Prosecution Replenish

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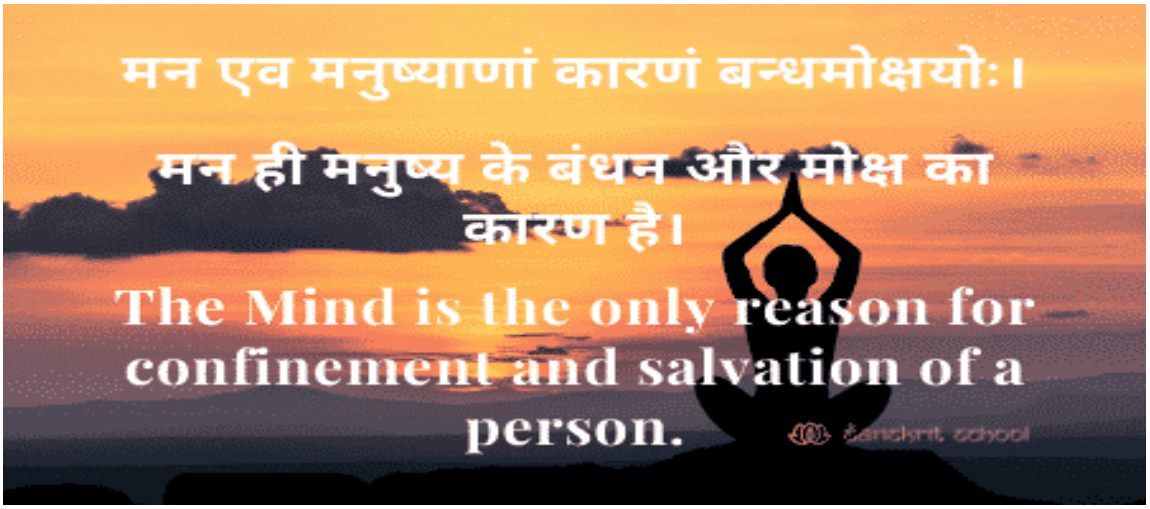
Aano Bhadr Kratvo Yantu Viswatah
(Let Noble Thoughts Come To Me from All Directions)



CITATIONS

2024 0 INSC 207; 2024 0 Supreme(SC) 231; Jafar Vs. State of Kerala; Criminal Appeal No. 1607 of 2009; 15-03-2024

In the absence of proper identification parade being conducted, the identification for the first time in the Court cannot be said to be free from doubt. We find that the other circumstance that the Courts relied for resting the order of conviction is with regard to the recovery of an iron rod. An iron rod is an article which could be found anywhere. It is not the case of the prosecution that any stolen article was recovered from the appellant herein.

2024 0 INSC 202; 2024 0 Supreme(SC) 226; Srikant Upadhyay & Ors. Vs. State of Bihar & Anr.; Criminal Appeal No. 1552 of 2024(@Special Leave Petition (Crl.) No.7940 of 2023); Decided on : 14-03-2024

We have already held that the power to grant anticipatory bail is an extraordinary power. Though in many cases it was held that bail is said to be a rule, it cannot, by any stretch of imagination, be said that anticipatory bail is the rule. It cannot be the rule and the question of its grant should be left to the cautious and judicious discretion by the Court depending on the facts and circumstances of each case. While called upon to exercise the said power, the Court concerned has to be very cautious as the grant of interim protection or protection to the accused in serious cases may lead to miscarriage of justice and may hamper the investigation to a great extent as it may sometimes lead to tampering or distraction of the evidence. We shall not be understood to have held that the Court shall not pass an interim protection pending consideration of such application as the Section is destined to safeguard the freedom of an individual against unwarranted arrest and we say that such orders shall be passed in eminently fit cases. At any rate, when warrant of arrest or proclamation is

issued, the applicant is not entitled to invoke the extraordinary power. Certainly, this will not deprive the power of the Court to grant pre-arrest bail in extreme, exceptional cases in the interest of justice. But then, person(s) continuously, defying orders and keep absconding is not entitled to such grant.

2024 0 INSC 197; 2024 0 Supreme(SC) 222; Dablu Kujur Vs. The State of Jharkhand; Criminal Appeal No. 1511 of 2024, Special Leave Petition (Crl.) No. 2874 of 2023; Decided On : 12-03-2024

It may be noted that though there are various reports required to be submitted by the police in charge of the police station before, during and after the investigation as contemplated in Chapter XII of Cr.P.C. it is only the report forwarded by the police officer to the Magistrate under sub-section (2) of Section 173 Cr.P.C. that can form the basis for the competent court for taking cognizance thereupon. A charge-sheet is nothing but a final report of the police officer under Section 173(2) of Cr.P.C. It is an opinion or intimation of the investigating officer to the concerned court that on the material collected during the course of investigation, an offence appears to have been committed by the particular person or persons, or that no offence appears to have been committed.

When such a Police Report concludes that an offence appears to have been committed by a particular person or persons, the Magistrate has three options: (i) he may accept the report and take cognizance of the offence and issue process, (ii) he may direct further investigation under sub-section (3) of Section 156 and require the police to make a further report, or (iii) he may disagree with the report and discharge the accused or drop the proceedings. If such Police Report concludes that no offence appears to have been committed, the Magistrate again has three options: (i) he may accept the report and drop the proceedings, or (ii) he may disagree with the report and taking the view that there is sufficient ground for proceeding further, take cognizance of the offence and issue process, or (iii) he may direct further investigation to be made by the police under sub-section (3) of Section 156. [Bhagwant Singh vs. Commissioner of Police and Another, (1985) 2 SCC 537]

The issues with regard to the compliance of Section 173(2) Cr.P.C. may also arise, when the investigating officer submits Police Report only qua some of the persons-accused named in the FIR, keeping open the investigation qua the other persons-accused, or when all the documents as required under Section 173(5) are not submitted. In such a situation, the question that is often posed before the court is whether such a Police Report could be said to have been submitted in compliance with sub-section (2) of Section 173 Cr.P.C. In this regard, it may be noted that in

Satya Narain Musadi and Others vs. State of Bihar, (1980) 3 SCC 152 this Court has observed that statutory requirement of the report under Section 173(2) would be complied with if various details prescribed therein are included in the report. The report is complete if it is accompanied with all the documents and statements of witnesses as required by Section 175(5). In Dinesh Dalmia vs. CBI, (2007) 8 SCC 770 however, it has been held that even if all the documents are not filed, by reason thereof the submission of the charge-sheet itself would not be vitiated in law. Such issues often arise when the accused would make his claim for default bail under Section 167(2) of Cr.P.C. and contend that all the documents having not been submitted as required under Section 173(5), or the investigation qua some of the persons having been kept open while submitting Police Report under Section 173(2), the requirements under Section 173(2) could not be said to have been complied with. In this regard, this Court recently held in case of CBI vs. Kapil Wadhwan and Another, Criminal Appeal No. 391 of 2024 and SLP (Crl) No. 11775 of 2023, that:

> "Once from the material produced along with the charge-sheet, the court is satisfied about the commission of an offence and takes cognizance of the offence allegedly committed by the accused, it is immaterial whether the further investigation in terms of Section 173(8) is pending or not. The pendency of the further investigation qua the other accused or for production of some documents not available at the time of filing of charge-sheet would neither vitiate the charge-sheet, nor would it entitle the accused to claim right to get default bail on the ground that the charge-sheet was an incomplete charge-sheet or that the charge-sheet was not filed in terms of Section 173(2) of Cr.P.C."

2024 0 INSC 191; 2024 0 Supreme(SC) 210; Shahid Ali Vs. The State Of Uttar Pradesh; Criminal Appeal No(s). 1479 OF 2024 [Arising out of SLP (Criminal) No(s). 9454 of 2021]; Decided On : 11-03-2024

The evidence on record reveals that all the eyewitnesses have turned hostile and the Trial Court on the basis of the evidence has arrived at the conclusion that the Appellant was guilty of the offences alleged under the FIR; and accordingly proceeded to convict the Appellant. Subsequently, the High Court affirmed the order passed by the Trial Court. Aggrieved, the Appellant preferred the present petition. Vide an order dated 03.12.2021, this Court issued notice and on a limited question in the matter i.e. as to whether the appellant could be held guilty of offence under Section 304 Part I or Part II of the IPC, as against under Section 302 of the IPC.

The act of celebratory firing during marriage ceremonies is an unfortunate yet prevalent practise in our nation. The present case is a direct example

of the disastrous consequences of such uncontrolled and unwarranted celebratory firing. Be that as it may, in the absence of any evidence on record to suggest that either that the Appellant aimed at and / or pointed at the large crowd whilst engaging in such celebratory firing; or there existed any prior enmity between the Deceased and the Appellant, we find ourselves unable to accept the Prosecution's version of events as were accepted by the Trial Court and confirmed by the High Court.

In this context, keeping in view the totality of circumstances of the case i.e., especially the fact that (i) there was no previous enmity between the Deceased; (ii) no intention may be attributed to the Appellant as may be culled out from the record to cause death of the Deceased; and (iii) position of law enunciated by this Court in Kunwar Pal Singh (Supra) and subsequently, followed in Bhagwan Singh (Supra), we find that the Appellant is guilty of commission of 'culpable homicide' within the meaning of Section 299 IPC i.e., punishable under Section 304 Part II of the IPC.

2024 0 INSC 186; 2024 0 Supreme(SC) 204; M/s A.K. Sarkar & Co. & Anr. Vs. The State of West Bengal & Ors.; Criminal Appeal No. 1447 of 2024 Special Leave Petition (Criminal) No. 6095 of 2018; Decided On : 07-03-2024

Whether the appellant can be granted the benefit of the new legislation and be awarded a lesser punishment as is presently prescribed under the new law? This Court in T. Barai v. Henry Ah Hoe (1983) 1 SCC 177, had held that when an amendment is beneficial to the accused it can be applied even to cases pending in Courts where such a provision did not exist at the time of the commission of offence. It was said as under:-

> "22. It is only retroactive criminal legislation that is prohibited under Article 20(1). The prohibition contained in Article 20(1) is that no person shall be convicted of any offence except for violation of a law in force at the time of the commission of the act charged as an offence prohibits nor shall he be subjected to a penalty greater than that which might have been inflicted under the law in force at the time of the commission of the offence. It is quite clear that insofar as the Central Amendment Act creates new offences or enhances punishment for a particular type of offence no person can be convicted by such ex post facto law nor can the enhanced punishment prescribed by the amendment be applicable. But insofar as the Central Amendment Act reduces the punishment for an offence punishable under Section 16(1)(a) of the Act, there is no reason why the accused should not have the benefit of such reduced punishment. The rule of beneficial construction requires that even ex post facto law of such a type should be applied to mitigate the rigour of the law. The principle is based both on sound reason and common sense."

2024 0 INSC 187; 2024 0 Supreme(SC) 205; Javed Ahmad Hajam Vs. State of Maharashtra & Anr.; Criminal Appeal No. 886 of 2024 (Arising out of Special Leave Petition (Crl.) No.11122 of 2023); Decided On : 07-03-2024

Now, the time has come to enlighten and educate our police machinery on the concept of freedom of speech and expression guaranteed by Article 19(1)(a) of the Constitution and the extent of reasonable restraint on their free speech and expression. They must be sensitised about the democratic values enshrined in our Constitution.

For the same reasons, clause (b) of sub-section (1) of Section 153-A of the IPC will not be attracted as what is depicted on the WhatsApp status of the appellant cannot be said to be prejudicial to the maintenance of harmony among various groups as stated therein. Thus, continuation of the prosecution of the appellant for the offence punishable under Section 153-A of the IPC will be a gross abuse of the process of law.

2024 0 Supreme(SC) 213; Ramveer Vs. State of Rajasthan; Criminal Appeal No. 1441 of 2024 (Arising out of S.L.P.(Criminal) No. 436 of 2024); Decided On : 07-03-2024

The witness was not declared as hostile. Therefore, what she has stated above insofar as the acts of the police are concerned, has gone unchallenged. The age of the witness on the date of the incident was approximately 14 years. She stated that firstly, the police suspected that she had committed the offence and therefore, a policeman gave her a pistol and asked her to show how it fires. She was scared. She was taken to the police station where she was assaulted and the police tried to compel her to tell that she was the one who had shot at her mother. As this portion of the evidence has gone unchallenged, it is a case of serious misconduct on the part of the police personnel. Not only that this is a misconduct, but an offence has been committed.

2024 0 INSC 179; 2024 0 Supreme(SC) 198; The State of Jharkhand Vs. Sandeep Kumar; Criminal Appeal No. 1409 of 2024 (@ Special Leave Petition (Crl.) No. 10499 OF 2023); Decided On : 06-3-2024

The considerations that would normally weigh with the Court while dealing with a bail petition are the nature and seriousness of the offence; the character of the evidence; circumstances which are peculiar to the accused; a reasonable possibility of the presence of the accused not being secured at the trial; reasonable apprehension of witnesses being tampered with; the larger interest of the public or the State and other similar factors relevant in the facts and circumstances of the case. [See State vs. Captain Jagjit Singh, AIR 1962 SC 253; Gurcharan Singh vs.

State (Delhi Administration), (1978) 1 SCC 118; and State of Gujarat vs. Salimbhai Abdulgaffar Shaikh(2003) 8 SCC 50]. Similar considerations would apply even for grant of anticipatory bail. Therefore, circumstances peculiar to the accused and the larger interest of the public or the State also have to be considered.

2024 0 INSC 181; 2024 0 Supreme(SC) 200; XXXX Vs. State of Madhya Pradesh & Another; Criminal Appeal No. 3431 of 2023; Decided On : 06-03-2024

From the contents of the complaint, on the basis of which FIR was got registered and the statement got recorded by the complainant, it is evident that there was no promise to marry initially when the relations between the parties started in the year 2017. In any case, even on the dates when the complainant alleges that the parties had physical relations, she was already married. She falsely claimed that divorce from her earlier marriage took place on 10.12.2018. However, the fact remains that decree of divorce was passed only on 13.01.2021. It is not a case where the complainant was of an immature age who could not foresee her welfare and take right decision. She was a grown up lady about ten years elder to the appellant. She was matured and intelligent enough to understand the consequences of the moral and immoral acts for which she consented during subsistence of her earlier marriage. In fact, it was a case of betraying her husband. It is the admitted case of the prosecutrix that even after the appellant shifted to Maharashtra for his job, he used to come and stay with the family and they were living as husband and wife. It was also the stand taken by the appellant that he had advanced loan of Rs.1,00,000/- to the prosecutrix through banking channel which was not returned back.

2024 0 INSC 172; 2024 0 Supreme(SC) 191; Prabhat Kumar Mishra @ Prabhat Mishra Vs. The State of U.P. & Anr.; Criminal Appeal No(S). 1397 of 2024 (Arising out of SLP(Crl.) No(s). 9591 of 2022); Decided On : 05-03-2024

In our country, while suicide itself is not an offence considering that the successful offender is beyond the reach of law, attempt to suicide is an offence under Section 309 IPC.

he deceased was undoubtedly hypersensitive to ordinary petulance, discord and differences which happen in our day-to-day life. In a joint family, instances of this kind are not very uncommon. Human sensitivity of each individual differs from person to person. Each individual has his own idea of self-esteem and self-respect. Different people behave differently in the same situation. It is unfortunate that such an episode of suicide had taken place in the family.

2024 0 Supreme(SC) 212; Rajkumar Vs. The State of Karnataka & Anr.; Petition(s) for Special Leave to Appeal (Crl.) No(s). 6279 of 2023; Decided On : 05-03-2024

The FIR was made by the respondent No.2, a lady with whom he appears to have had relationship in the past. In the FIR bearing No.108/2022 dated 23.07.2022, respondent No.2 has alleged commission of offences against her under the provisions of Sections 342, 354, 366, 376(2)(n), 312, 201, 420, 506 and 509 of the Indian Penal Code, 1860 and Sections 66(E), 67 and 67(A) of the Information Technology Act, 2000. As we have indicated earlier, the petitioner and the respondent No.2 were in a relationship but such relationship soured later.

on a recent judgment of this Court in the case of Shambhu Kharwar vs. State of Uttar Pradesh & Anr., reported in 2022 INSC 827 / 2022 SCC OnLine SC 1032, to contend that consensual relationship cannot give rise to an offence of rape. We accept this view taken by a coordinate Bench of this Court but so far as the subject proceeding is concerned, the allegations do not demonstrate continued consent on the part of the complainant. A relationship may be consensual at the beginning but the same state may not remain so for all time to come. Whenever one of the partners show their unwillingness to continue with such relationship, the character of such relationship at it was when started will not continue to prevail.

In the instant case, we do not think the relationship had remained consensual to justify quashing of the criminal complaint at the threshold. We also do not think that the complaint, in pursuance of which the FIR has been registered, lacks the ingredients of the offences alleged.

2024 0 INSC 169; 2024 0 Supreme(SC) 188; Naeem Vs. State of Uttar Pradesh; Criminal Appeal No. 1978 of 2022 With Criminal Appeal No. 1979 of 2022; Decided On : 05-03-2024

It can thus be seen that this Court has clearly held that dying declaration can be the sole basis of the conviction if it inspires the full confidence of the court. The Court is required to satisfy itself that the deceased was in a fit state of mind at the time of making the statement and that it was not the result of tutoring, prompting or imagination. It has further been held that, where the Court is satisfied about the dying declaration being true and voluntary, it can base its conviction without any further corroboration. It has further been held that there cannot be an absolute rule of law that the dying declaration cannot form the sole basis of conviction unless it is corroborated. It has been held that the rule requiring corroboration is merely a rule of prudence. The Court has observed that if after careful scrutiny, the court is satisfied that it is true and free from any effort to induce the deceased to make a false statement and if it is coherent and

consistent, there shall be no legal impediment to make it the basis of conviction, even if there is no corroboration.

2024 0 INSC 171; 2024 0 Supreme(SC) 207; Vinod Katara Vs. State of U.P.; Writ Petition(Crl.) No(S). 121 of 2022; Decided On : 05-03-2024
Section 94(2) of the JJ Act provides for the mode of determination of age. In the order of priorities, the date of birth certificate from the school stands at the highest pedestal whereas ossification test has been kept at the last rung to be considered, only in the absence of the criteria Nos. 1 and 2, i.e. in absence of both certificate from school and birth certificate issued by a Corporation/Municipal Authority/Panchayat.

2024 0 INSC 161; 2024 0 Supreme(SC) 180; Sita Soren Vs. Union of India; Criminal Appeal No. 451 of 2019; Decided On : 04-03-2024 (Seven Judge Constitution Bench)
(1) Bribery is not protected by parliamentary privilege. Clause (2) of Article 105 does not grant immunity against bribery to any person as receipt of or agreement to receive illegal gratification is not in respect of function of a member to speak or vote in House. An individual member of legislature cannot assert a claim of privilege to seek immunity under Articles 105 and 194 from prosecution on a charge of bribery in connection with a vote or speech in legislature. Such a claim to immunity fails to fulfil twofold test that claim is tethered to collective functioning of House and that it is necessary to discharge of essential duties of a legislator.
(2) Constitution envisions probity in public life. Courts and House exercise parallel jurisdiction over allegations of bribery. Bribery is not rendered immune under Article 105(2) and corresponding provision of Article 194 because a member engaging in bribery commits a crime which is not essential to casting of vote or ability to decide on how vote should be cast. Same principle applies to bribery in connection with a speech in House or a Committee. Corruption and bribery by members of legislatures erode probity in public life. Potential of misuse against individual members of legislature is neither enhanced nor diminished by recognizing jurisdiction of court to prosecute a member of legislature who is alleged to have indulged in an act of bribery.
(3) Doctrine of stare decisis is not an inflexible rule of law.
(4) Protection under Articles 105 and 194 guarantees that vote of an elected member of Parliament or State Legislature, cannot be subject of proceedings in court. It does not guarantee a “secret ballot”. Purpose of parliamentary privilege under Article 194(2) is not to provide legislature with anonymity in their votes or speeches in Parliament but to protect them from legal proceedings pertaining to votes which they cast or speeches which they make. That content of votes and speeches of their elected

representatives be accessible to citizens is an essential part of parliamentary democracy.
(5) Bribery – Offence of a public servant being bribed is pegged to receiving or agreeing to receive undue advantage and not actual performance of act for which undue advantage is obtained – Mere demand and acceptance of illegal gratification was sufficient, regardless of whether recipient of bribe performed the act for which bribe was received.

2024 0 INSC 156; 2024 0 Supreme(SC) 175; Kumar @ Shiva Kumar Vs. State Of Karnataka; Criminal Appeal No. 1427 Of 2011; Decided On : 01-03-2024

From a reading of Section 107 IPC what is deducible is that a person would be abetting the doing of a thing if he instigates any person to do that thing or if he encourages with one or more person or persons in any conspiracy for doing that thing or if he intentionally aids by any act or illegal omission doing of that thing. Explanation 1 clarifies that even if a person by way of wilful misrepresentation or concealment of a material fact which he is otherwise bound to disclose voluntarily causes or procures or attempts to cause or procure a thing to be done, is said to instigate the doing of that thing. Similarly, it is clarified by way of Explanation-2 that whoever does anything in order to facilitate the commission of an act, either prior to or at the time of commission of the act, is said to aid the doing of that act.
Thus, this Court held that to ‘instigate’ means to goad, urge, provoke, incite or encourage to do ‘an act’. To satisfy the requirement of ‘instigation’, it is not necessary that actual words must be used to that effect or that the words or act should necessarily and specifically be suggestive of the consequence. But, a reasonable certainty to incite the consequence must be capable of being spelt out. Where the accused by his act or omission or by his continued course of conduct creates a situation that the deceased is left with no other option except to commit suicide, then instigation may be inferred. A word uttered in a fit of anger or emotion without intending the consequences to actually follow cannot be said to be instigation.
Human mind is an enigma. It is well neigh impossible to unravel the mystery of the human mind. There can be myriad reasons for a man or a woman to commit or attempt to commit suicide: it may be a case of failure to achieve academic excellence, oppressive environment in college or hostel, particularly for students belonging to the marginalized sections, joblessness, financial difficulties, disappointment in love or marriage, acute or chronic ailments, depression, so on and so forth. Therefore, it may not always be the case that someone has to abet commission of

suicide. Circumstances surrounding the deceased in which he finds himself are relevant.

2024 0 Supreme(SC) 214; Ashok Kumar Vs. State of Union Territory Chandigarh; Criminal Appeal No. 1472 of 2024, Special Leave Petition (Crl.) No. 9949 of 2023; Decided On : 01-03-2024

There is no gainsaying that custodial interrogation is one of the effective modes of investigating into the alleged crime. It is equally true that just because custodial interrogation is not required that by itself may also not be a ground to release an accused on anticipatory bail if the offences are of a serious nature. However, a mere assertion on the part of the State while opposing the plea for anticipatory bail that custodial interrogation is required would not be sufficient. The State would have to show or indicate more than prima facie why the custodial interrogation of the accused is required for the purpose of investigation.

https://indiankanoon.org/doc/115691172/; Mr. Murusu Upendra Naidu vs The State Of Telangana on 1 March, 2024; crlp_682 & 674_2024

It was also alleged that he requested the clients to stop copying all Maxo e-mails to ensure that their fraud was not detected and diverted the revenue of M/s.Maxoind Tech Solutions Private Limited to the company floated by A1 and A2, in criminal breach of trust being the Director of the company (agent) and converted the property of the de-facto complainant's company for their own use by diverting the same to their own company. Considering the submissions of the learned counsel for respondent No.2 that the petitioner and the other co-accused not only addressed e-mails to the de-facto company's clients for diverting the revenue but also deleted the said e-mails to prevent detection of fraud which came to light through the clients of the de-facto complainant company and the same would be within the exclusive knowledge of the accused and without retrieving the same, it could not even be estimated the extent of diversion of funds and custodial interrogation was necessary for proper investigation of the case, it is considered not fit to grant anticipatory bail to the petitioners herein.

https://indiankanoon.org/doc/154458306/; Premchand Kolli vs The State Of Telangana, on 1 March, 2024; crlrc_136_2024;

Issuance of notice under Section 41-A Cr.P.C. was the prerogative of the Investigating Officer and the remanding Court cannot dictate the investigating agency the method in which investigation need to be carried out.

While granting remand under Section 167 of Cr.P.C., the Magistrate has to see whether there exists a cognizable offence in the report

and whether any case has been made out against the accused as per the investigation. The Magistrate has to record his reasons either for remanding the accused or for refusing the remand.
When the remand report is disclosing primafacie allegations, and states the reasons necessitated in arresting the accused, the Magistrate cannot refuse the remand. It is not the stage to insist for proof of the offences. Only primafacie allegations are looked into at this stage. The Magistrate rejecting the remand seeking documentary evidence in proof of Section 467 of IPC at the stage of remand is not in accordance with law or the procedure contemplated under Section 167 of Cr.P.C.

https://indiankanoon.org/doc/194051854/; Crl.P.Nos.6110 & 6074 of 2022 ; Dubbudu Sanjeeva Reddy vs The State Of Telangana on 7 March, 2024; 07.03.2024.
In view of these facts and circumstances, this Court is of the opinion that previous sanction of the Central Government under Section 188 of Cr.P.C. is required for proceeding with against the petitioners herein for the offences alleged in the complaint, on the basis of which the offences under Sections 498A, 417, 406 and 506 IPC and Sections 3, 4 and 6 of Dowry Prohibition Act have been registered. As this Court is not satisfied that the offences under Sections 498A, 417, 406 and 506 IPC and Sections 3, 4 and 6 of Dowry Prohibition Act are made out against petitioners herein/accused Nos.1 to 3 in the C.C., as having been committed in India, this Court is of the opinion that none of the offences can be tried in India.

https://indiankanoon.org/doc/36826173/; B.V.Kumar vs State Of Ap on 5 March, 2024; Crl.P No. 111 OF 2019;
The contention raised is that even if the District and Sessions Judge exercises the powers under Section 6-C of the Essential Commodities Act as a Court it cannot be said to be an inferior Criminal Court within the meaning of Section 435, Criminal Procedure Code. We do not think this question can detain vis for long. As already discussed above, if the District and Sessions Judge acts as a Court to hear appeals under Section 6-C it has necessarily to be as a Sessions Court as the confiscation proceedings are criminal in nature. If he acts as a Sessions Court certainly it would become an inferior criminal court with regard to the High Court within the meaning of Section 435, Criminal Procedure Code. Since it is not provided in the Act as to what would become of the orders passed in the appeals under Section 6-C the ordinary incidents of the procedure of the Sessions Court would attach to those orders. If that is the rule, there is no difficulty in holding that the order passed in appeal under Section 6-C of the Act by

the Sessions Court would be liable to revision as provided under Section 435 and Section 439, Criminal Procedure Code.

https://indiankanoon.org/doc/90612268/; Jampala Krishna vs The State Rep. By P.P., H.C., Hyd. on 6 March, 2024; CRLA 682/2012;
the Honourable Supreme Court of India made it clear that the High Court even if no appeal is filed by the State for enhancement of sentence can exercise suo-motu power of revision under Section 397 read with Section 401 of the Cr.P.C. but before the High Court can exercise its revisional jurisdiction to enhance the sentence, it is imperative that the convict is put on notice.

2024 0 INSC 233; 2024 0 Supreme(SC) 258; A.M. Mohan Vs. The State Represented by SHO and Another; Criminal Appeal No. 1716 of 2024 (Arising out of SLP(Criminal) No. 9598 of 2022); Decided On : 20-03-2024 {Three Judge Bench}
The Court also observed that though no one with a legitimate cause or grievance should be prevented from seeking remedies available in criminal law, a complainant who initiates or persists with a prosecution, being fully aware that the criminal proceedings are unwarranted and his remedy lies only in civil law, should himself be made accountable, at the end of such misconceived criminal proceedings, in accordance with law.
It could thus be seen that for attracting the provision of Section 420 of IPC, the FIR/complaint must show that the ingredients of Section 415 of IPC are made out and the person cheated must have been dishonestly induced to deliver the property to any person; or to make, alter or destroy valuable security or anything signed or sealed and capable of being converted into valuable security. In other words, for attracting the provisions of Section 420 of IPC, it must be shown that the FIR/complaint discloses:

(i) the deception of any person;
(ii) fraudulently or dishonestly inducing that person to deliver any property to any person; and
(iii) dishonest intention of the accused at the time of making the inducement.

2024 0 INSC 220; 2024 0 Supreme(SC) 243;Shiv Prasad Semwal Vs. State of Uttarakhand and Others; Criminal Appeal No(s). 1708 of 2024 (Arising out of SLP(Crl.) No(s). 3687 of 2020); Decided On : 19-03-2024
In the case of Manzar Sayeed Khan v. State of Maharashtra and Anr., (2007) 5 SCC 1, this Court held that for applying Section 153A IPC, the presence of two or more groups or communities is essential, whereas

in the present case, no such groups or communities were referred to in the news article.

The other substantive offence which has been applied by the investigating agency is Section 504 IPC. The said offence can be invoked when the insult of a person provokes him to break public peace or to commit any other offence. There is no such allegation in the FIR that owing to the alleged offensive post attributable to the appellant, the complainant was provoked to such an extent that he could indulge in disturbing the public peace or commit any other offence. Hence, the FIR lacks the necessary ingredients of the said offence as well. Since we have found that the foundational facts essential for constituting the substantive offences under Sections 153A and 504 IPC are not available from the admitted allegations of prosecution, the allegations qua the subsidiary offences under Sections 34 and 120B IPC would also be non est.

2024 0 INSC 221; 2024 0 Supreme(SC) 244; Puneet Sabharwal Vs. CBI; Criminal Appeal No. of 2024(@ Special Leave Petition (Criminal) No. 2044 OF 2021); With R.C. Sabharwal Vs. CBI; Criminal Appeal No. of 2024 (@ Special Leave Petition (Criminal) No. 2685 OF 2021); Decided on : 19-03-2024

We are not to conduct a dress rehearsal of the trial at this stage. The tests applicable for a discharge are well settled by a catena of judgments passed by this Court. Even a strong suspicion founded on material on record which is ground for presuming the existence of factual ingredients of an offence would justify the framing of charge against an accused person [Onkar Nath Mishra & Ors. v. State (NCT of Delhi) & Anr. (2008) 2 SCC 561 Paragraph 11]. The Court is only required to consider judicially whether the material warrants the framing of charge without blindly accepting the decision of the prosecution [State of Karnataka v. L. Muniswamy & Ors. (1977) 2 SCC 699 Paragraph 10].

2024 0 INSC 223; 2024 0 Supreme(SC) 248; Apoorva Arora & Anr.Vs. State (Govt. Of NCT Of Delhi) & Anr.; CRIMINAL APPEAL Nos. 1964-1965 of 2024(ARISING OUT OF SLP (CRL.) NO(S). 5463-5464 of 2023, CRIMINAL APPEAL NO(S). /2024 (Arising out of SLP (Crl.) No. 6786 of 2023), CRIMINAL APPEAL NO(S). /2024 (Arising out of SLP (Crl.) No. 532 of 2023), CRIMINAL APPEAL NO(S). /2024 (Arising out of SLP (Crl.) No. 8385-8387 of 2023); Decided on : 19-03-2024

Recounting the development through judicial precedents: This Court upheld the constitutional validity of Section 292 as a reasonable restriction on free speech and applied the Hicklin test, (1868) LR 3 QB 360 to determine whether the book ‘Lady Chatterley’s Lover’ was obscene in the

decision of Ranjit D. Udeshi v. State of Maharashtra, AIR 1965 SC 881, 1964 INSC 171. As per the Hicklin test, a material is obscene if it has the tendency to deprave and corrupt the minds of those who are open to such immoral influences and into whose hands the publication is likely to fall: The test for obscenity was stated as: “What we have to see is that whether a class, not an isolated case, into whose hands the book, article or story falls suffer in their moral outlook or become depraved by reading it or might have impure and lecherous thoughts aroused in their minds.” Profanity is not per se obscene:

2024 0 INSC 212; 2024 0 Supreme(SC) 236; Periyasamy Vs. The State Rep. By The Inspector Of Police; Criminal Appeal No.270 of 2019 with Criminal Appeal No. 271 of 2019; Decided on : 18-03-2024

This Court has summarised the principles in regard to the exercise of right of private defence in Darshan Singh v State of Punjab & Anr., (2010) 2 SCC 333 as referred to in Sukumaran v State, (2019) 15 SCC 117.

> “(i) Self-preservation is the basic human instinct and is duly recognised by the criminal jurisprudence of all civilised countries. All free, democratic and civilised countries recognise the right of private defence within certain reasonable limits.
>
> (ii) The right of private defence is available only to one who is suddenly confronted with the necessity of averting an impending danger and not of self-creation.
>
> (iii) A mere reasonable apprehension is enough to put the right of self-defence into operation. In other words, it is not necessary that there should be an actual commission of the offence in order to give rise to the right of private defence. It is enough if the accused apprehended that such an offence is contemplated and it is likely to be committed if the right of private defence is not exercised.
>
> (iv) The right of private defence commences as soon as a reasonable apprehension arises and it is coterminous with the duration of such apprehension.
>
> (v) It is unrealistic to expect a person under assault to modulate his defence step by step with any arithmetical exactitude.
>
> (vi) In private defence the force used by the accused ought not to be wholly disproportionate or much greater than necessary for protection of the person or property.
>
> (vii) It is well settled that even if the accused does not plead selfdefence, it is open to consider such a plea if the same arises from the material on record.
>
> (viii) The accused need not prove the existence of the right of private defence beyond reasonable doubt.

(ix) The Penal Code confers the right of private defence only when that unlawful or wrongful act is an offence.

(x) A person who is in imminent and reasonable danger of losing his life or limb may in exercise of self-defence inflict any harm even extending to death on his assailant either when the assault is attempted or directly threatened."

Related Witness : It is a well-recognised principle in law that the non-examination of independent witnesses would not be fatal to a case set up by the prosecution. The difference between a witness who is "interested" and one who is "related" stand explained by a Bench of three learned Judges in State of Rajasthan v. Kalki, (1981) 2 SCC 752

"7. …"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 eyewitness in the circumstances of a case cannot be said to be "interested."

We may refer to the observation in Sarwan Singh v. State of Punjab, (1976) 4 SCC 369 (3J) as under to appreciate the evidentiary value of such testimonies: –

"...Moreover, it is not the law that the evidence of an interested witness should be equated with that of a tainted evidence or that of an approver so as to require corroboration as a matter of necessity. The evidence of an interested witness does not suffer from any infirmity as such, but the courts require as a rule of prudence, not as a rule of law, that the evidence of such witnesses should be scrutinised with a little care. Once that approach is made and the court is satisfied that the evidence of interested witnesses have a ring of truth such evidence could be relied upon even without corroboration. Indeed there may be circumstances where only interested evidence may be available and no other, e.g. when an occurrence takes place at midnight in the house when the only witnesses who could see the occurrence may be the family members. In such cases it would not be proper to insist that the evidence of the family members should be disbelieved merely because of their interestedness…"

In other words, if witnesses examined are found to be 'interested' then, the examination of independent witnesses would assume importance.

Faulty investigation : Recently, this Court in Rajesh and Anr. v. State of Madhya Pradesh (3- Judge Bench), 2023 SCC OnLine SC 1202, while setting aside the conviction of the three Appellants therein, remarked:

"39. Before parting with the case with our verdict, we may note with deep and profound concern the disappointing standards of police investigation that seem to be the invariable norm. As long back as in

the year 2003, the Report of Dr. Justice V.S. Malimath's 'Committee on Reforms of Criminal Justice System' had recorded thus:

'The manner in which police investigations are conducted is of critical importance to the functioning of the Criminal Justice System. Not only serious miscarriage of justice will result if the collection of evidence is vitiated by error or malpractice, but successful prosecution of the guilty depends on a thorough and careful search for truth and collection of evidence which is both admissible and probative. In undertaking this search, it is the duty of the police to investigate fairly and thoroughly and collect all evidence, whether for or against the suspect. Protection of the society being the paramount consideration, the laws, procedures and police practices must be such as to ensure that the guilty are apprehended and punished with utmost dispatch and in the process the innocent are not harassed. The aim of the investigation and, in fact, the entire Criminal Justice System is to search for truth. ……The standard of police investigation in India remains poor and there is considerable room for improvement. The Bihar Police Commission (1961) noted with dismay that "during the course of tours and examination of witnesses, no complaint has been so universally made before the Commission as that regarding the poor quality of police investigation". Besides inefficiency, the members of public complained of rudeness, intimidation, suppression of evidence, concoction of evidence and malicious padding of cases…..'

40. Echoing the same sentiment in its Report No. 239 in March, 2012, the Law Commission of India observed that the principal causes of low rate of conviction in our country, inter alia, included inept, unscientific investigation by the police and lack of proper coordination between police and prosecution machinery. Despite passage of considerable time since these gloomy insights, we are dismayed to say that they remain sadly true even to this day. This is a case in point…."

2024 0 INSC 216; 2024 0 Supreme(SC) 240; Ms. X Vs. Mr. A and Others; Criminal Appeal No. 1661 of 2024 (Arising out of SLP(Criminal) No. 3187 of 2023); Decided On : 18-03-2024 { Three Judge Bench}

We find that, in the present case also like the case of Pramod Suryabhan Pawar (supra), the allegations in the FIR so also in the restatement (Annexure P-6) made before the Dy. S.P., Challakere, do not, on their face, indicate that the promise by accused No. 1 was false or that the complainant engaged in the sexual relationship on the basis of such false promise. This apart from the fact that the prosecutrix has changed her version. The version of events given by the prosecutrix in the restatement

(Annexure P-6) made before the Dy. S.P., Challakere is totally contrary to the one given in the FIR.
Case quashed.

2024 0 INSC 232; 2024 0 Supreme(SC) 257; Somnath Vs. The State Of Maharashtra & Ors.; Criminal Appeal No. 1717 of 2024 (@ Special Leave Petition (Crl.) No.2600 of 2019); Decided On : 18-03-2024
It is sad that even today, this Court is forced to restate the principles and directions in D.K. Basu (supra). Before D.K. Basu (supra), this Court had expressed its concern as to how best to safeguard the dignity of the individual and balance the same with interests of the State or investigative agency in Prem Shankar Shukla v Delhi Administration, (1980) 3 SCC 526. In Bhim Singh, MLA v State of Jammu and Kashmir, (1985) 4 SCC 677, this Court noted that police officers are to exhibit greatest regard for personal liberty of citizens and restated the sentiment in Sunil Gupta v State of Madhya Pradesh, (1990) 3 SCC 119. The scenario in Delhi Judicial Service Association v State of Gujarat, (1991) 4 SCC 406 prompted this Court to come down heavily on excess use of force by the police. As such, there will be a general direction to the police forces in all States and Union Territories as also all agencies endowed with the power of arrest and custody to scrupulously adhere to all Constitutional and statutory safeguards and the additional guidelines laid down by this Court when a person is arrested by them and/or remanded to their custody.

https://indiankanoon.org/doc/160024207/; Shaik Vahid Ali Abdul Wahid vs The State Telangana on 20 March, 2024; Crl.A. No.912 of 2023 & batch;
It is apt to note that the Apex Court referred to the factors to be borne in mind while considering an application for bail in Prasanta Kumar Sarkar v Ashis Chatterjee (2010) 14 SCC 496, and the said factors are as follows:
"(i) whether there is any prima facie or reasonable ground to believe that the Accused had committed the offence;
(ii) nature and gravity of the accusation;
(iii) severity of the punishment in the event of conviction;
(iv) danger of the Accused absconding or fleeing, if released on bail;
(v) character, behaviour, means, position and standing of the Accused;
(vi) likelihood of the offence being repeated;
(vii) reasonable apprehension of the witnesses being influenced; and
(viii) danger, of course, of justice being thwarted by grant of bail."

https://indiankanoon.org/doc/98171018/; CRIMINAL PETITION No.4291 OF 2018 Date: 18.03.2024; Avula Girijapathi vs State Of Ap., And Another

As seen from the charge sheet, the date of offence is 14.07.2012 and the charge sheet was filed on 25.04.2016 and the offences quoted by the police are punishable with imprisonment for two years. The charge sheet has to be filed within three years from the date of offence under Section 468(2)(c) of Cr.P.C. The police presented the report/charge sheet before the learned Magistrate on 25.04.2016 i.e. beyond three years. Therefore, as rightly contested by the learned counsel for the petitioner, the complaint filed by the police is barred by limitation.

As seen from the Schedule of the Criminal Procedure Code, the offence under Section 12(1)(b) of the Passports Act is a non cognizable offence "as envisaged in the schedule appended to the Code of Criminal Procedure Code". In the present case though sanction obtained from the concerned authority the investigation officer has not obtained orders of the Magistrate having jurisdiction in pursuant of Section 155(2) Cr.P.C., to investigate the case.

https://indiankanoon.org/doc/104652608/; Vasa Tirupathi Rao, vs The State Of Andhra Pradesh on 19 March, 2024; Criminal Petition No.1816 of 2024

vide common order dated 19.04.2023 passed in Criminal Petition Nos.8675 of 2022 and 1190, 1806 and 1959 of 2023, this Court directed to place the said similar matters before an appropriate Bench for deciding reference "whether, in a case registered for the offences under Sections 3 to 7 of the Immoral Traffic (Prevention) Act, 1956, a customer can be prosecuted for the offences under sections 370 or 370A of the Indian Penal Code, 1860?".

2024 INSC 158; CRIMINAL APPEAL NO(S). 1610 OF 2023; MOHAMMED KHALID AND ANOTHER Vs. THE STATE OF TELANGANA with CRIMINAL APPEAL NO(S). 1611 OF 2023; MARCH 01, 2024

Admittedly, no proceedings under Section 52A of the NDPS Act were undertaken by the Investigating Officer PW-5 for preparing an inventory and obtaining samples in presence of the jurisdictional Magistrate. In this view of the matter, the FSL report(Exhibit P-11) is nothing but a waste paper and cannot be read in evidence.

glaring loopholes in the prosecution case give rise to an inescapable inference that the prosecution has miserably failed to prove the required link evidence to satisfy the Court regarding the safe custody of the sample packets from the time of the seizure till the same reached the FSL.

the case as set up by the prosecution is regarding recovery of narcotics from a vehicle which was stopped during transit. Thus, the procedure of search and seizure would begoverned by Section 43 read with Section 49 of the NDPS Act

https://indiankanoon.org/doc/182622635/; Venkateswara Rao Balusupati vs The State Of Andhra Pradesh on 27 March, 2024; CRIMINAL PETITION NO: 9966/2023

Merely because the Petitioner was given an appointment in the Accounts Department as a Bank Clerk, it cannot be accepted that section 409 IPC does not apply. It is chiefly because the Prosecution alleges that Petitioner deceived the company in his capacity as a factor attorney and agent. This Court views that the relationship of the Principal and an agent may be established by implication of law from the conduct or the circumstances of the parties or out of necessity. The material on record prima facie shows that the Complainant entrusted the Petitioner with property during his duty. Once the entrustment is accepted, it is for the Petitioner at least to show how the property entrusted was dealt with. The Prosecution's case is that the amounts are still lying in the accounts of the Petitioner's relatives, particularly the Petitioner's brother. The Petitioner has not placed prima facie material before the Court to justify the amount transferred to the credit of his brother's account. It is not the Petitioner's case that his brother had business transactions with his employer, and so the amounts were transferred to his account. Once this entrustment is acknowledged, it falls upon the Petitioner to demonstrate how the entrusted property was managed. According to the Prosecution, the funds remain in the accounts of the Petitioner's relatives, particularly his brother. The Petitioner has not presented sufficient material to justify the transfer of funds to his brother's account. Moreover, it is not the Petitioner's contention that his brother engaged in business transactions with his employer, thus indicating the reason for the funds being transferred to his account.

When an investigation by the police is in progress, the Courts should not go into the merits of the allegations in the FIR. On the contrary, the police must be permitted to complete the investigation. The test of a prima facie or probable case is only required to be shown at the time of framing of charge; however, for an investigation to proceed on the basis of a First Information Report, all that is required to be shown is that the contents of the complaint/First Information Report, when taken at face value, make out an offence. The FIR, in the present case, does contain definite particulars making out the offences complained of.

https://indiankanoon.org/doc/55189116/; M L Ramamurthy vs The State Of Andhra Pradesh on 26 March, 2024; Criminal Petition No. 1812 of 2024

The Court granting bail should exercise its discretion in a judicious manner and not as a matter of course and reasons for grant of bail in cases involving serious offences should be given. [See Kalyan Chandra Sarkar vs. Rajesh Ranjan1; Dipak Shubhash Chandra Mehta vs. Central Bureau of Investigation & another 2 ; Vinod Bhandari Vs. State of Madhya Pradesh 3 ; and Lt. Col. Prasad Shrikant Purohit vs. State of Maharashtra4]. (2004) 7 SCC 528 (2012) 4 SCC 134, para 32 (2026) 15 SCC 389, para 13 (2018) 11 SCC 458, para 29

In a case containing serious allegations, the Investigating Officer deserves free hand to take the investigation to its logical conclusion. It goes without saying that the investigation officer who has been prevented from subjecting the petitioner to custodial interrogation, can hardly be fruitful to find out prima facie substance in the allegations which are of extreme serious in nature. Possibility of the investigation getting effected, once the petitioner is released on bail is very much foreseen. Custodial interrogation can be one of the relevant aspects to be considered along with other grounds while deciding an application seeking an anticipatory bail.

https://indiankanoon.org/doc/84989871/; Pinapala Uday Bhushan, vs The State Of Andhra Pradesh, on 26 March, 2024; Criminal Petition. 1052/2024

there is apprehension of arrest exists, even after issuance of notice of appearance if cannot be said that the anticipatory ball application is not maintainable

https://indiankanoon.org/doc/166031077/; Asadi Ramesh, Kadapa Dist Anr vs Thammineni Vijaya Lakshmi, Kadapa on 26 March, 2024; Motor Accidents Civil Miscellaneous Appeal No. 1738 of 2016

It is to be noted that the standard of proof in a criminal case to prove the rash and negligence under Section 304-A IPC is the proof beyond reasonable doubt. The nature of proceedings in a claim under the Motor Vehicles Act is nothing but summary in nature and the Court has to consider the standard of proof on preponderance of the probabilities. Undoubtedly, the judgment under Ex.B-1 was not binding on the Tribunal. PW.2 was an eye witness to the occurrence. Evidence of PW.1 and PW.2 coupled with FIR and the charge sheet filed by the Police means that the Police after due investigation filed charge sheet against the first respondent alleging that he caused the death of the deceased by hitting his motorbike while driving his Tata Indica car in a rash and negligent

manner. There is no dispute about the cause of death. The deceased died on account of the fatal injuries received in the accident, which is quietly evident from Ex.A-2 - post- mortem report. A look at Ex.B-1 - certified copy of the judgment means that as the prosecution did not prove the case beyond reasonable doubt, the trial court extended an order of acquittal against the first respondent/accused. It is not the finding of the trial Court that the offending vehicle did not involve in the accident. Apart from this, it is a case where PW.2 herein supported the case of the claimants. So, when the learned Magistrate acquitted the first respondent/accused on the ground that the prosecution failed to prove the case beyond reasonable doubt, the standard of proof cannot be applied while deciding a claim under the Motor Vehicles Act. The fact that the Police registered the FIR against the first respondent/accused under Section 304-A IPC and laid charge sheet alleging rash and negligent act against the first respondent would mean that there was prima-facie material adduced by the claimant before the Tribunal.

Breach of contract and Cheating

A mere breach of contract, by one of the parties, would not attract prosecution for criminal offence in every case, as held by this Court in Sarabjit Kaur v. State of Punjab and Anr. (2023) 5 SCC 360. Similarly, dealing with the distinction between the offence of cheating and a mere breach of contractual obligations, this Court, in Vesa Holdings (P) Ltd. v. State of Kerala, (2015) 8 SCC 293, has held that every breach of contract would not give rise to the offence of cheating, and it is required to be shown that the accused had fraudulent or dishonest intention at the time of making the promise.

Dying Declaration

in the case of Atbir v. Government of NCT of Delhi, (2010) 9 SCC 1 : 2010 INSC 491, has laid down certain factors to be taken into consideration while resting the conviction on the basis of dying declaration. It will be apposite to refer to para (22) of the said judgment, which reads thus :

> "22. The analysis of the above decisions clearly shows that:
>
> (i) Dying declaration can be the sole basis of conviction if it inspires the full confidence of the court.
>
> (ii) The court should be satisfied that the deceased was in a fit state of mind at the time of making the statement and that it was not the result of tutoring, prompting or imagination.

(iii) Where the court is satisfied that the declaration is true and voluntary, it can base its conviction without any further corroboration.
(iv) It cannot be laid down as an absolute rule of law that the dying declaration cannot form the sole basis of conviction unless it is corroborated. The rule requiring corroboration is merely a rule of prudence.
(v) Where the dying declaration is suspicious, it should not be acted upon without corroborative evidence.
(vi) A dying declaration which suffers from infirmity such as the deceased was unconscious and could never make any statement cannot form the basis of conviction.
(vii) Merely because a dying declaration does not contain all the details as to the occurrence, it is not to be rejected.
(viii) Even if it is a brief statement, it is not to be discarded.
(ix) When the eyewitness affirms that the deceased was not in a fit and conscious state to make the dying declaration, medical opinion cannot prevail.
(x) If after careful scrutiny, the court is satisfied that it is true and free from any effort to induce the deceased to make a false statement and if it is coherent and consistent, there shall be no legal impediment to make it the basis of conviction, even if there is no corroboration."

Indecent

the object of Sections 67 and 67A of the IT Act is to punish the publication and transmission of obscene and sexually explicit material in the cyber space. It relied on the 'community standard test' to determine whether the material is obscene, as laid down by this Court in Aveek Sarkar v. State of West Bengal, (2014) 4 SCC 257, 2014 INSC 75 and followed in decisions of various High Courts, [10][G. Venkateswara Rao v. State of AP in Writ Petition 1420 of 2020; Jaykumar Bhagwanrao Gore v. State of Maharashtra 2017 SCC OnLine Bom 7283; Pramod Anand Dhumal v. State of Maharashtra 2021 SCC OnLine Bom 34; Ekta Kapoor v. State of MP 2020 SCC OnLine MP 4581, as cited in paras 23-26 of the impugned judgment.].

Obscenity

In KA Abbas v. Union of India, (1970) 2 SCC 780, para 48. the Court summarised the test and process to determine obscenity as follows:

"(1) Treating with sex and nudity in art and literature cannot be regarded as evidence of obscenity without something more.
(2) Comparison of one book with another to find the extent of permissible action is not necessary.

(3) The delicate task of deciding what is artistic and what is obscene has to be performed by courts and in the last resort, by the Supreme Court and so, oral evidence of men of literature or others on the question of obscenity is not relevant.
(4) An overall view of the obscene matter in the setting of the whole work would of course be necessary but the obscene matter must be considered by itself and separately to find out whether it is so gross and its obscenity is so decided that it is likely to deprave or corrupt those whose minds are open to influence of this sort and into whose hands the book is likely to fall.
(5) The interests of contemporary society and particularly the influence of the book, etc., on it must not be overlooked.
(6) Where obscenity and art are mixed, art must be so preponderating as to throw obscenity into shadow or render the obscenity so trivial and insignificant that it can have no effect and can be overlooked.
(7) Treating with sex in a manner offensive to public decency or morality which are the words of our Fundamental Law judged by our national standards and considered likely to pender to lescivious, pourlent or sexually precocious minds must determine the result.
(8) When there is propagation of ideas, opinions and informations or public interests or profits, the interests of society may tilt the scales in favour of free speech and expression. Thus books on medical science with intimate illustrations and photographs though in a sense immodest, are not to be considered obscene, but the same illustrations and photographs collected in a book form without the medical text would certainly be considered to be obscene.
(9) Obscenity without a preponderating social purpose or profit cannot have the constitutional protection of free speech or expression. Obscenity is treating with sex in a manner appealing to the carnal side of human nature or having that tendency. Such a treating with sex is offensive to modesty and decency.
(10) Knowledge is not a part of the guilty act. The offender's knowledge of the obscenity of the book is not required under the law and it is a case of strict liability."

Conditions to attract Section 27 IEA

In Yedala Subba Rao v. Union of India (2023) 6 SCC 65, the Apex Court referring to Sections - 25, 26 and 27 of the Evidence Act held that the essential ingredient of the Section - 27 is that the information given by the accused must lead to the discovery of the fact which is the direct outcome of such information. Secondly, only such portion of the information given as is distinctly connected with the

said recovery is admissible against the accused. Thirdly, the discovery of the fact must relate to the commission of some offence. The embargo on statements of the accused before the police would not apply if all the above conditions are fulfilled.

Reckon of Limitation

The Hon"ble Apex Court in Sarah Mathee vs. Institute of Cardio Vascular Diseases (2014) 2 SCC 62 , held that "for the purpose of computing the period of limitation under Section 468 Cr.P.C., the relevant date is the date of filing of complaint or initiating criminal proceedings and not the date of taking cognizance by a Magistrate".

NEWS

- BNS, BNSS and BSA officially published in Hindi
- TSHC-Circular No.7/2024-(i)Official functions relating to laying of foundation stones etc. (ii)arranging grand functions on the eve of retirement or transfer of Judicial Officers-Instructions Reiterated-reg
- TSHC-Circular No.6/2024-Instructions issued to all the Judicial Officers in the State to record evidence etc., of the experts/Judicial Officers and other officials through VC as far as possible instead of summoning them to attend the Courts-Reg
- TSHC- Delay in supply of certified copies to the litigantpublic and to the advocates- instructions issued- reg.
- Special Rules - Amendment to the Andhra Pradesh State Prosecution Service Rules, 1992 - Notification - Orders - Issued.

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ON A LIGHTER VEIN

Doctor : Your Liver is enlarged
Patient : Does that mean it has space for more whisky ?
(This is called "Positive Thinking" 😊😊)

Lady to her dietician :- What I am worried about is my height and not my weight.
Doc :- How come???
Lady :- According to my weight, my height should be 7.8 feet... 😁
(Now this is called "Positive Attitude" 👍)

A Man wrote to the bank. "My Cheque was returned with remark 'Insufficient funds'. I want to know whether it refers to mine or the Bank".
(This is self confidence in its peak 😂😂)

A cockroach's last words to a man who wanted to kill it : "Go ahead and kill me, you coward. You're just jealous because I can scare your wife and you cannot..!!!!" 😂😂😂

Son : Why is 1st April celebrated as Fools Day?
Father : Because after paying all the taxes up to 31st March, we Start working for the government again from 1st April ..... 😂😂
Best answer ever

"Wife ask - why in all marriages girl sits on left side and boy on right side?
"Husband reply - According to profit and loss statement a/c all income is on right side and expenses are on left side".....
😊Happy march ending.😊

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