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

The Constitutionality of giving Voice Sample vis a vis Testimonial Compulsion

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It is aptly relevant to pose the following four questions ourselves in respect of the voice samples evidence and refusal of the accused person/s to give such specimen voice samples.

Q-1 Whether the accused person/s can be compelled to give the specimen voice samples, if so, does it not amount to self-incrimination U/Article 20(3) of the constitution?

Q-2 If the accused person/s is/are refused to give such specimen voice samples, what is the legal remedy available to the prosecution?

Q-3 Whether the adverse inference can be drawn against the accused person/s on the refusal of giving such specimen voice samples to the investigation Agency?

Q-4 Is there any legal statutary provision with regard to the voice samples in the Indian legislative context?

The above said questions have been dealt in detail as under in seriatim:

Q-1 Whether the accused person/s can be compelled to give the specimen voice samples, if so, does it not amount to self-incrimination U/Article 20(3) of the constitution?

It is aptly relevant to mention herein that the **87th Report of the Law Commission of India** describes a voiceprint as a **"visual recording of voice".** Voiceprints resemble fingerprints, in that each person has a distinctive voice with characteristic features dictated by vocal cavities and articulates.

It is submitted that the Voice sample is like finger print impression, signature or specimen handwriting of an accused. Like giving of a finger print impression or specimen writing by the accused for the purposes of investigation, giving of a voice sample for the purpose of investigation cannot be included in the expression ***"to be a witness".*** *By giving voice sample,the accused does not convey information based upon his personal knowledge which can incriminate him. A voice sample by itself is fully innocuous. By comparing it with tape recorded conversation, the investigator may draw his conclusion but, voice sample by itself is not a testimony at all. When an accused is asked to give voice sample, he is not giving any testimony of the nature of a personal testimony. When compared with the recorded conversation with the help of mechanical process, it may throw light on the points in controversy. It cannot be said, by any stretch of imagination that by giving voice sample, the accused conveyed any information based upon his personal knowledge and became a witness against himself. The accused by giving the voice sample merely gives* ***'identification data'*** *to the investigating agency. He is not subjected to any testimonial compulsion.*

Further, voice prints of a person are like finger prints of a person as mentioned above. Each person has a distinctive voice with characteristic features. A Voice print expert has to compare spectrographic prints to arrive at identification of a voiceprint. A voiceprint identification of voice involves measurement of frequency and intensity of sound waves. The process of measuring frequency or intensity of the speech-sound waves falls within the ambit of the term **"measurements"** as envisaged in Section 2(a) of the Identification of the Prisoners Act. It is further submitted that in ***Central Bureau of Investigation, New Delhi v. Abdul Karim Ladsab Telgi and others reported in 2005 Crl. L.J. 2868*** the Bombay High Court has interpreted the term "measurement" appearing in Section 5 of the Prisoners Act expansively and purposefully to include measurement of voice i.e. speech sound waves

Further, a voice sample is physical non-testimonial evidence. It does not communicate to the investigator any information based on personal knowledge of the accused which can incriminate him. A voice sample is not conceptually different from physical non-testimonial evidence-like blood, semen, sputum, hair etc. It is further submitted that even if the voice sample of accused is not treated as a bodily substance, it is still physical evidence involving no transmission of personal knowledge. Therefore, the process of taking of voice sample from an accused does not involve any testimonial responses from the accused and therefore recording of voice sample of an accused cannot be said to be violative of Art. 20(3) of the Constitution.

The Magistrate's power to authorize the investigating agency to record voice sample of the person accused of an offence can be traced to Section 5 of the Identification of Prisoners Act and Section 53 of the Criminal Code of procedure. The Magistrate has an ancillary or implied power under Section 53 of the Code to pass an order permitting taking of voice sample to aid investigation, in *Sakiri Vasu v. State of Uttar Pradesh reported in (2009) 2 SCC 409*, the Hon'ble Apex Court has referred to the incidental and implied powers of a Magistrate during investigation.

In R M Malkani Vs State of Maharashtra (SC 157 AJR 1973. It was held by the supreme court that the tape-recorded conversation is admissible provided (1) First the conversation is relevant to the matters in issue (2) Secondly, there is identification of the voice (3) Thirdly, the accuracy of the tape- secured conversation is provided by eliminating the possibility of erasing the tape record.

The Hon'ble High Court of Delhi in SUDHIR CHAUDHARY Vs. STATE = 2015 [2] JCC 1447 held that giving of voice sample for the purpose of investigation cannot be included in expression 'to be a witness' – By giving voice sample, accused does not convey any information based upon his personal knowledge which can incriminate him – Accused was not asked nor expected to furnish any statement based on his personal knowledge as would be barred under Article 20(3) of the Constitution of India – Voice sample is not substantive piece of evidence – Use of such sample is limited to purposes for which it was collected – Only use of such sample is for comparison and no other – Merely because text provided to petitioners contained some inculpatory statements, it would not mean that petitioners were forced to be witness in their own case – Once accused persons had given their consent for furnishing their voice samples, they could not be allowed to shift their stand course of drawing their voice samples should contain no part of inculpatory words which are a part of disputed recorded conversation. A commonality of words, held, is necessary to facilitate a spectrographic examination.

Further, the Hon'ble Apex court in catena judgements reiterated that the voice samples of the accused persons does not fall under the category of Article 20(3) of the Constitution i.e **Mukul *Roy v State of W.B.* (2019) SCC OnLine Cal 4341; *State of Maharashtra v Suresh BaliramRane* (2021) SCC Online Bom 38; *P.C. Mishra v C.B.I.* (2021) SCC On Line Del 82.**

Finally, the Hon'ble Apex Court has put an end to the controversy with regard to the validity of obtaining the voice samples without the consent of the accused in Ritesh Sinha Vs. State of Uttar Pradesh 2013 Crl.L.J. 1301, wherein the Hon'ble Apex Court held that taking voice sample of an accused by the police during course of investigation is not hit by Article 20(3) of the Constitution. Investigating Officer cannot take physical samples, including voice samples, from accused without authorization from Magistrate.

It is pertinent to mention that in the recent judgement of Hon'ble Apex Court in **Union of India through National Investigation Agency Vs Roopesh @ Praveen**. held that the Voice sample of the accused could be given to the investigating Agency for the purpose of the inquiry. Thus, the decision was passed in favour of the Investigating Agency.

Further, the following are the various **Hon'ble High Courts *judgements, which have*** been pronounced in favour of the Prosecution stating that at the investigation stage, the Prosecution is at liberty to take the voice sample of the accused person as it is voice Spectrograph test which is just the comparison of the wavelength of the voices of the accused is not violative of Article 20(3) of Constitution of India

Article 20(3) of the constitution of India says that no person should be forced to become a witness against himself. In the recent case of **Raj Kumar Singh Chauhan Vs State of Rajasthan** Hon'ble High Court held that Voice samples can be taken against the choice of accused (without consent). The High Court have validated that the voice sample could be collected from the accused person without taking their permission.

Furrher, In **R K Akhande Vs Special Police establishment**, the Madhya Pradesh High Court held that the necessitating the accused person to give voice sample does not meant that he is giving evidence against himself and also in **Kamal Pal and another Vs State of Punjab,** the Punjab and Haryana High Court held that the accused, who is judicially directed to give that voice sample for the purpose of Inquiry or comparison purposes do not infringe the right to privacy

VARIOUS HON'BLE HIGH COURT JUDGEMENTS

- Raj Kumar Singh Chouhan vs State Of Rajasthan on 10 September, 2021
- GOLLA VARA PRASAD Vs. STATE OF ANDHRAPRADESH
- Shahrukh vs The State Nct Of Delhi on 22 March, 2022
- Usha Dogra vs State Of Himachal Pradesh And Others on 2 May,2024
- M. R. Lohith Manohar Versus State by Rammurthy Nagar Police Station – 2011
- Sri Halappa @ Harthal Halappa vs The State Of Karnataka on 27.05.2010
- Mahendrakumar Kanhyalal Jain vs Shri Mahavir Urban Co-Operative on 19 June, 2013
- Shri Madhukar K. Farde V. Central Bureau of Investigation
- Singh Rana vs State Of Haryana on 18 April, 2022
- Ravi Parkash Sharma vs State of Punjab on 30 March, 2022
- Kishore vs State Rep. By on 16 November, 2017
- State vs Vikramjeet Singh @ Vika Virk on 23 May, 2018
- *P. Kishor Vs. State (2018(1) MLJ (Crl.) 208) of Madras High Court,*
- *Ravindra Kumar Bhalotia and others Vs. State and others (2018(1) MLJ (Crl) 149 of High Court of Madras*
- *State Vs. Vikramjeet Singh @ Vika Virka of Rajasthan High Court*
- *Leena Katiyar Vs. State of UP and others (2015(1) ACR 989) of Allahabad High Court*
- *Y. Ranganadh Goud vs State of Andhra Pradesh reported in (2010) 2 ALD (Cri) 538,*
- Smt. Leena Katiyar v. State of U.P., 2015 (89) ACC 556 (HC)

At this juncture, it is pertinent to mention that the foreign courts have also recognized the collection of voice samples from the accused persons by stating that they do not fall under the category of self-incrimination

Voice samples of the accused persons Jurisprudence in Foreign Countries are as under: -

In *United States v. Wade*,59 the Supreme Court of the United States held that compulsion to speak in the presence of witnesses does not amount to self-incrimination.

The Australian jurisprudence has had its own set of issues with voice identification. Mostly, in controlling the admissibility of such identifications, it treated them as non-testimonial. The most significant case law on this matter is ***R v. Smith*** **(*—Smith*II)** since it tried to impose maximum limitations of its admissibility and came up with the most unique proposition on the subject.

In view of the above judgments of the Hon'ble Apex Court as well as various Hon'ble High Courts, it is evident that the accused person/s can be compelled to give the specimen voice samples and it does not amount to self-incrimination U/Article 20(3) of the constitution.

Q-2 If the accused person/s is/are refused to give such specimen voice samples, what is the legal remedy available to the prosecution?

The Hon'ble Apex Court of India in Narayan Dutt Tiwari Vs Rohit Shekar and another ((2012) 12 SCC 554) held that the reasonable force can be used by the Police to ensure the compliance of the Hon'ble Apex Court order for giving DNA test.

Further, the Hon'ble Apex Court has relied on in ***H.M Kamaluddin Ansari & Co. vs. Union of India ((1983) 4 SCC 417)*** and ***Attorney General vs. Guardian Newspapers Ltd. ((1987) 1 WLR 1248****), which* held that orders of the court were to be complied with and the court would not pass an order which would be ineffective. It also referred to ***K.A. Ansari vs. Indian Airlines Ltd ((2009) 2 SCC 164)*** wherein it was held that difficulty in implementation of an order passed by the court, could not be an excuse for its non-implementation.

Selvi vs. State of Karnataka ((2010) 7 SCC 263)*, which held that compelled extraction of blood samples in course of medical test did not amount to conduct that shocks the conscience and use of reasonable force, where necessary, was mandated by law.*

In view of the above judgments of the Apex Court, it is crystal clear that the assistance of the Police may be taken for the enforcement of the judicial orders and the same analogy applicable to obtain the voice sample from the accused persons even by using the force, the prosecution is at liberty to file a fresh application stating the reasons for the refusal of the accused person/s giving voice samples in the laboratory and assign the cogent reasons thereof and seek further direction to implement its earlier orders, if necessary by using the reasonable force with the assistance of the Police.

The Supreme Court recently in **Shimnit Utsch India Pvt. Ltd. v. West Bengal Transport Infrastructure Development Corporation Ltd. (2010) 6 SCC 303** reiterated that law on the binding effect of an order passed by a Court of law is well settled; if an order has been passed by a Court which had jurisdiction to

pass it, then the error or mistake in the order can be got corrected from a higher Court and not by ignoring the order or disobeying it expressly or impliedly.

In view of the above judgments of the Hon'ble Apex Court as well as various Hon'ble High Courts, it is evident that the accused person/s can be compelled to give the specimen voice samples by using the reasonable force and it does not amount to self-incrimination U/Article 20(3) of the constitution.

Q-3 Whether the adverse inference can be drawn on the refusal of giving specimen voice samples to the investigation Agency?

It is pertinent to mention that the term "adverse inference rule" refers to a principle that if the accused fails to provide a witness/evidence that is within his control to provide, and should have been produced, the court may instruct the jury to infer that the absence of such witness/evidence is unfavourable to the accused's case

Adverse inference rule is also known as empty chair doctrine or adverse interest rule, when the trial judge will almost automatically infer unfavourably from the accused's silence or failure to provide relevant witness or evidence that is under the accused's control.

Section 114 of the IEA gains relevance here.

"**114. Court may presume existence of certain facts.** – The Court may presume the existence of any fact which it thinks likely to have happened, regard being had to the common course of natural events, human conduct and public and private business, in their relation to the facts of the particular case."

Thus, Section 114 allows for the courts to presume certain facts from the facts of a particular case and in aid of the Section, the Act also provides a number of illustrations to assist in the presumptions that a court may draw. Of these, Illustration (g) is of relevance to this Rule.

"(g) That evidence which could be and is not produced would, if produced, be unfavourable to the person who withholds it." Supreme Court, in a catena of judgments has relied upon **Illustration (g)** to hold that it is the duty of the prosecution to lead the best evidence and adverse inference can be drawn when the best evidence is not produced before the Court.

It is submitted that in the case of **Phula Singh v. State of H.P**. the appellant, charged with bribery under prevention of Corruption Act, 1988, refused to provide any explanation as to the circumstances against him and evaded the questions with bare denials. While appreciating the right to silence, in view of the 313 statements of the accused, the court held that: "The accused has a to furnish an explanation... regarding any incriminating duty material that has been

produced against him. If the accused has been given the freedom to remain silent... or even remain in complete denial...However, in such an event, the court would be entitled to draw an inference, including such adverse inference against the accused as may be permissible in accordance with law."

Section 27(2) of POTA envisages that if an accused person/s refuses to give his voice samples, only an adverse inference could have been taken.

Prahlad V. The State of Rajasthan, wherein the court held the accused guilty by drawing adverse inference. The word **'adverse inference'** suggests that the court is authorised to draw 'such inferences as appear proper' including an unfavourable decision from the defendant's silence; in other words, the court may hold the defendant's silence against him.

It is further submitted that the **Hon'ble High Court of Rajasthan at Jaipur Bench in Omkar Sapre Vs State of Rajasthan through his Public Prosecutor** held that and adverse inference can also be taken at the time of trial

The Apex Court undoubtedly in **Sharda Vs Dharmpal ((2004)4 SCC 493 and Bhavani Prasad Jena Vs Convenor Secretary Orissa State Commission for women and another ((2010) 8 SCC 633**) has held that "if despite an order passed by the Court, a person refuses to submit himself to such medical examination, a strong case for drawing an adverse inference" within the meaning of Section 114 of the Evidence Act would be made out.

It is further submitted the concept of adverse inference is also recognized by the foreign countries under different statues as under: -

The Criminal Justice and Public Order Act 1994 The United Kingdom is adopting a very broad scope of adverse inferences. The Criminal Justice and Public Order Act 1994 Section 34 allows adverse inferences when a suspect is silent when questioned under caution prior to charge (section 34(1)(a)).

In view of the above judgments of the Hon'ble Apex Court as well as various Hon'ble High Courts, it is evident that the Hon'ble Courts may take an adverse inference against the accused person/s if they are reluctant to give the specimen voice samples.

Q-4 The present legal position with respect to the specimen voice sample of the accused person/s?

The recent Bhartiya Nagarik Suraksha Sanhita (BNSS) has put an end to the anomaly to the concept of obtaining voice samples of the accused person/s, which has been in question for the last 20/25 years with advent of the Technological developments in the commission of the crime by inserting a statuary provision in the above said Act and made a legal by making it as

statutory enforceable right'. The extract of the said provision has been reproduced herein as under: -

Section 349 Bharatiya Nagarik Suraksha Sanhita Act, 2023: Power of Magistrate to order person to give specimen signatures or handwriting, etc.

If a Magistrate of the first class is satisfied that, for the purposes of any investigation or proceeding under this Sanhita, it is expedient to direct any person, including an accused person, to give specimen signatures or finger impressions or **handwriting or voice sample**, he may make an order to that effect and in that case the person to whom the order relates shall be produced or shall attend at the time and place specified in such order and shall give his specimen signatures or finger impressions or handwriting or **voice sample**:

Provided that no order shall be made under this section unless the person has at some time been arrested in connection with such investigation or proceeding:

Provided further that the Magistrate may, for the reasons to be recorded in writing, order any person to give such specimen or sample without him being arrested.

In view of the insertion of the above said provision in the BNSS Act it is crystal clear that **fourth question** is also answered in **affirmative**

The present legal status with regard to obtaining the voice samples from the accused person/s is thus clear from the existing laws and the various judgements of the Hon'ble Apex Court as well as various Hon'ble High Courts.

CITATIONS

https://indiankanoon.org/doc/162421918/; Somula Sathyavathi vs The State Of Andhra Pradesh; CRLP No.9700 of 2023 Dated 30.04.2025

The learned counsel for the respondent places reliance on Kotla Hari Chakrapani Reddy Vs. The State of A.P., this Court has held that there is no provision in law for deleting an accused from the case by the police officers, investigating officer or the Superintendent of the Police district concerned and that it is for the investigating officer to place all the material before the Magistrate. Without there being judicial decision on cognizance, no police officer can unilaterally delete or direct deletion of an accused from a case.

These omnibus allegations making sweeping reference to the involvement of the petitioners without specific details such as date and place cannot sustain the scrutiny of trial. Such allegations could not qualify for tested before a Trial Court.

Admittedly, the petitioners are sisters of the Accused No.1 and were married much prior to the marriage of the Accused No.1. Soon after their marriage they were residing with their respective families in different towns away from the marital home of the 2 nd respondent and the Accused No.1. This case on hand is another classic case where the sisters of the husband are roped in as accused for wreaking vengeance against the 1st accused.
Married sisters living with their respective families separately in different towns cannot be roped in as accused without any specific allegations and without any details of the specific allegations in the complaint or in the statement before the Police under Section 161 of Cr.P.C., Any improvements made by PW.1 before the Court would have to be considered as an afterthought only with a view to implicate the petitioners as accused.

2025 0 INSC 615; 2025 0 Supreme(SC) 761; Raju @ Umakant Vs. The State of Madhya Pradesh; Criminal Appeal No. 2377 of 2025 (@ Special Leave Petition (Crl.) No. 17398 of 2024); Decided On : 01-05-2025
It is well-settled that the evidence of the prosecution witness cannot be rejected in toto merely because the prosecution chose to treat him as hostile and cross- examined him. It has been held that the evidence of such witnesses cannot be treated as effaced or washed off the record altogether but the same can be accepted to the extent their version is found to be dependable on a careful scrutiny thereof. It has been held that where the evidence of such a witness is consistent with the case of the prosecution, it can be relied upon. [See Selvamani vs. State Rep. by the Inspector of Police, 2024 SCC OnLine SC 837 and Neeraj Dutta vs. State (Government of NCT of Delhi) (2023) 4 SCC 731 (para 87).

2025 0 INSC 618; 2025 0 Supreme(SC) 764; Aman Bhatia Vs. State (GNCT of Delhi); Criminal Appeal No. 2613 of 2014; 02-05-2025
Insofar as the presumption under Section 20 of the PC Act is concerned, such presumption is drawn only qua the offence under Sections 7 and 11 respectively and not qua the offence under Section 13(1)(d) of the PC Act. The presumption is contingent upon the proof of acceptance of illegal gratification to the effect that the gratification was demanded and accepted as a motive or reward as contemplated under Section 7 of the PC Act. Such proof of acceptance can follow only when the demand is proved.
Stamp vendors across the country, by virtue of performing an important public duty and receiving remuneration from the Government for the discharge of such duty, are undoubtedly public servants within the ambit of Section 2(c)(i) of the PC Act.

https://indiankanoon.org/doc/194406500/; Faiyaz Mehemood Ansari vs State Of Telangana; CRIMINAL APPEAL Nos.363, 429, 478 of 2020 & 146 of 2021 Date: 01.05.2025 (DB)

the allegation of practicing witchcraft or doing any Tantrik acts of inflicting injuries on PW.2 would attract penal consequences for causing bodily injury. In the State of Telangana, there is no enactment punishing people practicing witchcraft/black magic or any such practices.

Section 2(c) is the definition of a magic remedy. The enactment is intended to punish any false claims of magic remedies for practicing witchcraft or any such acts of black magic or similar practices. There is no punishment prescribed in the Drugs and Magic Remedies (objectionable advertisements) Act, 1954.

https://indiankanoon.org/doc/66272979/; Mandaloju Mandaladi Mohana Chary vs State Of Telangana; CRLP No.5039 of 2022; 01-05-2025

Making vague and generalised allegations during matrimonial conflicts, if not scrutinized, will lead to the misuse of legal processes and an encouragement for use of arm twisting tactics by a wife and/or her family. Sometimes, recourse is taken to invoke Section 498-A of the IPC against the husband and his family in order to seek compliance with the unreasonable demands of a wife. Therefore, the Courts are bound to ensure whether there is any prima facie case against the husband and his family members before prosecuting them.

https://indiankanoon.org/doc/36928189/; Veeralla Ramakrishna vs Devarakonda Vinay Kumar on 1 May, 2025; CRLP 4738/2025

The petitioners and the 1st respondent in both the criminal petitions have instituted legal proceedings against each other, resulting in a case and a counter-case. The dispute arises on account of the differences in the financial transactions. In connection with this dispute, the petitioners lodged a complaint against the 1st respondent, who, in turn, filed a counter-complaint against the petitioners. Both criminal cases are sought to be compounded.

Recording the submissions of the 1st respondent, the respective I.A. Nos.2 and 3 of 2025 in both the criminal petitions are allowed, thereby the proceedings in Crime No.331 of 2024 of Medikonduru Police Station, Guntur District,against the petitioners for the offences Sections 109 (1), 118(1) read with 3(5) of the B.N.S., Sections 3(1)(r)(s), 3(2)(v) of SC & ST (POA) Act, 1989,and the proceedings in Crime No.332 of 2024 of Medikonduru Police Station, Guntur CRL.P. Nos.4738 & 4739 OF 2025 District, registered

against the petitioner under Section 109 (1), 118(1) read with 3(5) of the B.N.S., are hereby quashed.

https://indiankanoon.org/doc/141380824/; Tekumatta Chakrapani, Medak vs The State Of Telangana, on 1 May, 2025; Crla_552_2016

It is a settled proposition, reiterated in several Supreme Court decisions, that when the facts proved show the accused was last seen with the deceased, and in the absence of any other explanation, a negative inference can be drawn against the accused.

Furthermore, the first information statement (Ex.P-1) and the evidence of PWs. 1 to 4 clearly and consistently state that the accused informed them, in the presence of caste elders, about the commission of the offence, after which they went to the location, searched, and found the dead body. This version remained uncontroverted except for denial suggestions. The discovery of the dead body based on the accused's statement is another material circumstance.

Moreover, delay in filing the FIR cannot, by itself, be a ground to discard the material evidence and the prosecution's case. It is well settled that in cases of delay, the relevant consideration is whether there was any deliberation for falsely implicating the accused. In this case, the allegations in the first information statement were specific and directed only against the accused, and cross-examination did not reveal any reason for false implication. Thus, this ground of defence is without merit.

https://indiankanoon.org/doc/57311118/; T. Prabhakar Rao vs The State Of Telangana on 2 May, 2025; CRLP 4207/2025

as per the provisions of the Cr.P.C., Section 41-A of the Cr.P.C., notice has to be issued to the accused person directly.

https://indiankanoon.org/doc/79361604/; Koka Raghava Rao, vs The State Of Telangana on 2 May, 2025; CRLP 5564/2025

when there is ambiguity exists in Section 167 Cr.P.C, it must be interpreted to protect personal liberty. The 60/90-day remand period begins from the date of the Magistrate's remand order and includes that day. If a charge-sheet is filed on or after the 61st/91st day, the accused is entitled to default bail, provided the application is made before such filing. Once the right to default bail accrues, it cannot be defeated by the subsequent filing of the charge-sheet.

https://indiankanoon.org/doc/139412190/; Vunukonda Devender A.1 & 7 Others vs State Of Telangana And Anr on 2 May, 2025; CRLP 750/2022
In the instant case, having gone through the record, it clearly depicts that no complaint was made by the de facto complainant-wife before the jurisdictional Magistrate alleging the offence under Section 494 of IPC. On the other hand, she has filed a complaint before the jurisdictional Police for investigation and the same is not maintainable in view of the bar enshrined in Section 198(1) of Cr.P.C. The Police, after concluding investigation have filed charge sheet before the trial Court and the same was taken cognizance by the learned Magistrate without perusing the mandate under Section 198(1) of Cr.P.C. and issued process to the accused, which is contrary to law. Even no material was produced by the prosecution to prove the second marriage of petitioner-accused No.1 with accused No.2. Therefore, the First Information Report, charge sheet and the order taking cognizance on such charge sheet are without jurisdiction and the same are liable to be quashed, in view of the law laid down by the High Court of Andhra Pradesh in B.Parvathi's case {2020 0 Supreme(AP) 9}
(THIS JUDGMENT HAS NOT DISCUSSED THE JUDGMENT OF THE APEX COURT IN BETWEEN A.SUBASH BABU VS STATE OF A.P, which discusses the judgment between S.Radhika Sameena Vs. Station House Officer, 1997 Criminal Law Journal 1655, relied upon by the court in this case AND the Apex Court has held that *"offences under Sections 494, 495 and 496 having been rendered cognizable and non-bailable by virtue of the Code of Criminal Procedure (Amendment Act, 1992) can be investigated by the Police and no illegality is attached to the investigation of these offences by the police. If the Police Officer in charge of a Police Station is entitled to investigate offences punishable under Section 494 and 495 IPC, there is no manner of doubt that the competent Court would have all jurisdiction to take cognizance of the offences after receipt of report as contemplated under Section 173(2) of the Code."* "Once, it is held that the offences under Section 494 and 495 IPC are cognizable offences, the bar imposed by operative part of sub-section 1 of Section 198 of the Criminal Procedure Code beginning with the words "No Court shall take cognizance of an offence punishable under Chapter XX of the Indian Penal Code except upon a complaint made by some person aggrieved by the offence" gets lifted so far as offences punishable under Sections 494 and 495 IPC are concerned.") A. Subash Babu VS State of A. P. , 21 Jul 2011; 2011 0 AIR(SC) 3031; 2011 0 CrLJ 4373; 2011 7 SCC 616; 2011 3 SCC(Cri) 267;

https://indiankanoon.org/doc/157467595/; P Aruna vs B Madhava Reddy on 2 May, 2025; WA 1225/2023 (DB)

Section 91 of Cr.P.C. requires any person in possession of documents to furnish the documents as directed by the Investigating Officer. In the present case, the High Court cannot be termed to be a "person" under Section 91of Cr.P.C. In such circumstances, the provision of Section 91 of Cr.P.C. would be inapplicable and consequently, the Inspector of Police would not have jurisdiction or authority to call upon this Court to furnish the documents, under Section 91 of Cr.P.C.

https://indiankanoon.org/doc/118032005/; Kunja Venkatalaxmi, vs The State Of Telangana on 2 May, 2025; CRLP 5877/2025

41A CrPC/35(3) BNSS notice directed to be served for the accused of offence u/s. 108 r/w. 62 BNS, which is punishable with imprisonment for 10 years

2025 0 INSC 631; 2025 0 Supreme(SC) 775; Kumari Rekha Vs. Shambhu Saran Paswan; Civil Appeal No. 3489 of 2025 [Arising out of SLP (Civil) No. 18812 of 2022]; 06-05-2025

Even though the respondent-husband has vehemently opposed the prayer for dissolution of marriage contending that none of the available grounds on which a Hindu marriage could be dissolved is present, the same is not a bar for us to exercise our powers under Article 142 of the Constitution; more particularly when we are satisfied that it is a case of irretrievable breakdown of marriage. In this regard, one may refer profitably to the decision of the Constitution Bench of this Court in Shilpa Sailesh v. Varun Sreenivasan, 2023 SCC OnLine SC 544.

2025 0 INSC 634; 2025 0 Supreme(SC) 778; Harjinder Singh Vs. The State Of Punjab & Anr.; Criminal Appeal No(s). 2477 of 2025 (@ SLP (Criminal) No. 1891 of 2024); 06-05-2025

We believe that the High Court, in interfering under Section 482 CrPC, placed decisive reliance on the investigation dossier and characterised the 10 May 2016 episode as mere “teasing”. Such a description underplays both the content and the effect of the words spoken. If the allegations is true, telling a physically challenged man that he and his family should die, and doing so in the immediate aftermath of a grievous acid attack, is not banter. Sensitivity to the social context, where honour and shame weigh heavily, was called for. The offence, no doubt, will have to be established at the trial. The Trial Court will also decide whether on facts the offence is established,

keeping in view the law laid down by this Court in Mahendra Awase vs. State of Madhya Pradesh, 2025 SCC OnLine SC 107 and other judgments interpreting Section 306 IPC.

Having regard to the purpose of Section 319 CrPC, we see no infirmity in the order of the Trial Court. On the contrary, non-summoning of respondent no. 2 would have risked a truncated trial and a possible failure of justice. The High Court, by elevating unproved defence documents above sworn testimony, adopted an approach that was neither consistent with the text of Section 319 CrPC nor consonant with the realities of a case involving a vulnerable victim. The Court's intervention, in effect, foreclosed the prosecution from testing the alibi and deprived the Trial Court of jurisdiction expressly conferred upon it.

https://indiankanoon.org/doc/134095413/; B Narendra Kumar vs Union Of India; WRIT PETITION No.27032 OF 2024 Dated 05.05.2025

It has to be uppermost kept in mind that impartial and truthful investigation is imperative. It is judiciously acknowledged that fair trial includes fair investigation as envisaged by Articles 20 & 21 of the Constitution of India. The role of the police is to be one for protection of life, liberty and property of citizens, that investigation of offences being one of its foremost duties. That the aim of investigation is ultimately to search for truth and to bring the offender to book.

Apart from ensuring that the offences do not go unpunished, it is the duty of the prosecution to ensure fairness in the proceedings and also to ensure that all relevant facts and circumstances are brought to the notice of the court for just determination of the truth so that due justice prevails. It is the responsibility of the investigating agency to ensure that every investigation is fair and does not erode the freedom of an individual, except in accordance with law. One of the established facets of a just, fair and transparent investigation is the right of an accused to ask for all such documents that he may be entitled to under the scheme contemplated by the Cr.PC.

As observed by this Court in the case of V.K. Sasikala v. State represented by Superintendent (2012) 9 SCC 771, though it is only such reports which support the prosecution case that are required to be forwarded to the Court under Section 173(5), in every situation where some of the seized papers and the documents do not support the prosecution case and, on the contrary, support the accused, a duty is cast on the investigating officer to evaluate the two sets of documents and materials collected and, if required, to exonerate the accused at that stage itself.

Even in a case where the public prosecutor did not examine the witnesses who might have supported the accused, this Court in the case of Darya Singh v. State of Punjab AIR 1965 SC 328 has observed that the prosecution must act fairly and honestly and must never adopt the device of keeping back from the Court only because the evidence is likely to go against the prosecution case. It is further observed that it is the duty of the prosecution to assist the court in reaching to a proper conclusion in regard the case which is brought before it for trial. It is further observed that it is no doubt open to the prosecutor not to examine witnesses who, in his opinion, have not witnessed the incident, but, normally he ought to have examined all the eye-witnesses in support of his case. It is further observed that it may be that if a large number of persons have witnessed the incident, it would be open to the prosecutor to make a selection of those witnesses, but the selection must be made fairly and honestly and not with a view to suppress inconvenient witnesses from the witness box. It is further observed that if at the trial it is shown that the persons who had witnessed the incident have been deliberately kept back, the Court may draw an inference against the accused and may, in a proper case, record the failure of the prosecution to examine the said witnesses as constituting a serious infirmity in the proof of the prosecution case.

The prosecution/investigating agency is expected to act in an honest and fair manner without hiding anything from the accused as well as the Courts, which may go against the prosecution. Their ultimate aim should not be to get conviction by hook or crook.

The expression "fair and proper investigation" in criminal jurisprudence was held by this Court in Vinay Tyagi vs Irshad Ali @ Deepak and others (2013)5SCC 762 to encompass two imperatives; firstly the investigation must be unbiased, honest, just and in accordance with law and secondly, the entire emphasis has to be to bring out the truth of the case before the court of competent jurisdiction.

https://indiankanoon.org/doc/91379985/; Dasari Bheemalinga, vs The State Of Andhra Pradesh; CRLP NO.4505 of 2025 Date: 05.05.2025

initially, a notice under Section 41-A of the Cr.P.C. was issued to all the petitioners. However, after the receipt of the Wound Certificate, the offence has been subsequently reclassified and registered under Section 118(2) of the BNS Act.

A-1 to A-5 approached filed for Anticipatory bail. A4 & A5 granted bail as they are women with no criminal antecedents, but the anticipatory bail application of A-1 to A-3 was dismissed.

https://indiankanoon.org/doc/126995574/; Balaji Govindappa vs State Of Andhra Pradesh on 7 May, 2025; Crl.P.Nos.4837 of 2025 & Batch

In Ashok Kumar V. State of Union Territory Chandigarh , the Hon'ble Apex Court held that:

12. There is no gainsaying that custodial interrogation is one of the effective modes of investigating 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 severe 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 investigation.

The anticipatory bail, the extraordinary privilege, should be granted only in exceptional circumstances, where the court is prima facie convinced that the petitioners are enroped in the crime and unlikely to misuse the liberty granted. The necessity for custodial interrogation of the petitioners is paramount in this case to facilitate a thorough investigation into the accusations. Denying custodial interrogation could result in significant loopholes and gaps in the ongoing investigation, adversely affecting its integrity. To bring out all material information relating to the offence, the petitioners must undergo custodial interrogation.

APHC010503122024;https://indiankanoon.org/doc/50990251/; Crl.P. No. 8067 of 2024 & batch; Sirigireddy Arjun Reddy vs The State Of Andhra Pradesh on 7 May, 2025;

The primary requirement to attract "organised crime" is that the unlawful activity should be for material benefit for the accused including financial benefit in view of the wording "to obtain direct or indirect material benefit including a financial benefit," occurring in Section 111(1) of the BNS as above. The term "material benefit including a financial benefit" is not defined in the BNS. Though similar wordings are used in defining "organised crime" in the UN Convention against Transnational Organised Crime and UN Protocol against Smuggling of migrants by Land, Sea and Air, the said term occurring in Article 2(a) thereof was not defined. The Article 2(a) of the Convention reads as under:

Article 2 (a): "Organized criminal group" shall mean a structured group of three or more persons, existing for a period of time and BNSing in concert with the aim of committing one or more serious crimes or offences

established in accordance with this Convention, in order to obtain, directly or indirectly, a financial or other material benefit.

The definition of "organised crime" in the Acts of the State like A.P. Control of Organised Crime Act, 2001, Maharashtra Control of Organised Crime Act, 1999 etc., is slightly different. The Section 2(e) of the A.P. Control of Organised Crime Act, 2001 which is similar in Acts akin thereto is extracted below:

Section 2 (e) "organised crime" means may continuing unlawful activity by an individual, singly or jointly, either as a member of an organised crime syndicate or on behalf of such syndicate by use of violence or threat of violence or intimidation or coercion of other unlawful means, with the objective of gaining pecuniary benefit or gaining undue economic or other advantage for himself or any other person or promoting insurgency.

In the absence of any specific explanation as to what constitutes material benefit, it would be appropriate to rely on common understanding. In general sense, the term "material benefit" refers to tangible benefits that can be expressed in terms of money or property or is referable to some visible benefit and not a perceptual benefit. In these cases, what material benefit the Petitioner obtained assuming that the confession of co-accused is taken to be true is not forthcoming at this stage.

The second aspect of the issue is that explanation (ii) to Section 111 of the BNS defining "Continuing unlawful activity" mandates more than one chargesheet against the accused in the previous ten years. As on the date of registration of the crimes against the Petitioner, nothing has been pointed out as to the pendency of any chargesheet against the Petitioner for the offences referred in Section 111 of the BNS in the preceding 10 years.

In the absence of any chargesheet at the time of registration of crime, the registration of offence under Section 111 of the BNS at this stage appears to be not in consonance with the requirement of law. The High Court of Kerala in the matter of Mohammed Hashim v. State of Kerala after referring to the Judgement of the Hon'ble Supreme Court in the matter of State of Maharashtra v. Shiva Alias Shivaji Ramaji Sonawane and others arising under the Maharashtra Control of Organised Crime Act, 1999 (for short „MCOC" Act) held that two chargesheets are a requirement for registering an offence under Section 111 of the BNS. Similar view was taken by the Division Bench of this Court in Pappula Chalama Reddy v. The State of Andhra Pradesh in W.P.No. 26769 of 2024, disposed of on 18.12.2024.

https://indiankanoon.org/doc/97364984/; Mr. Vallabhneni Vamsi Mohan, vs The State Of A.P; CRLP No.3909 OF 2025 Date: 08.05.2025

All the offences are punishable with imprisonment of up to seven years, except 386 of IPC. Furthermore, this court finds reason to doubt the applicability of Section 386 of the IPC; instead, Section 384 IPC, which was invoked initially and carries a lesser punishment of up to three years, maybe more appropriately applicable. At least the petitioner has made a case for issuance of notice under section 35(3) of BNSS (section 41A of IPC).

For prosecuting this petitioner for an offence under Sections 467 and 471, a complaint by the court may not be necessary as under Section 195(1)(b) CrPC a complaint may be made only when it is committed by a party to any proceeding in any court.

https://indiankanoon.org/doc/27514208/; P. Joshua vs The State Of Andhra Pradesh; Criminal Petition No.5333 of 2025 Date: 09.05.2025

The prosecution's case, in brief, is that the Vigilance & Enforcement (V&E) Department conducted an enquiry based on a representation from Sri Nallapaneni Chalapathi Rao, Managing Partner of Sri Lakshmi Balaji Stone Crushers, Edlapadu, Palnadu District. The complaint alleged that Smt. Vidadala Rajani (A.1, former Minister and MLA), Sri P. Joshua, IPS (A.2, then RV&EO, Guntur), and others demanded and accepted bribes. The enquiry report, submitted vide Letter No.3999/V&E/NR/2024 dated 03.12.2024, recommended a comprehensive ACB investigation, disciplinary action against A.2, and legal proceedings against other involved parties. The Government forwarded the V&E report to the ACB through Memo No. 2645183/SC.D/A1/2024 dated 23.01.2025, requesting an investigation under the Prevention of Corruption Act. Subsequently, the DG, ACB, A.P., Vijayawada sought sanction under Section 17A of the PC (Amendment) Act, 2018. The Government, vide Memo No.2645183/SC.D/A1/2024 dated 18.02.2025, granted permission for investigation against A.2 and A.4 (Sri Dodda Ramakrishna, PA to A.1). However, through Memo No. 2723576/A1/2025/Poll.B, dated 07.03.2025, it clarified that A. 1, being an MLA, does not require sanction under Section 17A as the alleged act, extorting money from a businessman, was unrelated to her official duties. According to the complainant, A.1, her brother-in-law Sri Vidadala Gopi, i.e., A.3, A.4, and A.2 demanded and extorted 2 crores for A.1 and 10 lakhs each for A.2 and A.3. A.2 allegedly conducted an unauthorized inspection of the complainant's stone crusher unit on 10.09.2020, without a formal petition or orders, solely to intimidate and extort.

As a result, the Criminal Petition is disposed of, directing the investigating officer to strictly follow the procedure laid down under Section 41A of the Cr.P.C.,/Section 35(3) of the BNSS, and also the guidelines set forth by the Hon'ble Supreme Court in Arnesh Kumar V. State of Bihar and another.

2025 0 INSC 666; 2025 0 Supreme(SC) 808; Aashish Yadav Vs. Yashpal & Ors.; Criminal Appeal No. 2573 of 2025 (@ Special Leave Petition (Crl.) No. 14681 of 2024); Decided On : 13-05-2025

Admittedly, from the day of arrest till filing of the first chargesheet wherein these respondent accused were shown as absconding, the respondents were successful in evading their arrest and subsequently when the application for grant of bail was rejected these respondents accused surrendered themselves to the Trial Court and then the application for grant of bail was filed before the High Court.

It was also submitted before the Court that the contract killer Vicky @ Kartoos is having criminal antecedents and is a history sheeter. Thus, the apprehension of the complainant, that the respondent accused, if released on bail may pressurise the witnesses is not unjustified.

The complainant is also justified in making the submission that as the trial is now in the process and key prosecution witnesses are yet to be examined, there exists a reasonable apprehension that if these accused persons are granted bail, then they may attempt to pressurise or influence the witnesses or even abscond.

The High Court therefore failed to consider these above grounds and has mechanically passed the order and allowed the appeal. The order of grant of bail to accused on parity is error apparent on the face of the record. The High Court failed to consider that the accused are the main accused in the matter and cannot be enlarged on bail because the other co-accused persons have been granted bail. The High Court order granting bail to the accused respondents is hereby set aside. Accordingly, the present appeal is allowed.

2025 0 INSC 671; 2025 0 Supreme(SC) 813; Rajesh Chaddha Vs. State of Uttar Pradesh; Criminal Appeal No(s). of 2025 [Arising out of SLP (Crl.) Nos. 2353-2354 of 2019]; Decided on : 13-05-2025

Notwithstanding the merits of the case, we are distressed with the manner, the offences under Section 498A IPC, and Sections 3 & 4 of the D.P. Act, 1961 are being maliciously roped in by Complainant wives, insofar as aged parents, distant relatives, married sisters living separately, are arrayed as accused, in matrimonial matters. This growing tendency to append every relative of the husband, casts serious doubt on the veracity of the allegations

made by the Complainant wife or her family members, and vitiates the very objective of a protective legislation. The observations made by this Hon'ble Court in the case of Dara Lakshmi Narayana & Ors. v. State of Telangana & Anr., (2025) 3 SCC 735 appropriately encapsulates this essence as under:

> "25. A mere reference to the names of family members in a criminal case arising out of a matrimonial dispute, without specific allegations indicating their active involvement should be nipped in the bud. It is a well-recognised fact, borne out of judicial experience, that there is often a tendency to implicate all the members of the husband's family when domestic disputes arise out of a matrimonial discord. Such generalised and sweeping accusations unsupported by concrete evidence or particularised allegations cannot form the basis for criminal prosecution. Courts must exercise caution in such cases to prevent misuse of legal provisions and the legal process and avoid unnecessary harassment of innocent family members. In the present case, appellant Nos.2 to 6, who are the members of the family of appellant No.1 have been living in different cities and have not resided in the matrimonial house of appellant No.1 and respondent No.2 herein. Hence, they cannot be dragged into criminal prosecution and the same would be an abuse of the process of the law in the absence of specific allegations made against each of them."

The term "cruelty" is subject to rather cruel misuse by the parties, and cannot be established simpliciter without specific instances, to say the least. The tendency of roping these sections, without mentioning any specific dates, time or incident, weakens the case of the prosecutions, and casts serious suspicion on the viability of the version of a Complainant. We cannot ignore the missing specifics in a criminal complaint, which is the premise of invoking criminal machinery of the State. Be that as it may, we are informed that the marriage of the Appellant has already been dissolved and the divorce decree has attained finality, hence any further prosecution of the Appellant will only tantamount to an abuse of process of law.

2025 0 INSC 674; 2025 0 Supreme(SC) 816; P. Shanthi Pugazhenthi Vs. State Represented By The Inspector of Police SPE/CBI/ACB/ Chennai; Criminal Appeal No. 2581 of 2025 (@ Special Leave Petition (Criminal) no. 3472 of 2018); Decided On : 13-05-2025

The law was laid down by this Court with respect to offences under section 109 IPC read with 13(1)(e) of the 1988 Act, in P. Nallammal & Anr. v. State, represented by Inspector of Police (1999) 6 SCC 559, where this court was considering whether the appellants therein are liable to be convicted of abetting crime under 13(1)(e) of the 1988 Act.

In P. Nallamal (Supra), it was contended before this Court that an offence under section 13(1)(e) of the 1988 Act cannot be abetted by a non-public servant. Further, that there is no provision in the 1988 Act which provides punishment for abetment of offence under section 13(1)(e) whereas it provides punishment for abetment of some other offences under the 1988 Act. However, after discussing the history of Section 13 of the 1988 Act which was a substitute for some of the provisions of Chapter-IX of IPC which deals with offences by or relating to public servants, this Court held that an offence under section 13(1)(e) of the 1988 Act can be abetted by any other person. After reading Section 107 of IPC and accepting suggestions of Counsel, this Court gave illustrations that how even a person who is not a public servant can abet the offence under section 13(1)(e) of the 1988 Act. The relevant paragraphs are as follows:

> "24. Shri Shanti Bhushan cited certain illustrations which, according to us, would amplify the cases of abetments fitting with each of the three clauses in Section 107 of the Penal Code vis-a-vis Section 13(1)(e) of the PC Act. The first illustration cited is this:
>
> If A, a close relative of the public servant tells him of how other public servants have become more wealthy by receiving bribes and A persuades the public servant to do the same in order to become rich and the public servant acts accordingly. If it is a proved position there cannot be any doubt that A has abetted the offence by instigation.
>
> Next illustration is this:
>
> Four persons including the public servant decide to raise a bulk amount through bribery and the remaining persons prompt the public servant to keep such money in their names. If this is a proved position then all the said persons are guilty of abetment through conspiracy.
>
> The last illustration is this:
>
> If a public servant tells A, a close friend of his, that he has acquired considerable wealth through bribery but he cannot keep them as he has no known source of income to account, he requests A to keep the said wealth in A's name, and A obliges the public servant in doing so. If it is a proved position A is guilty of abetment falling under the "Thirdly" clause of Section 107 of the Penal Code.
>
> 25. Such illustrations are apt examples of how the offence under Section 13(1)(e) of the PC Act can be abetted by non-public servants. The only mode of prosecuting such offender is through the trial envisaged in the PC Act."
>
> (Emphasis Provided)

In other words, any person who persuades a public servant to take bribes, decides to raise money through bribes along with a public servant and prompts such public servant to keep the wealth with him/her or keeps the amassed wealth of a public servant in his/her own name is guilty of committing the offence of abetment of offence under section 13(1)(e) of the 1988 Act. We must also note that the 2018 Amendment to the 1988 Act has substituted Section 12 of 1988 Act and made all offences under the 1988 Act abettable. This Section 12 of 1988 Act reads as follows:

> **"12. Punishment for abetment of offences.—** Whoever abets any offence punishable under this Act, whether or not that offence is committed in consequence of that abetment, shall be punishable with imprisonment for a term which shall not be less than three years, but which may extend to seven years and shall also be liable to fine."

In any case, there is no doubt that offence under section 13(1)(e) was abettable even prior to the 2018 Amendment.

In the case at hand, it is an admitted position that the appellant's husband has acquired assets (disproportionate to his income), during the check period, in appellant's name. Both the courts below have given concurrent findings on this aspect, and it is not required for us to deal with that aspect in detail.

2025 0 INSC 683; 2025 0 Supreme(SC) 824; Tukesh Singh & Ors. Vs State of Chhattisgarh; Criminal Appeal No. 1157 of 2011 with Criminal Appeal No.1608 of 2011 and Criminal Appeal No.1713 of 2012; Decided On : 14-05-2025 (THREE JUDGE BENCH)

In a case where there are eyewitnesses, one situation can be that the eyewitness knew the accused before the incident. The eyewitnesses must identify the accused sitting in the dock as the same accused whom they had seen committing the crime. Another situation can be that the eyewitness did not know the accused before the incident. In the normal course, in case of the second situation, it is necessary to hold a Test Identification Parade. If it is not held and if the evidence of the eyewitness is recorded after a few years, the identification of such an accused by the eyewitness in the Court becomes vulnerable. Identification of the accused sitting in the Court by the eyewitness is of utmost importance. For example, if an eyewitness states in his deposition that "he had seen A, B and C killing X and he knew A, B and C". Such a statement in the examination-in-chief is not sufficient to link the same to the accused. The eyewitness must identify the accused A, B and C in the Court. Unless this is done, the prosecution cannot establish that the accused are the same persons who are named by the eyewitness in his deposition. If

an eyewitness states that “he had seen one accused assaulting the deceased with a sword, another accused assaulting the deceased with a stick and another accused holding the deceased to enable other accused to assault the deceased.” In such a case, the eyewitness must identify the accused in the open Court who, according to him, had assaulted the accused with a stick, who had assaulted the deceased with a sword and who was holding the deceased. Unless the eyewitnesses identify the accused present in the Court, it cannot be said that, based on the testimony of the eyewitnesses, the guilt of the accused has been proved.

2025 0 INSC 695; 2025 0 Supreme(SC) 834; In Re : Alarming Rise In The Number Of Reported Child Rape Incidents C.A. No. 7968 of 2019, Suo Moto Writ Petition (Criminal) No(s). 1 of 2019; Decided on : 15-05-2025

In our opinion, since the timelines have been stipulated under the POCSO Act for all stages right from the stage of Investigation up to the stage of Trial, the same must be adhered to as far as possible. Because of the inadequacy of the number of exclusive Courts for the POCSO Cases, the said timelines mandated in the Act for completion of the trials are not being maintained. It is therefore expected that the Union of India and the State Governments shall take appropriate steps to sensitize the officials associated with the investigation of POCSO cases, and also to create dedicated Courts to try POCSO Cases on top priority basis, and to see to it that the chargesheets are filed within the mandatory period stipulated in the Act, and the Trials are completed within the time frame as contemplated in the Act.

2025 0 INSC 703; 2025 0 Supreme(SC) 842; Nagarajan & Anr. Vs. The State of Tamil Nadu; Criminal Appeal No. 1390 of 2025 [Arising Out of SLP(Crl.) No. 8401 of 2022]; With Naresh Chandra @ Naresh Babu Vs. State Of Uttar Pradesh; Criminal Appeal No. 2054 of 2025 [Arising Out of SLP(Crl.) No. 2217 of 2022]; Decided On : 15-05-2025

A canonical rule of statutory interpretation, i.e, the rule of literal construction, is that the words of a statute should be read as it is and should be understood in their natural and ordinary sense. A reference to the rule of beneficial construction of a statute or any other rule of statutory interpretation may be resorted to only if the literal rule fails to provide suitable guidance or results in absurdity.

There can be no quarrel that Section 20AA, introduced by way of amendment, is too clear admitting of no absurdity and seals this question of law against the appellants. Nothing in these decisions have shown us that the rule of beneficial construction can also be extended to the release of

offenders on probation, especially considering the express provision present in Section 20AA of the PoFA Act.

This Court has often lamented the lack of sentencing guidelines in this country, which we echo. That being said, we are of the firm opinion that there exists a fundamental difference between reduction or mollification of a sentence and releasing an offender on probation. The probationary process envisages that first time offenders who are capable of reformation can be provided a benefit such that they can continue to a be a part of society as capable and law-abiding citizens in the future. The thrust of penology in the past few decades has been focused on the reformation of an individual. "Every saint has a past, and every sinner has a future". While there is no quarrel with the probationary process, we ought to remain subservient to the wisdom of the legislature in applying the benefit of probation. This Court cannot offend the express provisions present in any legislative instrument merely to provide a benefit to an offender, not envisaged under the law. Section 20AA of the PoFA Act read with Section 97 of the FSS Act makes it clear that the benefit under the Probation Act cannot be made applicable to an offence committed between 1976 (when Section 20AA was introduced) up to the repeal of the statute in 2006 by the FSS Act in line with the decision rendered in Babu Ram (supra).

Therefore, the first question is decided against the appellants.

While deliberating on the second question, we have also considered the claim that the sentence should at least be reduced as per the FSS Act. Several decisions have been cited before us to contend that mollification of a punishment on the ground that the new enactment provides for a lesser punishment is permissible. We are, however, in respectful disagreement with such proposition insofar as the instant case is concerned. A 'repeals and savings' clause in any statute is not mere surplusage that the Courts may ignore in the interpretation of the law. When a 'repeal and savings' clause specifically protects a penalty provided for in the old enactment, the intention of the legislature is clear. This Court, in its enthusiasm, cannot and should not provide a benefit to the accused that is not permitted in law. Mollification must only be provided in cases where a provision in relation to 'repeal and savings' is either not present or where the 'repeal and savings' clause envisages such a possibility.

2025 0 INSC 705; 2025 0 Supreme(SC) 844; A1: Rajesh in Criminal Appeal No. 2617 of 2025 @ SLP (Crl.) No.4651 of 2024) A1: Makbool Ahmed in Criminal Appeal No. 2616 of 2025 @ SLP (Crl.) No. 4650 of 2024) Vs Union of India; R1: Union of India in Criminal Appeal No. 2616

of 2025 @ SLP (Crl.) No.4651 of 2024) R1: State of Maharashtra in Criminal Appeal No. 2616 of 2025 @ SLP (Crl.) No. 4650 of 2024) Criminal Appeal Nos. OF 2025 [@ Special Leave Petition (Criminal) Nos.4650-4651 of 2024] Decided On : 15-05-2025

The present lis concerns offences under the Act. It need not be over-emphasised that in the present times, the area left open to the wildlife ecosystem is diminishing everyday due to massive urbanisation, colonization, industrialisation and land-use for various commercial purposes, the threat of wild life, flora and fauna, vanishing and even becoming extinct is real and not imaginary. Thus, no doubt, a very strict approach is required to be taken by the concerned Governments and authorities. If guilt of the accused is established beyond reasonable doubt for any offence under the Act, the punishment meted out should be appropriate and commensurate to the offence, as laid down in the Act .

19. However, having stated the above, the standard of 'proof beyond reasonable doubt' still holds the field. Any infringement on the life and liberty of an accused should only be countenanced when the prosecution meets the standard supra.

20. In the present scenario, much can be said about the vague investigation which shows that it has been open-ended without delving into the relevant aspects which were necessarily required to be gone into. Going by the prosecution version, huge quantity of banned/illegal animal products having been recovered, it would obviously mean that there would have been a supplier (either the 'Madhu' adverted to earlier, or someone else) of the seized products, and prospective buyer(s), since the prosecution itself stated that the products were to be handed over to some other person. What we can gather is that the CBI team did not have the patience to wait for the transaction to reach its logical conclusion, as the interception of only the accused took place. With regard to the supplier, it is apparent that no investigation in this behalf was pursued by the CBI. It has not even been indicated as to how the appellants were involved with and had links with the trade. Pausing for a moment, we would like to clarify that this does not absolve the appellants of their liability of discharging the presumption operating against them by virtue of Section 57 of the Act. Even the Forensic Report prepared by the Wildlife Institute of India only mentions that the material belonged to tiger, panther, leopard, hyena, chital but the age of the animal products was not determined.

21. This, in our view, indicates a casual approach in conducting the investigation. It is gainsaid that in matters of the like herein, the first and foremost duty is on the investigators, including the responsibility of ensuring

full and proper forensic tests as also in-depth investigation which encompassing all possibilities, such that the chain of events from the beginning till the end is complete. Be that as it may, the above lacuna do not fully aid the appellants.

2025 0 INSC 710; 2025 0 Supreme(SC) 849; Virender Pal @ Vipin Vs. State of Haryana; Criminal Appeal No(s). 342 of 2015; 15-05-2025

We feel that the approach of the trial Court in accepting the testimony of Dr. Rahul Diwan (PW-9), the Medical Officer on affidavit, is contrary to the mandate of Section 296 of the CrPC (corresponding Section 332 of Bharatiya Nagarik Suraksha Sanhita, 2023) which provides that only evidence of formal character may be received on an affidavit.

26. However, the fact remains that the defence has cross-examined Dr. Rahul Diwan (PW-9), the Medical Officer, with reference to the affidavit and the post- mortem report. It is also clear that the defence did not take any objection to the mode of recording evidence adopted by the presiding officer. Thus, we feel that this omission on the part of the presiding officer tantamounts to a curable irregularity because no prejudice was caused to the accused-appellant by following such course of action.

Upon going through the post-mortem report[13] [Exhibit PK-3], it is clear that the death of Punita was caused by ante-mortem injuries caused by mechanical violence and hence, her death was definitely otherwise than under natural circumstances within the meaning of Section 304-B IPC.

28. The accused has taken alternative defences for explaining the death of Punita. The two defences which are totally divergent are (a) that the deceased accidently fell down from the terrace and received the injuries, or (b) that the deceased-Punita committed suicide by jumping from the terrace as she was perturbed because of the knee issue which was plaguing her. We feel that this diametrically opposite defence taken by the accused-appellant does not have any legs to stand and we have strong reasons to observe so.

29. Satender Kumar (PW-3), the brother of deceased-Punita, categorically stated that when he reached the matrimonial home of his sister after receiving the news of her death, he saw the dead body of his sister lying on a cot at the second floor of the building and blood was oozing from her nose and ear. No cross-examination whatsoever was conducted from Satender Kumar (PW-3) on this important aspect of his testimony. Thus, the explanation offered by the defence that deceased-Punita fell down from the terrace and received injuries or that she committed suicide by jumping off

from the terrace is totally a figment of imagination unsubstantiated by the evidence on record.

2025 0 INSC 727; 2025 0 Supreme(SC) 867; Ravinder Singh Sidhu Vs. The State of Punjab and Others; Writ Petition (Crl.) No. 394 of 2024; Decided On : 19-05-2025

The law in this issue is now fairly well settled. It has been held by this Court that multiplicity of proceedings will not be in larger public interest. Further, since many States have invoked local Acts, particularly the Act dealing with the Protection of Interest of Depositors, transferring them out of the State also will not serve the ends of justice. Hence, the correct course of action would be to merge the FIRs with the earliest FIR in the State concerned. It is clarified that if the first FIR in the respective States of Gujarat, Haryana, Himachal Pradesh, Madhya Pradesh, Punjab, Rajasthan, Uttar Pradesh and Uttarakhand is registered in respect of offence under the general law and not the special enactment, but if the subsequent FIRs now clubbed are registered in connection with the special law or registered also in connection with the special law, the same after clubbing must be tried under the special law by the Special Courts. [See Radhey Shyam vs. State of Haryana and Others, 2022 SCC Online SC 1935 and Abhishek Singh Chauhan vs. Union of India and Others, 2022 SCC Online SC 1936]

The writ petition stands allowed in the above terms. We further direct while the first FIR will be treated as the First Information Report (hereinafter for convenience called the ‘principal FIR’), the subsequent FIRs in each State shall be treated as Statements under Section 161 of the Code of Criminal Procedure, 1973 (Cr.P.C.). The Investigating Officer in the criminal case arising out of the principal FIR in the concerned State will be free to file supplementary charge- sheets after the collation of all records concerning other FIRs in the concerned State which are clubbed in terms of this order. We further direct that if Police Report under Section 173 of Cr.P.C. stands already filed in the clubbed FIRs and the concerned Courts have taken cognizance thereof, the said FIRs and criminal cases would also stand transferred and merged/clubbed along with the principal FIR to be proceeded with in accordance with law.

The investigating officer in the principal proceedings will be free to file supplementary charge-sheet on the basis of the material collated during investigation of other FIRs. We also make it clear that the other offences not part of the special enactments can also be tried by the Special Court under the concerned State legislation. We also further direct that in case the petitioner has been granted bail in connection with the principal

proceeding/criminal case to which the other cases have been clubbed, the bail so granted must enure to the petitioner's favour in the other FIRs now clubbed as well. We further clarify that if the principal FIR is limited to offence under the general law/Penal Code but the subsequent FIRs contain allegations attracting offences under the special enactment or certain other IPC offences and if the bail granted is only for some offences under the general law, the Special Court is entitled to insist for a fresh bail application to be filed by the petitioner in relation to those offences including under the Special Act. The said bail applications shall be decided on its own merits in accordance with law.

2025 0 INSC 728; 2025 0 Supreme(SC) 868; Hakim Vs. State of NCT of Delhi and Another; Criminal Appeal No. 5303 of 2024, Criminal Appeal No. 5304 of 2024; Decided On : 19-05-2025

The question of the nature and contents of the alleged substance used and thrown on the victim would not arise as the possibility of recovery of the same does not arise as the incident was committed at railway crossing adjacent to the railway line where all the accused ran away after committing the offence. However, chemical burns on the person of the Respondent-Victim are substantiated from testimonies and medical evidence as referred to above. This ground also fails.

The explanation relating to the delay in recording of statement of Respondent-Victim (PW-4) and PW-6 stands explained and substantiated on the basis of the medical documentary evidence. Further, it is stated that their family was under constant threat because of which all had to leave Mathura to save and protect themselves apart from the aspect of medical treatment of the victim. The fact that the statements were recorded immediately on their return to Mathura by the police is substantiated.

With regard to the non-following of the Standard Operating Procedure by the Investigation Officer. It is enough to mention here that the same are procedural guidelines and not mandatory. The prosecution has followed due procedure and measures in the investigation. Hence, no interference is required by this Court as far as the said contention is concerned.

2025 0 INSC 729; 2025 0 Supreme(SC) 869; Shivappa Reddy Vs. S. Srinivasan; Criminal Appeal No. 4363 of 2024; Decided On : 19-05-2025

A perusal of Section 72 of the Partnership Act would show that notice of retirement must be given to the Registrar of Firms under Section 63 and by publication in the Official Gazette, and in at least one vernacular newspaper circulated in the district where the Firm to which it relates has its place or

principal place of business, such notice needs to be published. This should relate to the retirement of a partner, which includes admission, expulsion, or resignation from the Firm in any manner that is including or excluding a partner in a partnership Firm. Section 32 of the Partnership Act deals with the retirement of a partner. In addition, Section 62 of the Partnership Act deals with the information to be submitted with regard to the change in the names and addresses of the partners to the Registrar of Firms. What, therefore, is mandated under the Statute is that if any registered Firm intends to include or exclude by way of resignation, expulsion or addition of any partner in the Firm, an intimation to the said effect has to be forwarded and conveyed to the Registrar of Firms. As per Section 63, the Registrar shall make a record of the notice in the entry relating to the Firm in the Register of Firms and shall file a notice along with a statement relating to the Firm as provided for under Section 59 of the Partnership Act.

None of these requirements as provided and mandated for under the Statute, have been adhered to by Respondent No. 1. Merely putting forth a resignation or the partners entering into an agreement or drafting a deed or/and accepting the resignation of a partner of the Firm is insufficient for discharging the liability of a partner of the Firm unless a proper entry to the said effect after the publication has been given effect to with the same, having been recorded in the Register of Firms in the office of the Registrar of Firms as provided for in Section 63 of Partnership Act.

2025 0 INSC 737; 2025 0 Supreme(SC) 876; Rajni Vs. State of Uttar Pradesh & Anr.; Criminal Appeal No. 603 of 2025 (Arising Out of SLP (CRL.) no. 11233 of 2022) With Criminal Appeal No. 2569 of 2025 (Arising Out of SLP (Crl.) No. 7370 of 2025); (Arising Out of SLP (Crl.) Diary No. 24862 of 2022); 20-05-2025

Under the scheme of the JJ Act, 2015, a declaration of juvenility may not by itself enure to the benefit of the juvenile in conflict with law. Section 2 (33) of the JJ Act, 2015 defines ‘heinous offences’ to include the offences for which the minimum punishment under the Indian Penal Code, 1860 (IPC) or any other law for the time being in force is imprisonment for seven years or more. Section 15 of the JJ Act, 2015 deals with preliminary assessment into heinous offences alleged to have been committed by a juvenile by the JJB.

what Section 15 contemplates is that in a case of heinous offence alleged to have been committed by a juvenile who has completed or is above 16 years of age, the JJB shall conduct a preliminary assessment with regard to his mental and physical capacity to commit such offence, ability to understand the consequences of the offence and the circumstances in which he had

allegedly committed the offence and, thereafter, pass an order in accordance with the provisions of sub-section (3) of Section 18. The proviso says that for making such an assessment, the JJB may take the assistance of experienced psychologists or psycho-social workers or other experts.
Section 18 deals with orders regarding child found to be in conflict with law. We are concerned with sub-section (3) which says that where the JJB after preliminary assessment under Section 15 passes an order that there is a need for trial of the said child as an adult, then the JJB may order transfer of the trial of the case to the Children's Court having jurisdiction to try such offences.
As per Section 19(1), after receipt of preliminary assessment from the JJB under Section 15, the Children's Court may decide whether there is need for trial of the child as per provisions of Cr.P.C. or there is no need for trial of the child as an adult. Depending upon the decision taken, the process laid down from sub-section (2) to sub-section (5) of Section 19 shall be carried out.

2025 0 INSC 738; 2025 0 Supreme(SC) 877; Ramji Prasad Jaiswal @ Ramjee Prasad Jaiswal And Ors. Vs. State Of Bihar; CrlA 490 Of 2025 (Arising Out Of SLP(Criminal) No. 2629 Of 2012); 20-05-2025
Section 7A contemplated was that when a claim of juvenility was raised or if the court was of the opinion that a person was a juvenile on the date of commission of the offence, the court was mandated to make an inquiry and after taking such evidence as might be necessary, was mandatorily required to record a finding whether the person was a juvenile or a child or not, stating his age as nearly as possible. As per the proviso, a claim of juvenility could be raised before any court and at any stage. If upon such inquiry, court found the person to be a juvenile on the date of commission of the offence, it had to forward the juvenile to the Juvenile Justice Board for passing appropriate orders and the sentence if any, passed by a court, would be deemed to have no effect.
Where a juvenile charged with an offence was produced before a Juvenile Justice Board then in terms of Section 14(1) of the JJ Act, the Juvenile Justice Board was required to hold an inquiry in accordance with the provisions of the JJ Act and make such order in relation to the juvenile as it deemed fit. If the Juvenile Justice Board found that the juvenile had committed an offence then Section 15 of the JJ Act kicked in. Under Section 15 of the JJ Act, the Juvenile Justice Board could take various steps as contemplated thereunder and under sub-section (1)(g) had the discretion to make an order directing the juvenile to be sent to a special home for a period

of 3 years, which period could be reduced in an appropriate case in terms of the proviso.

2025 0 INSC 745; 2025 0 Supreme(SC) 884; K.H. Kamaladini Vs. State; Criminal Appeal No.5380 of 2024; 20-05-2025

The prayer for discharge was rejected by the Special Court. Therefore, a revision application under Section 401 read with Section 397 of the CrPC was preferred by the appellant. As far as the scope of hearing at the time of framing of the charge is concerned, the law is well settled. Firstly, at this stage, the Court can examine only the documents forming part of the charge sheet, and no other material can be considered. Secondly, after considering the material on record, the Court has to decide whether or not there exists a sufficient ground for proceeding with the trial against the appellant. Thirdly, at this stage, the Court cannot sift the evidence forming a part of the chargesheet with a view to separating the grain from the chaff. Fourthly, if the Court is of the view that the evidence without cross-examination or rebuttal shows that the accused has not committed any offence, then an order of discharge must be passed. Lastly, if the evidence adduced before the Court creates a grave suspicion against the accused, the Court will not discharge the accused.

Therefore, at this stage, the outcome of the disciplinary proceedings cannot be examined, and what needs to be examined is the material forming part of the chargesheet.

https://indiankanoon.org/doc/84961773/; Mogulla Parsharam Parsharamulu vs State Of Telangana; 21.05.2025; CRLA_422_2023(DB)

It is a well-established legal principle that even if a witness is declared hostile by the prosecution, their testimony shall not be disregarded on that count alone. The Court is endowed to carefully scrutinize the facts deposed and, assess whether the witness has been thoroughly discredited, and may consider any portion of the evidence that remains unshaken, corroborated and deemed reliable. Therefore, credible segments of such testimony may still be relied upon.

However, the mediators for the seizure of the wooden pestle and clothing the witnesses/PW9, PW10, PW11, and PW12 did not support the prosecution's version, which slightly favours the accused. Nevertheless, it would not be appropriate to disregard the testimony of the investigating officer/PW16 solely on this ground.

The accused also challenged the FSL findings, particularly the assertion that the clothing seized from him contained human blood of group 'A', and argued

that this evidence should not be used to convict him as that fact was not confronted to the accused in Section 313 CrPC examination. On perusal of the Section 313 CrPC examination record, in the related question the FSL report was referenced, but as pointed out by the defence, the incriminating finding of human blood stains on the clothing of the accused was not put to him. It is a settled principle that incriminating material not put to the accused cannot be used for conviction.

https://indiankanoon.org/doc/188207310/; Criminal Petition No.6616 of 2025
https://indiankanoon.org/doc/171009364/; Criminal Petition No.6631 of 2025
https://indiankanoon.org/doc/37400455/; Criminal Petition No.6619 of 2025
https://indiankanoon.org/doc/136001130/; Criminal Petition No.6617 of 2025
Yaser Arafat Vs State of Telangana; Dt: 21.05.2025
the Investigating Officer is directed to scrupulously follow the procedure contemplated under Section 41-A of the Criminal Procedure Code, 1973 (Cr.P.C.)/Section 35(3) of BNSS and the guidelines issued by the Hon'ble Apex Court in Arnesh Kumar Vs State of Bihar in the cases booked against the petitioner in case registered for the offences under Section 420 IPC and Section 10 of Emigration Act.
(Sec 41A CrPC/35(3) BNSS notice procedure is directed to be followed to an Accused involved in multiple cases)

2025 0 INSC 782; 2025 0 Supreme(SC) 918; Amol Bhagwan Nehul Vs. The State of Maharashtra & Anr.; Criminal Appeal No. 2835 of 2025 [Arising out of SLP (Crl.) No. 10044 of 2024]; Decided On : 26-05-2025
A consensual relationship turning sour or partners becoming distant cannot be a ground for invoking criminal machinery of the State. Such conduct not only burdens the Courts, but blots the identity of an individual accused of such a heinous offence. This Court has time and again warned against the misuse of the provisions, and has termed it a folly[3][Naim Ahmed Vs State (NCT) of Delhi (2023) SCC Online SC 89] to treat each breach of promise to marry as a false promise and prosecute a person for an offence under section 376 IPC.

2025 0 INSC 776; 2025 0 Supreme(SC) 913; Sameer Sandhir Vs. Central Bureau of Investigation; Criminal Appeal Nos. 4718-4719 Of 2024' Decided On : 23-05-2025
In the facts of the case, the CDs were seized and referred for forensic analysis to the CFSL along with voice samples of the accused. The CDs were referred to in the supplementary chargesheet. After the report of the

CFSL was received, the supplementary chargesheet was filed for placing on record the said report. Therefore, when the CDs were sought to be produced, in a sense, they were not new articles; the CDs were very much referred to in the supplementary chargesheet filed on 13th October 2013. There was only an omission on the part of the respondent-CBI to produce the CDs. Therefore, applying the law laid down in the case of R.S.Pai1, the impugned judgments of the Special Court and the High Court cannot be faulted with. We do not see how the decision in the case of R.S.Pai1 requires reconsideration.

In our view, the High Court ought not to have gone into the issue of the authenticity of the CDs allowed to be produced. Whether the CDs produced were the same which were seized on 4th May 2013 and 10th May 2013, is something which will have to be proved by the prosecution. The issue regarding the legality of the Certificate under Section 65B of the Evidence Act ought not to have been dealt with at this stage. Even if the production was allowed, the issue of the CDs' authenticity remains open.

https://indiankanoon.org/doc/160928463/; A. Raja vs D. Kumar; 06.05,2025 CIVIL APPEAL NO.2758 OF 2023 (THREE JUDGE BENCH)

It is relevant to observe that mere observance/performance of a ritual of/associated with any religion does not ipso facto and necessarily mean that the person 'professes' that religion. That is why the term used in the 1950 Order is 'professes', signifying that a person although born in a particular religion can profess another religion, inter alia, by practicing the rituals of that other religion as the basic tenets of his beliefs and lifestyle. Adherence merely to some ritual of another religion would not tantamount to giving-up the original religion, unless the person concerned makes such belief explicit.

NOSTALGIA

Abuse in presence of relatives and friends –POA Act

In the case of Swaran Singh and Others V/s. State of Maharashtra and Others, 2008 SCC 435. It was observed that the abuses on the caste should be uttered in the presence of independent witnesses. The independent person may not be those persons who are relatives or friends of complainant.

195 CrPC

The offences punishable under Section 193 and 196 IPC would fall within the ambit of clause (b) (i) of sub-section (1) of Section 195 whereas Sections 466,

467, 468 and 471 would fall within the ambit of clause (b) (ii) of sub- section (1) of Section 195. In the present case insofar as the offences under Section 193 and 196 IPC are concerned, the same relate to the execution proceedings because it is in the said proceedings that the false and fabricated decree has been produced, Whereas insofar as the offences under Sections 466, 467, 468 and 471 of the Indian Penal Code are concerned, the same have been committed in connection with the record of the Special Civil Suit. On behalf of the petitioner it has been contended that the record of the Special Civil Suit is also a proceeding within the meaning of the expression "proceeding, therefore, even after the disposal of the suit, the nature of the proceeding does not change, hence the offence committed would be in relation to the proceedings of the Special Civil Suit and the offence of forgery and fabrication having been committed while the documents were in custodia legis the provisions of Section 195(1)(b)(ii) would be clearly attracted.

12. Therefore the question that arises is whether Section 195 of the Code envisages a concluded proceeding also to be a proceeding within the meaning of the said expression so as to attract the bar of the said provision. Proceedings of a suit would stand concluded, either by way of a judicial pronouncement or if the party withdraws or does not press the same. What would be the legal implications once a suit is withdrawn? Would the proceeding still subsist or would it cease to exist. In the opinion of this Court, once a proceeding is withdrawn, there would be no proceeding before the Court as the plaintiff has taken back the proceeding. The position would be akin to no proceeding having been filed except for the purpose of barring a subsequent suit on the same cause of action. However, the record would be required to be maintained only for the purpose of record to indicate that such proceeding had been instituted. In the circumstances, once the suit had been withdrawn, there was no proceeding in the Court. In the opinion of this Court, by merely maintaining the documents in the record room, it cannot be said that the documents are in custodia legis, as envisaged under Section 195 of the Code. Hence, tampering with the record which is kept in the record room after the suit is disposed of would not fall within the purview of the provisions of section 195 of the Code as the same cannot be said to be an offence in relation to any proceeding in any Court. Besides, as held by the Apex Court in Iqbal Singh Marwah's case, for the purpose of falling within the ambit of Chapter XXVI of the Code, the offence committed should be of such type which directly affects the administration of justice, viz. which is committed after the document is produced or given in evidence in court. In the ordinary course

an offence would be committed in connection with a document produced or evidence given in court with the object of using the same in the very same proceeding to obtain a favourable result and such offence would directly affect the administration of justice as the Court would rely upon such document for the purpose of adjudicating the case. Whereas, once the case is concluded, tampering with the documents would not in any manner affect the administration of justice. Such offence would be a plain and simple offence under the Indian Penal Code of tampering with documents and forging and fabricating documents and not an offence affecting the administration of justice. In the circumstances, any offence committed in relation to the documents kept in the record room, cannot be said to be an offence falling within the ambit of Section 195(1) (b) (ii) of the Code so as to attract the provisions of Section 340 of the Code.

13 Adverting to the second part of the offence, viz. production of the said forged and fabricated decree in the execution proceedings, the same would be directly covered by the decision of the Apex Court in the case of Iqbal Singh Marwah (supra). As noticed hereinabove, the offence in question is committed in two parts: firstly, tampering with the original record of the Court which was lying in the record room after withdrawal of the suit by destroying part of the original record and substituting the same with a forged and fabricated decree and secondly instituting execution proceedings on the basis of such fabricated decree Thus the second part of the offence consists of producing a forged and fabricated decree in the execution proceeding. The Apex Court in the said decision has held that for the purpose of falling within the ambit of Chapter XXVI of the Code, the offence committed should be of such type which directly affects the administration of justice, viz. which is committed after the document is produced or given in evidence in court. Any offence committed with respect to a document at a time prior to its production or giving in evidence in court cannot, strictly speaking, be said to be an offence affecting the administration of justice. Applying the said principle to the facts of the present case, insofar as the second part of the offence is concerned, the same has been committed prior to the production of the document in the Court, in the circumstances, it would not be an offence which directly affects the administration of justice so as to fall within the ambit of section 195 of the Code.

14. In view of the above discussion, since the offence in question does not fall within the ambit of section 195 of the Code, as a natural corollary, the exception below section 195(1) as well as the provisions of section 340 of the

Act would not be come into play and there is no embargo on the power of the Court to take cognizance of the offence on the charge-sheet filed by the police authorities pursuant to the first information report lodged by the respondent No.2. In the circumstances, no infirmity can be found in the impugned order dated 24th July, 2009 passed by the learned Additional Sessions Judge, Bharuch in Criminal Revision Application No.112 of 2007 as well as in the order dated 25th May, 2007 passed by the learned Chief Judicial Magistrate, Bharuch below Exh.17 so as to warrant any intervention by this Court."

EX POST FACTO LAW

In the case of Rattan Lal v. State of Punjab, 1964 SCC OnLine SC 40 Hon'ble K. Subba Rao, J. (as His Lordship then was) speaking for the majority in a 3-Judge Bench decision held that:

> "6. …Every ex post facto law is necessarily retrospective. Under Article 20 of the Constitution, no person shall be convicted of any offence except for violation of a law in force at the time of the commission of that act charged as an offence, nor 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. But an ex post facto law which only mollifies the rigour of a criminal law does not fall within the said prohibition. If a particular law makes a provision to that effect, though retrospective in operation, it will be valid. The question whether such a law is retrospective and, if so, to what extent depends upon the interpretation of a particular statute, having regard to the well-settled rules of construction. Maxwell in his book On Interpretation of Statutes, 11th Edn., at pp. 274-75, summarizes the relevant rule of construction thus:
>
> 'The tendency of, modern decisions, upon the whole, is to narrow materially the difference between what is called a strict and a beneficial construction. All statutes are now construed with a more attentive regard to the language, and criminal statutes with a more rational regard to the aim and intention of the legislature, then formerly. It is unquestionably right that the distinction should not be altogether erased from the judicial mind, for it is required by the spirit of our free institutions that the interpretation of all statutes should be favourable to personal liberty, and this tendency is still evinced in a certain reluctance to supply the defects of language, or to eke out the meaning of an obscure passage by strained or doubtful influences. The effect of the rule of strict construction might

almost be summed up in the remark that, where an equivocal word or ambiguous sentence leaves a reasonable doubt of its meaning which the canons of interpretation fail to solve, the benefit of the doubt should be given to the subject and against the legislature which has failed to explain itself. But it yields to the paramount rule that every statute is to be expounded according to its expressed or manifest intention and that all cases within the mischiefs aimed at are, if the language permits, to be held to fall within its remedial influence.'

7. Let us now proceed to consider the question raised in the present case. This is not a case where an act, which was not an offence before the Act, is made an offence under the Act; nor this is a case where under the Act a punishment higher than that obtaining for an offence before the Act is imposed. This is an instance where neither the ingredients of the offence nor the limits of the sentence are disturbed, but a provision is made to help the reformation of an accused through the agency of the court. Even so the statute affects an offence committed before it was extended to the area in question. It is, therefore, a post facto law and has retrospective operation. In considering the scope of such a provision we must adopt the rule of beneficial construction as enunciated by the modern trend of judicial opinion without doing violence to the provisions of the relevant section. … As the Act does not change the quantum of the sentence, but only introduces a provision to reform the offender, there is no reason why the legislature should have prohibited the exercise of such a power, even if the case was pending against the accused at one stage or other in the hierarchy of tribunals…"

Factors determining the Sentence of a convict

In Jameel vs. State of Uttar Pradesh, (2010) 12 SCC 532 this Court, while referring to the decision in Gurmukh Singh vs. State of Haryana, (2009) 15 SCC 635 reiterated the relevant factors while determining sentence of a convict. These include: (a) motive or past enmity; (b) whether the act was impulsive; (c) the accused's intent or knowledge when causing injury; (d) whether death was immediate or occurred later; (e) the injury's gravity and nature; (f) the accused's age and health; (g) if the injury arose in a sudden fight without premeditation; (h) type and size of weapon and force used; (i) accused's criminal history; (j) if death resulted from shock despite non-fatal injury; (k) pending cases; (l) whether within family; and (m) post-incident conduct.

Scope of interference in Appeal against concurrent findings

in Mst Dalbir Kaur and Others vs. State of Punjab, (1976) 4 SCC 158 while dealing with a petition under Article 136 of the Constitution of India, seeking interference in concurrent findings of conviction, reassessment of evidence and credibility of witnesses, reiterated the ratio as laid down by this Court in Pritam Singh vs. State, 1950 SCC 189 and observed that this Court would interfere only when exceptional and special circumstances exist, which result in substantial and grave injustice having done to the accused. Furthermore, also relying on other decisions of this Court, the Bench went on to summarize the principles governing interference of this Court in a criminal appeal by special leave as follows: (1) it does not interfere with concurrent findings based solely on evidence appreciation, even if another view is possible; (2) it avoids reappraisal unless there's legal or procedural error, misreading or inconsistency in evidence, e.g. clear contradiction between ocular and medical evidence; (3) it refrains from re-evaluating credibility of witnesses; (4) interference occurs where judicial process or natural justice is violated, causing prejudice; (5) it intervenes if findings are perverse or based on no evidence. Adding to the same, it clarified that this Court only ensures that the High Court has correctly applied these principles.

Age of the Juvenile

in Union Territory of J&K Vs. Shubam Sangra, (2022) INSC 1205. In that case, a two-Judge Bench of this Court had set aside the order of the High Court affirming the order of the Chief Judicial Magistrate declaring the respondent as a juvenile. While date of birth of the respondent was shown and claimed as 23.10.2002, it was found from the record that no such delivery of the mother of the respondent had taken place on 23.10.2002 in the municipal hospital. It was in that context, the Bench observed that there was no good reason to overlook or ignore or doubt the credibility of the medical opinion given by a team of 5 qualified doctors all of whom said in unison that on the basis of physical, dental and radiological examination, approximate age of the respondent was between 19 and 23 years. The Bench made it clear that the documents evidencing date of birth of the respondent did not inspire any confidence and, therefore, there was no other option but to fall back on the report of the medical board.

PROFESS

The term 'professes' has been examined by five of our learned predecessors in Punjabrao v D. P. Meshram, 1964 SCC OnLine SC 76 in like background:

'13. What clause (3) of the Constitution (Scheduled Castes) Order, 1950 contemplates is that for a person to be treated as one belonging to a Scheduled Caste within the meaning of that Order, he must be one who professes either Hindu or Sikh religion. The High Court, following its earlier decision in Karwadi v. Shambharkar [AIR 1958 Bom 296] has said that the meaning of the phrase "professes a religion" in the aforementioned provision is "to enter publicly into a religions state" and that for this purpose a mere declaration by a person that he has ceased to belong to a particular religion and embraced another religion would not be sufficient. The meanings of the word "profess" have been given thus in Webster's New World Dictionary:"to avow publicly; to make an open declaration of ... to declare one's belief in : as, to profess Christ. To accept into a religious order". The meanings given in the Shorter Oxford Dictionary are more or less the same. It seems to us that the meaning "to declare one's belief in: as to profess Christ" is one which we have to bear in mind while construing the aforesaid order because it is this which bears upon religious belief and consequently also upon a change in religious belief. It would thus follow that a declaration of one's belief must necessarily mean a declaration in such a way that it would be known to those whom it may interest. Therefore, if a The afore-extract recently found this Court's approval in C. Selvarani v Special Secretary-cum- District Collector, public declaration is made by a person that he has ceased to belong to his old religion and has accepted another religion he will be taken as professing the other religion. In the face of such an open declaration it would be idle to enquire further as to whether the conversion to another religion was efficacious. The word "profess" in the Presidential Order appears to have been used in the sense of an open declaration or practice by a person of the Hindu (or the Sikh) religion. Where, therefore, a person says, on the contrary, that he has ceased to be a Hindu he cannot derive any benefit from that Order.' (emphasis supplied)

Fake Caste Certificate – procedure

In Madhuri Patil v Commr., Tribal Development, (1994) 6 SCC 241, the Court stated, in the context of fake certificate(s) having been obtained to secure admissions in educational institutions:

'13. The admission wrongly gained or appointment wrongly obtained on the basis of false social status certificate necessarily has the effect of depriving the genuine Scheduled Castes or Scheduled Tribes or OBC candidates as enjoined in the Constitution of the benefits conferred on them by the Constitution. The genuine candidates are also denied admission to educational institutions or appointments to office or posts under a State for want of social status certificate. The ineligible or spurious persons who falsely gained entry resort to dilatory tactics and create hurdles in completion of the inquiries by the Scrutiny Committee. It is true that the applications for admission to educational institutions are generally made by a parent, since on that date many a time the student may be a minor. It is the parent or the guardian who may play fraud claiming false status certificate. It is, therefore, necessary that the certificates issued are scrutinised at the earliest and with utmost expedition and promptitude. For that purpose, it is necessary to streamline the procedure for the issuance of social status certificates, their scrutiny and their approval, which may be the following:

1. The application for grant of social status certificate shall be made to the Revenue Sub-Divisional Officer and Deputy Collector or Deputy Commissioner and the certificate shall be issued by such officer rather than at the Officer, Taluk or Mandal level.
2. The parent, guardian or the candidate, as the case may be, shall file an affidavit duly sworn and attested by a competent gazetted officer or non- gazetted officer with particulars of castes and sub-castes, tribe, tribal community, parts or groups of tribes or tribal communities, the place from which he originally hails from and other particulars as may be prescribed by the Directorate concerned.
3. Application for verification of the caste certificate by the Scrutiny Committee shall be filed at least six months in advance before seeking admission into educational institution or an appointment to a post.
4. All the State Governments shall constitute a Committee of three officers, namely,

   (I) an Additional or Joint Secretary or any officer high-er in rank of the Director of the department concerned,

   (II) the Director, Social Welfare/Tribal Welfare/Backward Class Welfare, as the case may be, and

   (III) in the case of Scheduled Castes another officer who has intimate knowledge in the verification and issuance of the social status certificates. In the case of the Scheduled Tribes, the Research

Officer who has intimate knowledge in identifying the tribes, tribal communities, parts of or groups of tribes or tribal communities.

5. Each Directorate should constitute a vigilance cell consisting of Senior Deputy Superintendent of Police in over-all charge and such number of Police Inspectors to investigate into the social status claims. The Inspector would go to the local place of residence and original place from which the candidate hails and usually resides or in case of migration to the town or city, the place from which he originally hailed from. The vigilance officer should personally verify and collect all the facts of the social status claimed by the candidate or the parent or guardian, as the case may be. He should also examine the school records, birth registration, if any. He should also examine the parent, guardian or the candidate in relation to their caste etc. or such other persons who have knowledge of the social status of the candidate and then submit a report to the Directorate together with all particulars as envisaged in the pro forma, in particular, of the Scheduled Tribes relating to their peculiar anthropological and ethnological traits, deity, rituals, customs, mode of marriage, death ceremonies, method of burial of dead bodies etc. by the castes or tribes or tribal communities concerned etc.
6. The Director concerned, on receipt of the report from the vigilance officer if he found the claim for social status to be "not genuine" or 'doubtful' or spurious or falsely or wrongly claimed, the Director concerned should issue show-cause notice supplying a copy of the report of the vigilance officer to the candidate by a registered post with acknowledgement due or through the head of the educational institution concerned in which the candidate is studying or employed. The notice should indicate that the representation or reply, if any, would be made within two weeks from the date of the receipt of the notice and in no case on request not more than 30 days from the date of the receipt of the notice. In case, the candidate seeks for an opportunity of hearing and claims an inquiry to be made in that behalf, the Director on receipt of such representation/reply shall convene the committee and the Joint/Additional Secretary as Chairperson who shall give reasonable opportunity to the candidate/parent/guardian to adduce all evidence in support of their claim. A public notice by beat of drum or any other convenient mode may be published in the village or

locality and if any person or association opposes such a claim, an opportunity to adduce evidence may be given to him/it. After giving such opportunity either in person or through counsel, the Committee may make such inquiry as it deems expedient and consider the claims vis-à-vis the objections raised by the candidate or opponent and pass an appropriate order with brief reasons in support thereof.

7. In case the report is in favour of the candidate and found to be genuine and true, no further action need be taken except where the report or the particulars given are procured or found to be false or fraudulently obtained and in the latter event the same procedure as is envisaged in para 6 be followed.
8. Notice contemplated in para 6 should be issued to the parents/guardian also in case candidate is minor to appear before the Committee with all evidence in his or their support of the claim for the social status certificates.
9. The inquiry should be completed as expeditiously as possible preferably by day-to-day proceedings within such period not exceeding two months. If after inquiry, the Caste Scrutiny Committee finds the claim to be false or spurious, they should pass an order cancelling the certificate issued and confiscate the same. It should communicate within one month from the date of the conclusion of the proceedings the result of enquiry to the parent/guardian and the applicant.
10. In case of any delay in finalising the proceedings, and in the meanwhile the last date for admission into an educational institution or appointment to an officer post, is getting expired, the candidate be admitted by the Principal or such other authority competent in that behalf or appointed on the basis of the social status certificate already issued or an affidavit duly sworn by the parent/guardian/candidate before the competent officer or non-official and such admission or appointment should be only provisional, subject to the result of the inquiry by the Scrutiny Committee.
11. The order passed by the Committee shall be final and conclusive only subject to the proceedings under Article 226 of the Constitution.
12. No suit or other proceedings before any other authority should lie.
13. The High Court would dispose of these cases as expeditiously as possible within a period of three months. In case, as per its procedure, the writ petition/miscellaneous petition/matter is disposed of by a Single Judge,

then no further appeal would lie against that order to the Division Bench but subject to special leave under Article

14. In case, the certificate obtained or social status claimed is found to be false, the parent/guardian/the candidate should be prosecuted for making false claim. If the prosecution ends in a conviction and sentence of the accused, it could be regarded as an offence involving moral turpitude, disqualification for elective posts or offices under the State or the Union or elections to any local body, legislature or Parliament.
15. As soon as the finding is recorded by the Scrutiny Committee holding that the certificate obtained was false, on its cancellation and confiscation simultaneously, it should be communicated to the educational institution concerned or the appointing authority by registered post with acknowledgement due with a request to cancel the admission or the appointment. The Principal etc. of the educational institution responsible for making the admission or the appointing authority, should cancel the admission/appointment without any further notice to the candidate and debar the candidate from further study or continue in office in a post. xxx

PERFECT PROOF

in Ramanand *vs.* State of Himachal Pradesh, (1981) 1 SCC 511 has held that 'perfect proof is seldom to be had in this imperfect world and absolute certainty is a myth'.

NEWS

- AP- Public Services – Law Department – Constitution of Departmental Promotion Committee for preparation of panels for Promotion to First Level Gazetted posts in Advocate General's Office, Government Pleader's Office and Public Prosecutor's Office at High Court Buildings, Amaravathi for the panel years 2024 – 2025 and 2025-2026- Orders – Issued
- AP- Prosecuting Officers – Appointment of Sri. M. Kedar, Assistant Public Prosecutor, Judicial First Class Magistrate Court, Naidupet, SPSR Nellore District as Special Public Prosecutor U/s 15 of SCs & STs (POA) Act, 1989 to conduct the prosecution in Cr.No.24/2025 Podalakur Police station, SPSR Nellore District on the file of Special Judge for trial of offences under SCs & STs (POA) Act-cum-V Additional District and Sessions Judge, Nellore - Orders – Issued.

- AP- Dearness Relief – Dearness Relief to Retired Judicial Officers and Family Pensioners – Enhancement of Dearness Relief from 53% to 55% w.e.f. 01.01.2025 – Recorded.
- AP- Dearness Allowance to Judicial Officers - Enhancement of Dearness Allowance from 53% to 55% w.e.f. 01.01.2025 – Recorded.
- AP- Dearness Relief to Hon'ble Judges of Supreme Court and High Courts – Dearness Relief to Retired High Court Judges and Family Pensioners – Enhancement of Dearness Relief from 53% to 55% w.e.f. 01.01.2025 – Recorded
- AP- Dearness Allowance to Hon'ble Judges of Supreme Court and High Courts - Enhancement of Dearness Allowance from 53% to 55% w.e.f. 01.01.2025 - Recorded.
- AP- Criminal Cases – Appointment of Advocates as Special Counsel to appear on behalf of the prosecution in Cr.No.21/2024 U/s 409, 420, 120(B) R/w 34 & 37 IPC Sec.7, 7A, 8, 13(1) (b), 13 (2) of Prevention of Corruption Act 1988 of CID PS A.P., Mangalagiri, before the Hon'ble High Court, Hon'ble Court of Special Judge for Trial of SPE and ACB cases-cum-III Addl. District Judge, Vijayawada and any other court in Andhra Pradesh and to aid, advise and coordinate with the investigating Officer, during the course of investigation exclusive for this case - Orders – Issued
- TG- High Court for the State of Telangana - Courts - Criminal - 20 Special Judicial Magistrates of Second Class Courts sanctioned under 13th Finance Commission on temporary basis- Converting as Regular Courts – Orders – Issued
- Andhra Pradesh Forensic Science Laboratory Officials as Scientific Experts Under Section 329 (4) (G) Of The Bharatiya Nagarik Suraksha Sanhita, 2023. [G.O.Ms.No.82, Home (Ser.I), 20th May, 2025.]
- TGHC- High Court for the State of Telangana - Letter received from Assistant Registrar (PIL-Writ), Supreme Court of India - Forwarded Certified Copy of Order dated 22.04.2025 in Suo Motu Writ Petition (C) No.07 of 2024 IN RE: COMPENSATION AMOUNTS DEPOSITED WITH MOTOR ACCIDENT CLAIMS TRIBUNALS AND LABOUR COURTS - Instructions issued - Reg.

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ON A LIGHTER VEIN

A man in an interrogation room says, “I’m not saying a word without my lawyer present.”

“You are the lawyer.” said the policeman.

“Exactly, so where’s my present?” replied the lawyer.

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Space for NOTES: