of the accused arraigned and in arriving at a conclusion about the truth, the courts are required to adopt a rational approach and judge the evidence by its intrinsic worth and the animus of the witnesses. The courts are not obliged to make efforts either to give latitude to the prosecution or loosely construe the law in favour of the accused. The traditional dogmatic hyper technical approach has to be replaced by a rational, realistic and genuine approach for administering justice in a criminal trial.
The Court will have to evaluate the evidence before it keeping in mind the rustic nature of the depositions of the villagers, who may not depose about exact geographical locations with mathematical precision. Discrepancies of this nature which do not go to the root of the matter do not obliterate otherwise acceptable evidence. It need not be stated that it is by now well settled that minor variations should not be taken into consideration while assessing the reliability of witness testimony and the consistency of the prosecution version as a whole.

AMIR HAMZA SHAIKH VS STATE OF MAHARASHTRA, 07 Aug 2019; 2019 0 AIR(SC) 3721; 2019 3 Crimes(SC) 227; 2019 2 DMC 857; 2019 3 MLJ(Cri) 579; 2019 8 SCC 387; 2019 0 Supreme(SC) 833; 2019 3 SCC Cri 588
The private person who is permitted to conduct prosecution in the Magistrate's Court can engage a counsel to do the needful in the court in his behalf. It further amplifies the position that if a private person is aggrieved by the offence committed against him or against anyone in whom he is interested he can approach the Magistrate and seek permission to conduct the prosecution by himself. It is open to the court to consider his request. If the court thinks that the cause of justice would be served better by granting such permission the court would generallygrant such permission. Of course, this wider amplitude is limited to Magistrates' Courts, as the right of such private individual to participate in the conduct of prosecution in the Sessions Court is very much restricted and is made subject to the control of the Public Prosecutor.
though the Magistrate is not bound to grant permission at the mere asking but the victim has a right to assist the Court in a trial before the Magistrate. The Magistrate may consider as to whether the victim is in a position to assist the Court and as to whether the trial does not involve such complexities which cannot be handled by the victim. On satisfaction of such facts, the Magistrate

would be within its jurisdiction to grant of permission to the victim to take over the inquiry of the pendency before the Magistrate.

MANJIT SINGH VS STATE OF PUNJAB, 03 Sep 2019; 2019 3 Crimes(SC) 331; 2019 8 SCC 529; 2019 3 SCC Cri 600

It remains trite that acquittal of co-accused per se is not sufficient to result in acquittal of the other accused. Even if the material evidence against all the accused persons is the same, acquittal of some of them does not lead to a corollary that the other accused also need to be acquitted [vide Yanob Sheikh alias Gagu v. State of West Bengal: (2013) 6 scc 428 and Dalbir Singh v. State of Haryana: (2008) 11 scc 425]. If after taking the evidence as a whole, the case in relation to the acquitted accused could be segregated from that against the other, such other accused could nevertheless be convicted.

if anything of so-called enmity is to be taken into consideration, the same equally operates against the appellant and his companions,

Likewise, the submission about want of independent witnesses in support of prosecution case is also baseless. There is no rule that in every criminal case, the testimony of an injured eye-witness needs corroboration from the so-called independent witness(es). When the statement of injured eye-witness is found trustworthy and reliable, the conviction on that basis could always be recorded, of course, having regard to all the facts and surrounding factors.

JAGBIR SINGH VS STATE (N. C. T. OF DELHI), 04 Sep 2019; 2019 0 AIR(SC) 4321; 2019 3 Crimes(SC) 389; 2019 8 SCC 779; 2019 0 Supreme(SC) 988;2019 3 SCC Cri 657;

We would think that on a conspectus of the law as laid down by this court, when there are more than one dying declaration, and in the earlier dying declaration, the accused is not sought to be roped in but in the later dying declaration, a summersault is made by the deceased, the case must be decided on the facts of each case. The court will not be relived of its duty to carefully examine the entirety of materials as also the circumstances surrounding the making of the different dying declarations. If the court finds that the incriminatory dying declaration brings out the truthful position particularly in conjunction with the capacity of the deceased to make such declaration, the voluntariness with which it was made which involves, no doubt, ruling out tutoring and prompting and also the other evidence which support the contents of the incriminatory dying declaration, it can be acted upon. Equally, the circumstances which render the earlier dying declaration, worthy or unworthy of acceptance, can be considered

Mohammed Fasrin VS State rep. by the Intelligence Officer, 04 Sep 2019; 2019 0 AIR(SC) 4427; 2019 8 SCC 811; 2019 0 Supreme(SC) 1051; 2019 3 SCC Cri 684;

This evidence of a co-accused is a very weak type of evidence which needed to be corroborated by some other evidence. The confession of a co-accused gives a clue to the investigating authorities as to how to investigate the matter and against whom to investigate the matter. Thereafter, it is for the investigating officers to collect evidence against the said person who has been named by the co-accused.

It is also well settled that a confession, especially a confession recorded when the accused is in custody, is a weak piece of evidence and there must be some corroborative evidence.

Bhagwan VS State Of Maharasahtra Through Secretary Home, Mumbai, Maharashtra, 07 Aug 2019; 2019 0 AIR(SC) 4170; 2019 3 Crimes(SC) 233; 2019 8 SCC 95; 2019 2 ALD Crl 716(SC);

The degree of the burn is not clear in this case. However, once the dermis is completely affected when there is third degree burn there would be no pain for the reason that the pain receptor found in the dermis would die.

the mere fact that the patient suffered 92% burn injuries as in this case would not stand in the way of patient giving a dying declaration which otherwise inspires the confidence of the Court and is free from tutoring, and can be found reliable.

VIJAY MOHAN SINGH VS STATE OF KARNATAKA, 10 Apr 2019; 2019 0 AIR(SC) 2418; 2019 5 SCC 436; 2019 4 Supreme 258; 2019 0 Supreme(SC) 430; 2019 2 ALD Crl 747(SC);
It also appears from the judgment and order passed by the learned trial Court that the learned trial Court gave undue importance to the initial statement of the victim while giving the history to the doctor when she was admitted and when she gave the history of accidental burns while cooking in kitchen. However, the trial Court did not consider her explanation on the above gave in the dying declaration. Even considering the surrounding circumstances and the medical evidence and the other evidence, the defence has miserably failed and proved that it was an accidental burns/death.

STATE OF GUJARAT VS AFROZ MOHAMMED HASANFATTA, 05 Feb 2019; 2019 1 AICLR 967; 2019 0 AIR(SC) 2499; 2019 1 Crimes(SC) 56; 2019 0 CrLR 239; 2019 2 JT 212; 2019 2 KHC(SN) 11; 2019 1 KLD 455; 2019 1 LawHerald(SC) 511; 2019 1 MLJ(Cri) 495; 2019 1 RCR(Cri) 946; 2019 2 Scale 634; 2019 2 Supreme 333; 2019 0 Supreme(SC) 113; 2019 2 ALD Crl 777(SC).
while taking cognizance of an offence based upon a police report, it is the satisfaction of the Magistrate that there is sufficient ground to proceed against the accused. As discussed earlier, along with the **second supplementary charge sheet**, number of materials like statement of witnesses, Bank statement of the respondent-accused and his company Nile Trading Corporation and other Bank Statement, Call Detail Records and other materials were placed. Upon consideration of the second supplementary charge sheet and the materials placed thereon, the Magistrate satisfied himself that there is sufficient ground to proceed against the respondent and issued summons.

Dayaram VS State of Madhya Pradesh, 07 Nov 2019: 2019 0 Supreme(SC) 1240;
The F.I.R was treated as the first dying declaration of the deceased.
The examination-in-chief of P.Ws 3, 4, 7, 8, 9 and 15 records that on the date of the incident, they had heard the cries of the deceased. The deceased was found lying in the canal in an injured condition. The deceased told them of the attack by the assailants. These prosecution witnesses took the deceased to the hospital.
From their examination-in-chief it is evident that the deceased was conscious and, in a state to lodge the F.I.R. In their cross-examination, these witnesses denied having any knowledge about the persons who attacked the deceased. They were declared hostile during their cross-examination. The testimony, prior to cross-examination can be relied upon.

Kalu Alias Laxminarayan VS State of Madhya Pradesh, 07 Nov 2019: 2019 0 Supreme(SC) 1238; Once the prosecution established a prima facie case, the appellant was obliged to furnish some explanation under Section 313, Cr.P.C. with regard to the circumstances under which the deceased met an unnatural death inside the house. His failure to offer any explanation whatsoever therefore leaves no doubt for the conclusion of his being the assailant of the deceased.

State Of Uttarakhand VS Darshan Singh, 07 Nov 2019; 2019 0 Supreme(SC) 1245;
In a criminal trial, the prosecution can succeed only if the guilt of the accused is brought home. That the accused may have done the crime barely suffices.
the purpose of inquest under Section 174 of the Cr.PC, as contained in the said provision, the person holding the inquest, in short, is not to make an inquiry about who are the accused
the position of law in cases where there is a contradiction between medical evidence and ocular evidence can be crystallised to the effect that though the ocular testimony of a witness has greater evidentiary value vis-à-vis medical evidence, when medical evidence makes the ocular testimony improbable, that becomes a relevant factor in the process of the evaluation of evidence. However, where the medical evidence goes so far that it completely rules out all possibility of the ocular evidence being true, the ocular evidence may be disbelieved

Javed Abdul Rajjaq Shaikh VS State Of Maharashtra, 06 Nov 2019; 2019 0 Supreme(SC) 1236;
As far as the injuries in the Inquest report not being noticed in the post-mortem report is concerned, there can no doubt that the medical doctor knows exactly what medical injuries are and ordinarily in

case of inconsistency, the medical report of the doctor should prevail. Having regard to the post mortem and the evidence of P.W.1, the nature of injuries noticed as explained by the deposition of P.W.1 unerringly point to the death being caused by throttling as opined by the doctor. Much may not turn on the injuries which are alleged to have been noted in the Inquest not being noted in the post mortem note.

RATHNAMMA VS SUJATHAMMA, 15 Nov 2019,2019 0 Supreme(SC) 1272;
In the agreement of marriage (Ex.P/1), it is only stated that both parties are of same caste and with the permission and consent of both of their fathers, they have entered into this agreement of marriage. This type of marriage is not recognized in law as Section 7 of the Act contemplates that the marriage can be solemnized in accordance with customary rites and ceremonies of either party thereto and where such rites and ceremonies include the Saptpadi, the marriage becomes complete and binding when the seventh step is taken.

Rekha Murarka VS State of West Bengal, 20 Nov 2019; 2019 0 Supreme(SC) 1286;
the realities of criminal prosecutions, as they are conducted today, cannot be ignored. There is no denying that Public Prosecutors are often overworked. In certain places, there may be a single Public Prosecutor conducting trials in over 23 courts. Thus, the possibility of them missing out on certain aspects of the case cannot be ignored or discounted. A victimcentric approach that allows for greater participation of the victim in the conduct of the trial can go a long way in plugging such gaps.
the victim's counsel has a limited right of assisting the prosecution, which may extend to suggesting questions to the Court or the prosecution, but not putting them by himself.

Chaitu Lal VS State Of Uttarakhand, 20 Nov 2019; 2019 0 Supreme(SC) 1287;
The counsel on behalf of the accused-appellant placed reliance upon the case of Tarkeshwar Sahu v. State of Bihar (Now Jharkhand), (2006) 8 SCC 560 to claim the benefit of acquittal for offence under Section 511 read with Section 376 of IPC. But, on careful perusal of the aforesaid decision in the backdrop of facts and circumstances of the present case, both the cases are distinguishable as in the case cited above, it is clearly noted that the accused failed at the stage of preparation of commission of the offence itself. Whereas, in the present case before us the distinguishing fact is the action of the accused-appellant in forcibly entering the house of the complainant-victim in a drunken state and using criminal force to lift her petticoat despite her repeated resistance.

Gurjit Singh VS State Of Punjab, 26 Nov 2019; 2019 0 Supreme(SC) 1298;
merely because an accused is found guilty of an offence punishable under Section 498A of the IPC and the death has occurred within a period of seven years of the marriage, the accused cannot be automatically held guilty for the offence punishable under Section 306 of the IPC by employing the presumption under Section 113A of the Evidence Act. Unless the prosecution establishes that some act or illegal omission by the accused has driven the deceased to commit the suicide, the conviction under Section 306 would not be tenable.

Vinod Kumar Garg VS State (Government of National Capital Territory of Delhi), 27 Nov 2019; 2019 0 Supreme(SC) 1305;
This Court in Ashok Tshering Bhutia v. State of Sikkim, referring to the earlier precedents has observed that a defect or irregularity in investigation however serious, would have no direct bearing on the competence or procedure relating to cognizance or trial. Where the cognizance of the case has already been taken and the case has proceeded to termination, the invalidity of the precedent investigation does not vitiate the result, unless a miscarriage of justice has been caused thereby. Similar is the position with regard to the validity of the sanction. A mere error, omission or irregularity in sanction is not considered to be fatal unless it has resulted in a failure of justice or has been occasioned thereby. Section 19(1) of the Act is matter of procedure and does not go to the root of the jurisdiction and once the cognizance has been taken by the court under the Code, it cannot be said

that an invalid police report is the foundation of jurisdiction of the court to take cognizance and for that matter the trial.
The witnesses are not required to recollect and narrate the entire version with photographic memory notwithstanding the hiatus and passage of time.

P. Gopalkrishnan @ Dileep VS State of Kerala, 29 Nov 2019; 2019 0 Supreme(SC) 1306;
It can be safely deduced from the aforementioned expositions that the basis of classifying article as a "document" depends upon the information which is inscribed and not on where it is inscribed. It may be useful to advert to the exposition of this Court holding that tape records of speeches [Tukaram S. Dighole v. Manikrao Shivaji Kokate, (2010) 4 SCC 329] and audio/video cassettes [Ziyauddin Burhanuddin Bukhari v. Brijmohan Ramdas Mehra & Ors., (1976) 2 SCC 17] including compact disc [Shamsher Singh Verma vs. State of Haryana, (2016) 15 SCC 485] were "documents" under Section 3 of the 1872 Act, which stand on no different footing than photographs and are held admissible in evidence. It is by now well established that the electronic record produced for the inspection of the Court is documentary evidence under Section 3 of the 1872 Act, [Anwar P.V. vs. P.K. Basheer, (2014) 10 SCC 473].Concededly, as regards the "documents" on which the prosecution proposes to rely, the investigating officer has no option but to forward "all documents" to the Magistrate alongwith the police report. There is no provision (unlike in the case of "statements") enabling the investigating officer to append a note requesting the Magistrate, to exclude any part thereof ("document") from the copies to be granted to the accused. Sub-Section (7), however, gives limited discretion to the investigating officer to forward copies of all or some of the documents, which he finds it convenient to be given to the accused. That does not permit him to withhold the remaining documents, on which the prosecution proposes to rely against the accused, from being submitted to the Magistrate alongwith the police report. On the other hand, the expression used in Section 173(5)(a) of the 1973 Code makes it amply clear that the investigating officer is obliged to forward "all" documents or relevant extracts on which the prosecution proposes to rely against the accused concerned alongwith the police report to the Magistrate.
In other words, Section 207 of the 1973 Code does not empower the Magistrate to withhold any "document" submitted by the investigating officer alongwith the police report except when it is voluminous. A fortiori, it necessarily follows that even if the investigating officer appends his note in respect of any particular document, that will be of no avail as his power is limited to do so only in respect of 'statements' referred to in sub-Section (6) of Section 173 of the 1973 Code.
the respondents and intervenor would contend that the memory card is a material object and not a "document" as such. If the prosecution was to rely only on recovery of memory card and not upon its contents, there would be no difficulty in acceding to the argument of the respondent/intervenor that the memory card/pen-drive is a material object. In this regard, we may refer to Phipson on Evidence, Hodge M. Malek, Phipson on Evidence, 19th Edn, 2018, pg. 1450, and particularly, the following paragraph(s):

> "The purpose for which it is produced determines whether a document is to be regarded as documentary evidence. When adduced to prove its physical condition, for example, an alteration, presence of a signature, bloodstain or fingerprint, it is real evidence. So too, if its relevance lies in the simple fact that it exists or did once exist or its disposition or nature. In all these cases the content of the document, if relevant at all, is only indirectly relevant, for example to establish that the document in question is a lease. When the relevance of a document depends on the meaning of its contents, it is considered documentary evidence." ... ..." (emphasis supplied)

Again at page 5 of the same book, the definition of "real evidence, Hodge M. Malek, Phipson on Evidence, 19th Edn, 2018, pg. 5" is given as under:

> "Material objects other than documents, produced for inspection of the court, are commonly called real evidence. This, when available, is probably the most satisfactory kind of all, since, save for identification or explanation, neither testimony nor inference is relied upon. Unless its genuineness is in dispute [See Belt v Lawes, The Times, 17 November 1882.], the thing speaks for itself.

> Unfortunately, however, the term "real evidence" is itself both indefinite and ambiguous, having been used in three divergent senses:
> (1) … … …
> (2) Material objects produced for the inspection of the court. This is the second and most widely accepted meaning of "real evidence". It must be borne in mind that there is a distinction between a document used as a record of a transaction, such as a conveyance, and a document as a thing. It depends on the circumstances in which classification it falls. On a charge of stealing a document, for example, the document is a thing.
> (3) … … …"

A priori, we must hold that the video footage/clipping contained in such memory card/pen-drive being an electronic record as envisaged by Section 2(1)(t) of the 2000 Act, is a "document" and cannot be regarded as a material object. Section 2(1)(t) of the 2000 Act reads thus:

> "2(1)(t) "electronic record" means data, record or data generated, image or sound stored, received or sent in an electronic form or micro film or computer-generated micro fiche;''

As the above definition refers to data or data generated, image or sound stored, received or sent in an electronic form, it would be apposite to advert to the definition of "data" as predicated in Section 2(1)(o) of the same Act. It reads thus:

> "2(1)(o) "data" means a representation of information, knowledge, facts, concepts or instructions which are being prepared or have been prepared in a formalised manner, and is intended to be processed, is being processed or has been processed in a computer system or computer network, and may be in any form (including computer printouts magnetic or optical storage media, punched cards, punched tapes) or stored internally in the memory of the computer;''

On conjoint reading of the relevant provisions, it would be amply clear that an electronic record is not confined to "data" alone, but it also means the record or data generated, received or sent in electronic form. The expression "data" includes a representation of information, knowledge and facts, which is either intended to be processed, is being processed or has been processed in a computer system or computer network or stored internally in the memory of the computer.

Material objects or things (other than the contents of documents) which are produced as exhibits for inspection by a court or jury are classed as real evidence

In conclusion, we hold that the contents of the memory card/pen drive being electronic record must be regarded as a document. If the prosecution is relying on the same, ordinarily, the accused must be given a cloned copy thereof to enable him/her to present an effective defence during the trial. However, in cases involving issues such as of privacy of the complainant/witness or his/her identity, the Court may be justified in providing only inspection thereof to the accused and his/her lawyer or expert for presenting effective defence during the trial. The court may issue suitable directions to balance the interests of both sides.

Jai Prakash VS State of Uttar Pradesh, 28 Nov 2019; 2019 0 Supreme(SC) 1304; the case of the prosecution has to be examined de hors such omissions of the Investigating Officer like non-recovery of weapons etc. But material discrepancies in the evidence of PWs 1 and 3 coupled with the unnaturalness of the prosecution case, non-recovery of weapons and empties raise serious doubts about the prosecution case.

Ashok Kumar Kalra VS Wing Cdr. Surendra Agnihotri, 19 Nov 2019; 2019 0 Supreme(SC) 1280; there is no gainsaying that the procedural justice is imbibed to provide further impetus to the substantive justice. It is this extended procedural fairness provided by the national courts, which adds to the legitimacy and commends support of general public. On the other hand, we must be mindful of the legislative intention to provide for certainty and clarity. In the name of substantive justice, providing unlimited and unrestricted rights in itself will be detrimental to certainty and would lead to the state of lawlessness. In this regard, this Court needs to recognize and harmoniously stitch the two types of justice, so as to have an effective, accurate and participatory judicial system.

The accused has no right to be heard at the stage of investigation

The judgments in Smt. Nagawwa v. Veeranna Shivalongappa Konjalgi & Ors. (1976) 3 SCC 736, Prabha Mathur and Anr. v. Pramod Aggarwal & Ors., (2008) 9 SCC 469, Narender G. Goel v. State of Maharashtra (2009) 6 SCC 65 and Dinubhai Bhogabhai Solanki v. State of Gujarat & Ors. (2014) 4 SCC 626, which state that the accused has no right to be heard at the stage of investigation.

The legality of the proposed arrest cannot be gone into in an application under Section 438 of the Code

In Adri Dharan Das v. State of W.B. (2005) 4 scc 303, it was held as under:-

"19. Ordinarily, arrest is a part of the process of investigation intended to secure several purposes. The accused may have to be questioned in detail regarding various facets of motive, preparation, commission and aftermath of the crime and the connection of other persons, if any, in the crime. There may be circumstances in which the accused may provide information leading to discovery of material facts. It may be necessary to curtail his freedom in order to enable the investigation to proceed without hindrance and to protect witnesses and persons connected with the victim of the crime, to prevent his disappearance, to maintain law and order in the locality. For these or other reasons, arrest may become an inevitable part of the process of investigation. The legality of the proposed arrest cannot be gone into in an application under Section 438 of the Code. The role of the investigator is well defined and the jurisdictional scope of interference by the court in the process of investigation is limited. The court ordinarily will not interfere with the investigation of a crime or with the arrest of the accused in a cognizable offence. An interim order restraining arrest, if passed while dealing with an application under Section 438 of the Code will amount to interference in the investigation, which cannot, at any rate, be done under Section 438 of the Code."

Necessity and importance of Custodial Interrogation:

In State Rep. By The CBI v. Anil Sharma (1997) 7 scc 187, the Supreme Court held as under:-

"6. We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation-oriented than questioning a suspect who is well ensconced with a favourable order under Section 438 of the Code. In a case like this effective interrogation of a suspected person is of tremendous advantage in disinterring many useful informations and also materials which would have been concealed. Success in such interrogation would elude if the suspected person knows that he is well protected and insulated by a pre-arrest bail order during the time he is interrogated. Very often interrogation in such a condition would reduce to a mere ritual. The argument that the custodial interrogation is fraught with the danger of the person being subjected to third-degree methods need not be countenanced, for, such an argument can be advanced by all accused in all criminal cases. The Court has to presume that responsible police officers would conduct themselves in a responsible manner and that those entrusted with the task of disinterring offences would not conduct themselves as offenders."

Acquittal of Co-accused

The question relating to the propriety of conviction of one accused even while the co-accused persons are acquitted has received attention of this Court in several decisions. With reference to the principles enunciated in the past decisions, this Court observed in the case of Yanob Sheikh alias Gagu v. State of West Bengal: (2013) 6 scc 428 that acquittal of co-accused per se is not sufficient to result in acquittal of the other accused; and the Court ought to examine the entire prosecution evidence in its correct perspective before it could conclude on the effect of acquittal of one accused on the other in the facts and circumstance of the given case.

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- GOVERNMENT OF ANDHRA PRADESH- Public Services – Prosecution Department – In charge arrangements to the post of Special Public Prosecutor, Special Court for trial of offences under Protection of Children from Sexual Offences Act,2012 – Orders – Issued- G.O.Rt.No: 961; HOME(COURTS-A) DEPARTMENT; Dated: 13.11.2019.
- GOVERNMENT OF ANDHRA PRADESH- Public Services – A.P.State Prosecution Services - Promotions – Additional Public Prosecutors Grade-II - Promotion to the post of Additional Public Prosecutor Grade-I/ Deputy Director of Prosecutions on temporary basis – Orders – Issued- G.O.MS.No. 160; HOME (COURTS.A) DEPARTMENT; Dated: 29-11-2019.
- GOVERNMENT OF ANDHRA PRADESH- Public Services – Prosecutions Department - Additional Public Prosecutors Grade-II fit for promotion to the category of Additional Public Prosecutors Grade-I/Deputy Director of Prosecutions for the panel year 2019-20 - Inclusion of the names of eligible Additional Public Prosecutors Grade-II - Orders – Issued. G.O.MS.No. 157; HOME (COURTS.A) DEPARTMENT; Dated: 29-11-2019
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I think my neighbour is stalking me as she's been googling my name on her Computer. I saw it through my telescope last night.

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