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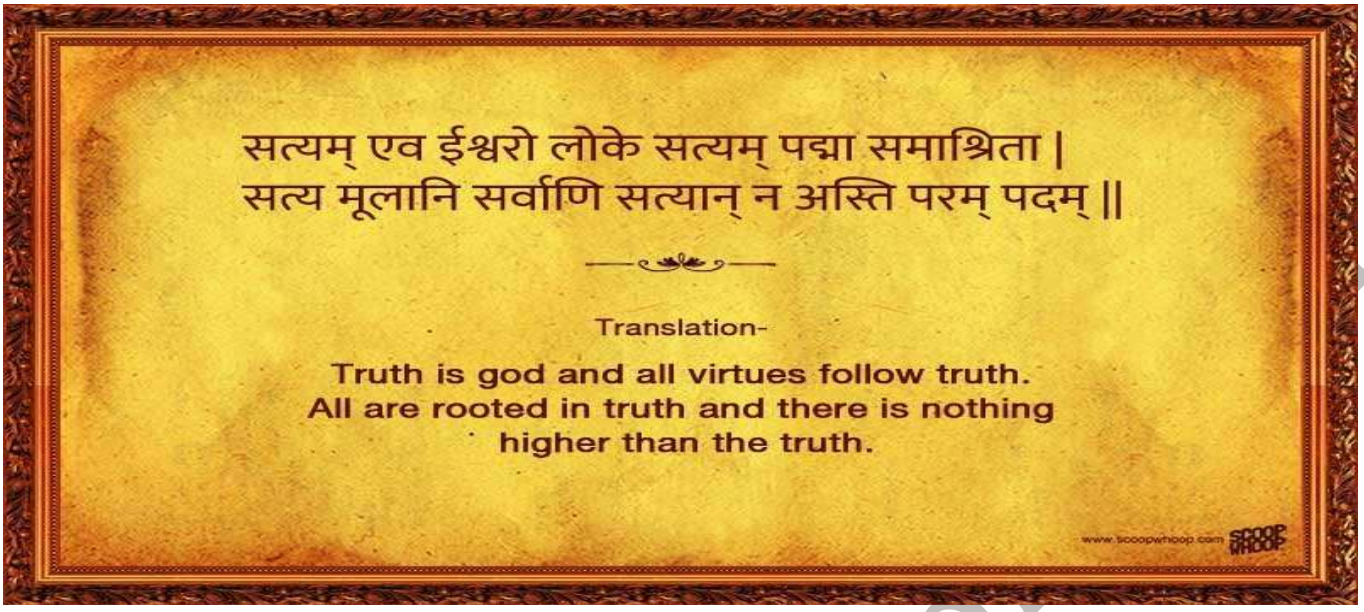
AanoBhadraKrtavoYantuVishwatah.(RIG VEDAM)
"Let Noble Thoughts Come To Me From All Directions"



APPRECIATION AND EVALUATION OF EVIDENCE OF HOSTILE WITNESS

DVR TEJO KARTHIK
ADMINISTRATIVE OFFICER
TELANGANA STATE JUDICIAL ACADEMY
SECUNDERABAD.

Hon'ble Justice J.B. Pardiwala, Judge, High Court of Gujarat in ***Bhikhalal Kalyanji Jethava v. Central Bureau of Investigation & Others, 2017 SCC Online Guj 716***as a prelude to the judgment observed about of the importance of a witness as follows*: "Witnesses"* as Benthem said are the eyes and ears of justice. Hence the importance and primacy of the quality of trial process. If the witness himself is incapacitated from acting as eyes and ears of justice, the trial gets putrefied and paralysed, and it no longer can constitute a fair trial. The incapacitation may be due to several factors, like the witness being not in a position for reasons beyond control to speak the truth in the Court or due to negligence or ignorance or some corrupt collusion. Time has become ripe to act on account of numerous experiences faced by Courts on account of frequent turning of witnesses as hostile, either due to threats, coercion, lures and monetary considerations at the instance of those in power, their henchmen and hirelings, political clouts and patronage and innumerable other corrupt practices ingenuously adopted to smoother and stifle truth and realities coming out to surface rendering the truth and justice, to become ultimate casualties. Broader public and societal interests require that the victims of the crime who are not ordinarily parties to prosecution and the interests of State represented by their prosecuting agencies do not suffer even in slow process but irreversibly and irretrievably, which if allowed would undermine and destroy public confidence in the administration of justice, which may ultimately pave way for anarchy, oppression and injustice resulting in complete breakdown and collapse of the edifice of rule of law, enshrined and jealously guarded and protected by the Constitution. There comes the need for protecting the witness. Time has come when serious and undiluted thoughts are to be bestowed for protecting witnesses so that ultimate truth is presented before the Court and justice triumphs and that the trial is not reduced to mockery. The State has a definite role to play in protecting the witnesses, to start with at least in sensitive cases involving those in power, who has political patronage and could wield muscle and money power, to avert trial getting tainted and derailed and truth becoming a casualty. As a protector of its citizens, it has to ensure that during a trial in Court the witness could safely depose truth without any fear of being haunted by those against whom he has deposed. Some legislative enactments like the Terrorist and Disruptive Activities (Prevention) Act, 1987(in short, the "TADA Act") have taken note of the reluctance shown by witnesses to depose against dangerous criminals terrorists. In a milder form also the reluctance and the hesitation of witnesses to depose against people with muscle power, money power or political power has become the order of the day. If ultimately truth is to be

incapacitated in the sense of making the proceedings before Courts mere mock trials as are usually seen in movies."

In ***Zahira Habibullah Sheikh & Anr v. State of Gujarat & Ors., (2006) 3 SCC 374.,*** the Hon'ble Supreme Court of India quoted two stanzas (14 and 18) of Eighth Chapter of Manu Samhita dealing with role of witnesses. They read as follows:

Stanza 14***: "Jatro dharmo hyadharmena Satyam Jatranrutenacha Hanyate prekshyamananam Hatastrata Sabhasadah"***

(Where in the presence of Judges "dharma" is overcome by "adharma" and "truth" by "unfounded falsehood", at that place they (the Judges) are destroyed by sin).

Stanza 18:***"Padodharmasya Kartaram Padah sakshinomruchhati Padah sabhasadah sarban pado rajanmruchhati"***

(In the adharma flowing from wrong decision in a Court of law, one fourth each is attributed to the person committing the adharma, witness, the judges and the ruler).

The word "Hostile" has not been defined in the Evidence Act, 1872. Section 154 of the Indian Evidence Act, 1872 deals with question by party to his own witness. Sub-Section (1) says that the Court may, in its discretion, permit the person who calls a witness to put any question to him which might be put in cross-examination by the adverse party. Sub-Section (2) says that nothing in the section shall disentitle the person so permitted under Sub-Section (1), to rely on any part of the evidence of such witness.

The terms "hostile", "adverse" or "unfavourable" witnesses are alien to the Indian Evidence Act. The terms "hostile witness", "adverse witness", "unfavourable witness", "unwilling witness" are all terms of English Law. The rule of not permitting a party calling the witness to cross examine are relaxed under the common law by evolving the terms "hostile witness and unfavourable witness". Under the common law a hostile witness is described as one who is not desirous of telling the truth at the instance of the party calling him and a unfavourable witness is one called by a party to prove a particular fact in issue or relevant to the issue who fails to prove such fact, or proves the opposite test. In India the right to cross-examine the witnesses by the party calling him is governed by the provisions of the Indian Evidence Act, 1872. Section 142 requires that leading questions cannot be put to the witness in examination-in-chief or in re-examination except with the permission of the court. The Court can, however, permit leading question as to the matters which are introductory or undisputed or which have, in its opinion, already been sufficiently proved. Section 154 of the Evidence Act authorizes the court in its discretion to permit the person who calls a witness to put any question to him which might be put in cross-examination by the adverse party. The courts are, therefore, under a legal obligation to exercise the discretion vesting in them in a judicious manner by proper application of mind and keeping in view the attending circumstances. The permission for cross-examination in terms of Section 154 of the Evidence Act, cannot and should not be granted, at the mere asking of the party calling the witness. The discretion conferred by Section 154 on the court is unqualified and untrammelled, and is apart from any question of 'hostility'. It is to be liberally exercised whenever the court from the witnesses' demeanour, temper, attitude, bearing, or the tenor and tendency of his answers, or from a perusal of his previous inconsistent statement, or otherwise, thinks that the grant of such permission is expedient to extract the truth and to do justice. The grant of such permission does not amount to an adjudication by the court as to the veracity of the witness.***(See., Baikuntha Nath v. Prasannamoyi, AIR 1922 PC 409)***

In ***Sat Paul v. Delhi Administration., AIR 1976 SC 294*** it was held that to steer clear of the controversy over the meaning of the terms 'hostile witness', 'adverse witness', 'unfavourable witness' which had given rise to considerable difficulty and conflict of opinion in England, the authors of the Indian Evidence Act, 1872 seem to have advisedly avoided the use of any of those terms so that, in India, the grant of permission to cross-examine his own witness by a party is not conditional on the witness being declared 'adverse' or 'hostile'. Whether it be the grant of permission under Sec.142 to put leading questions, or the leave under Section 154 to ask questions which might be put in cross- examination by the adverse party, the Indian Evidence Act leaves the matter entirely to the discretion of the court. It is important to note that the English statute differs materially from the law contained in the Indian Evidence Act in regard to cross-examination and contradiction of his own witness by a party. Under the English Law, a party is not permitted to impeach the credit of his own witness by general evidence of his bad character, shady antecedents or previous conviction. In India, this can be done with the consent of the court under Section 155 of the Evidence Act. Under the English Act of 1865, a party calling the witness, can 'cross-examine' and contradict a witness in respect of his previous inconsistent statements with the leave of the court, only when the court considers the witness to be 'adverse'. No such condition has been laid down in Sections 154 and 155 of the Indian Evidence Act and the grant of such leave has been left completely to the discretion of the court, the exercise of which is not fettered by or dependent upon the

'hostility' or 'adverseness' of the witness. In this respect, the Indian Evidence Act is in advance of the English Law. The Criminal Law Revision Committee of England in its 11thReporthas recommended the adoption of a modernised version of Section 3 of the Criminal Procedure Act, 1865, allowing contradiction of both unfavourable and hostile witnesses by other evidence without leave of the court. The Report is, however, still in favour of retention of the prohibition on a party's impeaching his own witness by evidence of bad character. Even in a criminal prosecution when a witness is cross-examined and contradicted with the leave of the court, by the party calling him, his evidence cannot, as a matter of law, be treated as washed off the record altogether. It is for the Judge of fact to consider in each case whether as a result of such cross-examination and contradiction, the witness stands thoroughly discredited or can still be believed in regard to a part of his testimony. If the Judge finds that in the process, the credit of the witness has not been completely shaken, he may, after reading and considering the evidence of the witness, as a whole, with due caution and care, accept, in the light of the other evidence on the record, that part of his testimony which he finds to be creditworthy and act upon it. If in a given case, the whole of the testimony of the witness is impugned, and in the process, the witness stands squarely and totally discredited, the Judge should, as a matter of prudence, discard his evidence in toto.

In ***Gura Singh v. State of Rajasthan, 2000 (8) Supreme 402.,*** the Supreme Court while dealing with the effect on the testimony of a witness declared hostile observed that it is a misconceived notion that merely because a witness is declared hostile his entire evidence should be excluded or rendered unworthy of consideration. The Court then took note of ***Bhagwan Singh v. State of Haryana., AIR 1976 SC 202*** which held that merely because the Court gave permission to the Public Prosecutor to cross- examine his own witness describing him as hostile witness does not completely efface his evidence. The evidence remains admissible in the trial and there is no legal bar to base conviction upon the testimony of such witness.

In ***Rabindra Kumar Dey v. State of Orissa., AIR 1977 SC 170*** it was observed that by giving permission to cross-examine nothing adverse to the credit of the witness is decided and the witness does not become unreliable only by his declaration as hostile. Merely on this ground his whole testimony cannot be excluded from consideration. In a criminal trial where a prosecution witness is cross-examined and contradicted with the leave of the Court by the party calling him for evidence cannot, as a matter of general rule, be treated as washed off the record altogether. It is for the court of fact to consider in each case whether as a result of such cross-examination and contradiction the witness stands discredited or can still be believed in regard to any part of his testimony. In appropriate cases the court can rely upon the part of testimony of such witness if that part of the deposition is found to be creditworthy.

In ***Anil Rai v. State of Bihar, AIR 2001 SC 3137*** the Court held that the mere fact that the Court gave the permission to the Public Prosecutor to cross-examine his own witness by declaring him hostile does not completely efface the evidence of such witness. The evidence remains admissible in the trial and there is no legal bar to base conviction upon his testimony, if corroborated by other reliable evidence.

In ***Bhajju @ Karan Singh v. State of M.P., (2012) 4 SCC 327*** the Court discussed the effect of hostile witnesses as well as the worth of the defence put forward on behalf of the accused and observed that normally, when a witness deposes contrary to the stand of the prosecution and his own statement recorded under Section 161 of the Cr.P.C., the prosecutor, with the permission of the Court, can pray to the Court for declaring that witness hostile and for granting leave to cross-examine the said witness. If such a permission is granted by the Court, then the witness is subjected to cross-examination by the prosecutor as well as an opportunity is provided to the defence to cross-examine such witnesses, if he so desires. In other words, there is a limited examination-in-chief, cross-examination by the prosecutor and cross-examination by the counsel for the accused. It is admissible to use the examination-in-chief as well as the cross-examination of the said witness in so far as it supports the case of the prosecution. It is settled law that the evidence of hostile witnesses can also be relied upon by the prosecution to the extent to which it supports the prosecution version of the incident. The evidence of such witnesses cannot be treated as washed off the records, it remains admissible in trial and there is no legal bar to base the conviction of the accused upon such testimony, if corroborated by other reliable evidence. Section 154 of the Act enables the Court, in its discretion, to permit the person, who calls a witness, to put any question to him which might be put in cross-examination by the adverse party. The view that the evidence of the witness who has been called and cross-examined by the party with the leave of the court, cannot be believed or disbelieved in part and has to be excluded altogether, is not the correct exposition of law. The Courts may rely upon so much of the testimony which supports the case of the prosecution and is corroborated by other evidence. It is also now a settled cannon of criminal jurisprudence that the part which has been allowed to be cross-examined can also be relied upon by the prosecution.

A witness may turn hostile at any stage during the trial either in the course of examination in chief or in the cross examination. Even where a witness is declared as hostile as per Section 154 of Indian Evidence Act

read with Section 162 proviso of the Code of Criminal Procedure, nonetheless, the testimony will not be discarded from consideration altogether, merely because the witness was declared as hostile. The grant of such permission of declaring a witness as hostile does not amount to an adjudication by the Court as to the veracity of the witness.

The Courts in India do not follow the maxim ***"Falsus in Uno Falsus in Omnibus"(false in one, false in all).*** The maxim has not received general acceptance in India and it did not occupy the position of rule of law. In ***Ugar Ahir and Ors. v. The State of Bihar., AIR 1965 SC 277,*** the Hon'ble Supreme Court of India speaking through his lordship Hon'ble Justice Koka Subba Rao observed that the maxim *falsus in uno, falsus in omnibus (false in one thing, false in everything)* is neither a sound rule of law nor a rule of practice. Hardly one comes across a witness whose evidence does not contain a grain of untruth or at any rate exaggerations, embroideries or embellishments. It is, therefore, the duty of the court to scrutinise the evidence carefully and, in terms of the felicitous metaphor, separate the grain from the chaff. But. It cannot obviously disbelieve the substratum of the prosecution case or the material parts of the evidence and reconstruct a story of its own out of the rest.

Similarly in ***Sohrab s/o Belinayata & Anr v. The State of Madhya Pradesh., AIR 1972 SC 2020.,*** the Supreme Court held that falsus in uno, falsus in omnibus is not a sound rule for the reason that hardly one comes across a witness whose evidence does not contain a grain of untruth or at any rate exaggeration, embroideries or embellishments. In most cases, the witnesses when asked about details venture to give some answer, not necessarily true or relevant for fear that their evidence may not be accepted in respect of the main incident which they have witnessed but that is not to say that their evidence as to the salient features of the case after cautious scrutiny cannot be considered.

In ***Gangadhar Behera and Ors v. State of Orissa., (2002) 8 SCC 381.,*** the Supreme Court observed that the principle of falsus in uno, falsus in omnibus is clearly untenable. Even if a major portion of the evidence is found to be deficient, in case residue is sufficient to prove guilt of an accused, notwithstanding acquittal of a number of other co- accused persons, his conviction can be maintained. It is the duty of the court to separate the grain from the chaff. Where chaff can be separated from the grain, it would be open to the court to convict an accused notwithstanding the fact that evidence has been found to be deficient to prove guilt of other accused persons. Falsity of a particular material witness or material particular would not ruin it from the beginning to end. The maxim falsus in uno, falsus in omnibus has no application in India and the witnesses cannot be branded as liars. The maxim falsus in uno, falsus in omnibus has not received general acceptance nor has this maxim come to occupy the status of the rule of law. It is merely a rule of caution. All that it amounts to, is that in such cases testimony may be disregarded, and not that it must be disregarded. The doctrine merely involves the question of weight of evidence which a court may apply in a given set of circumstances, but it is not what may be called a mandatory rule of evidence. Merely because some of the accused persons have been acquitted, though evidence against all of them, so far as direct testimony went, was the same does not lead as a necessary corollary that those who have been convicted must also be acquitted. It is always open to a court to differentiate the accused who had been acquitted from those who were convicted. The doctrine is a dangerous one especially in India for if a whole body of the testimony were to be rejected, because a witness was evidently speaking an untruth in some aspect, it is to be feared that administration of criminal justice would come to a dead stop. Witnesses just cannot help in giving embroidery to a story, however, true in the main. Therefore, it has to be appraised in each case as to what extent the evidence is worthy of acceptance, and merely because in some respects the court considers the same to be insufficient for placing reliance on the testimony of a witness, it does not necessarily follow as a matter of law that it must be disregarded in all respects as well. The evidence has to be sifted with care. The aforesaid dictum is not a sound rule for the reason that one hardly comes across a witness whose evidence does not contain a grain of untruth or at any rate exaggeration, embroideries or embellishment. An attempt has to be made to, as noted above, in terms of felicitous metaphor, separate the grain from the chaff, truth from falsehood. Where it is not feasible to separate the truth from falsehood, because grain and chaff are inextricably mixed up, and in the process of separation an absolutely new case has to be reconstructed by divorcing essential details presented by the prosecution completely from the context and the background against which they are made, the only available course to be made is to discard the evidence in toto. Normal discrepancies in evidence are those which are due to normal errors of observation, normal errors of memory due to lapse of time, due to mental disposition such as shock and horror at the time of occurrence and those are always there however honest and truthful a witness may be. Material discrepancies are those which are not normal, and not expected of a normal person. Courts have to label the category to which a discrepancy may be categorised. While normal discrepancies do not corrode the credibility of a party's case, material discrepancies do so. It is thus clear that the maxim- falsus in uno, falsus in omnibus has no application in India and witnesses cannot be branded as liars. The Indian Courts have consistently declined to apply the maxim as a

general proposition of law. Even if major portion of the evidence is found to be deficient, in case residue is sufficient to prove guilt of an accused, his conviction can be maintained. This maxim at the most is merely a rule of caution involving the question of weight of evidence which a Court may apply in a given set of circumstances but not what may be called a mandatory rule of evidence. Keeping in mind the Indian context the doctrine if applied could be dangerous. Each case must be examined as to what extent the evidence is worthy of acceptance. The maxim - falsus in uno, falsus in omnibus is not a sound rule and definitely not in the Indian context for hardly one comes across any witness whose evidence does not contain a grain of untruth or at any rate exaggeration, embroideries or embellishment.

Thus, the law is well settled that evidence of a witness need not necessarily be true in all respects. It may be partly true and partly untrue and the said maxim *"falsus in uno falsus in omnibus"* is not applicable in India and it is open to the Court in India to accept a part of evidence of a witness while rejecting the rest of it.

In ***Dahyabhai Chhaganbhai Thakkar v. State of Gujrat, AIR 1964 SC 1563***, the Hon'ble Apex Court has held that to confine the operation of Section 154 of the Evidence Act to a particular stage in the examination of a witness is to read words in the section which are not there. We cannot also agree with the High court that if a party calling a witness is permitted to put such questions to the witness after he has been cross-examined by the adverse party, the adverse party will not have any opportunity to further cross-examine the witness on the answers elicited by putting such questions. In such an event the court certainly, in exercise of its discretion, will permit the adverse party to cross-examine the witness on the answers elicited by such questions. The court, therefore, can permit a person, who calls a witness, to put questions to him which might be put in the cross-examination at any stage of the examination of the witness, provided it takes care to give an opportunity to the accused to cross examine him on the answers elicited which do not find place in the examination-in-chief.

Further in ***State of Bihar v. Lalu Prasad alias Lalu Prasad Yadav., AIR 2002 SC 2432,*** the Hon'ble Apex Court has held that it would have been a different position if the witness stuck to his version, he was expected to say by the party who called the witness, in the examination-in-chief, but he showed propensity to favour the adverse party only in cross-examination. In such case, the party who called him has a legitimate right to put cross questions to the witness. But if he resiled from his expected stand even in chief-examination, the permission to put cross-questions should have been sought then.

In ***Karuppanna Thevar and Ors. v. The State of Tamil Nadu., AIR 1976 SC 980,*** the Court however observed that the Courts should be slow to act on the testimony of such a hostile witness and normally look for corroboration. Likewise in ***State of Rajasthan v. Bhawani & Anr., AIR 2003 SC 4230*** the Supreme Court held that the fact that the witness was declared hostile by the Court at the request of the prosecuting counsel and he was allowed to cross-examine the witness, no doubt furnishes no justification for rejecting enbloc the evidence of the witness. But the Court has at least to be aware that prima facie, a witness who makes different statements at different times has no regard for truth. His evidence has to be read and considered as a whole with a view to find out whether any weight should be attached to the same. The Court should be slow to act on the testimony of such a witness and, normally, it should look for corroboration to his evidence.

The Hon'ble Supreme Court of India in ***Krishna Mochi v. State of Bihar., (2002) 6 SCC 81*** observed that it is matter of common experience that in recent times there has been sharp decline of ethical values in public life even in developed countries much less developing one, like ours, where the ratio of decline is higher. Even in ordinary cases, witnesses are not inclined to depose or their evidence is not found to be credible by courts for manifold reasons. One of the reasons may be that they do not have courage to depose against an accused because of threats to their life, more so when the offenders are habitual criminals or high-ups in the Government or close to powers, which may be political, economic or other powers including muscle power. These days it is not difficult to gain over a witness by money power or giving him any other allurence or giving out threats to his life and/or property at the instance of persons, in/or close to powers and muscle men or their associates. Such instances are also not uncommon where a witness is not inclined to depose because in the prevailing social structure, he wants to remain indifferent. Thus, in a criminal trial a prosecutor is faced with so many odds. The Court while appreciating the evidence should not lose sight of these realities of life and cannot afford to take an unrealistic approach by sitting in ivory tower. These days when crime is looming large and humanity is suffering and society is so much affected thereby, duties and responsibilities of the courts have become much more. Now the maxim "let hundred guilty persons be acquitted, but not a single innocent be convicted" is, in practice, changing world over and courts have been compelled to accept that "society suffers by wrong convictions and it equally suffers by wrong acquittals".

In ***State Through., P.S., Lodhi Colony, New Delhi v. Sanjeev Nanda., AIR 2012 SC 3104,*** the Court while expressing its anguish observed that witness turning hostile is a major disturbing factor faced by the criminal courts in India. Reasons are many for the witnesses turning hostile, but of late, we see, especially in

high profile cases, there is a regularity in the witnesses turning hostile, either due to monetary consideration or by other tempting offers which undermine the entire criminal justice system and people carry the impression that the mighty and powerful can always get away from the clutches of law thereby, eroding people's faith in the system.

The Supreme Court in ***Ramesh v. State of Haryana., (2017) 1 SCC 529.,*** on the analysis of various cases observed that the Court cannot close its eyes to the disturbing fact in the instant case where even the injured witness, who was present on the spot, turned hostile and formulated the following reasons which make witnesses retracting their statements before the Court and turning hostile:(i) Threat/intimidation., (ii) Inducement by various means., (iii) Use of muscle and money power by the accused., (iv) Use of Stock Witnesses., (v) Protracted Trials., (vi) Hassles faced by the witnesses during investigation and trial., (vii) Non-existence of any clear-cut legislation to check hostility of witness." Threat and intimidation has been one of the major causes for the hostility of witnesses.

The Supreme Court in ***Mahender Chawla & Ors v. Union of India & Ors., (2019) 14 SCC 615.,*** observed that in recent year's extremism, terrorism and organized crimes have grown and are becoming stronger and more diverse. In the investigation and prosecution of such crimes, it is essential that witnesses have trust in criminal justice system. Witnesses need to have the confidence to come forward to assist law enforcement and prosecuting agencies. They need to be assured that they will receive support and protection from intimidation and the harm that criminal groups might seek to inflict upon them in order to discourage them from co-operating with the law enforcement agencies and deposing before the court of law. Hence, it is high time that a scheme is put in place for addressing the issues of witness protection uniformly in the country. The Court gave its imprimatur to the Scheme and approved Witness Protection Scheme, 2018 prepared by Union of India.

Witness Protection may be as simple as providing a police escort to the witness up to the Courtroom or using modern communication technology (such as audio video means) for recording of testimony. In other more complex cases, involving organised criminal group, extraordinary measures are required to ensure the witness's safety viz. anonymity, offering temporary residence in a safe house, giving a new identity, and relocation of the witness at an undisclosed place. However, Witness protection needs of a witness may have to be viewed on case-to-case basis depending upon their vulnerability and threat perception. The scheme envisages identifying categories of threat perceptions, preparation of a "Threat Analysis Report" by the Head of the Police, types of protection measures like ensuring that the witness and accused do not come face to face during investigation etc. protection of identity, change of identity, relocation of witness, witnesses to be apprised of the scheme, confidentiality and preservation of records, recovery of expenses etc. Since it is beneficial and benevolent scheme which is aimed at strengthening the criminal justice system in this country, which shall in turn ensure not only access to justice but also advance the cause the justice itself, all the States and Union Territories also accepted that suitable directions can be passed by the court to enforce the said Scheme as a mandate of the court till the enactment of a statute by the Legislatures.

The Court directed the Union of India as well as States and Union Territories to enforce the Witness Protection Scheme, 2018 in letter and spirit.

In line with the provisions contained in the Scheme, in all the district courts in India, vulnerable witness deposition complexes shall be set up by the States and Union Territories. The Court held that this should be achieved within a period of one year, i.e., by the end of the year 2019. The Court also directed the Central Government to also support this endeavour of the States/Union Territories by helping them financially and otherwise. The Court further noted that the directions of Delhi High Court and setting up of special centres for vulnerable witnesses as observed by the Court are consistent with the decision of the Court and supplement the same. The Court directed that all High Courts can adopt such guidelines if the same have not yet been adopted with such modifications as may be deemed necessary. Setting up of one centre for vulnerable witnesses may be perhaps required almost in every district in the country. All the High Courts may take appropriate steps in this direction in due course in phases. At least two such centres in the jurisdiction of each High Court may be set up within three months from the date of judgment as rendered by the Court. Thereafter, more such centres may be set up as per decision of the High Courts. The Court further observed that there is a paramount need to have witness protection regime, in a statutory form, which all the stakeholders and all the players in the criminal justice system concede. At the same time no such legislation has been brought about. These are the considerations which had influenced the Court to have a holistic regime of witness protection which should be considered as law under Article 141 of the Constitution till a suitable law is framed. The Court further held that it shall be the 'law' under Articles 141/142 of the Constitution, till the enactment of suitable Parliamentary and/or State Legislations on the subject.

CONCLUSION

In summation it can be said that purely because a witness was declared hostile his whole evidence cannot be excluded or rendered unworthy of consideration. Merely because the Court gave permission to the Public Prosecutor to examine his own witness in the nature of cross describing him as hostile witness does not completely obliterate his evidence. The evidence remains acceptable and admissible in the trial and there is no legal bar to base conviction upon the testimony of such witness. However, the Courts should be slow to act on the testimony of such hostile witness and as a rule of prudence look for some corroboration. The maxim *'falsus in uno falsus in omnibus'* is not applicable in India. It is only a rule of caution. Even where major portion of evidence of a witness is found untrustworthy, yet if the remaining part of the evidence inspires confidence and is sufficient to prove the guilt of the accused, conviction can be based thereupon. Courts have to separate the chaff from the grain and to find in each case as to what extent the evidence is acceptable. If separation cannot be done, the evidence has to be rejected in toto.

(Prosecution Replenish conveys its heartfelt thanks to **Sri D.V.R. TejoKarthik,** Administrative Officer, Telangana State Judicial Academy, Secunderabad, for contributing this article for our leaflet)

CITATIONS

In each case this Court has called for report from the Special Courts and earlier also directed the Special Courts to dispose of these extension petitions at the earliest. It is stated that for service of notices to accused, matters were repeatedly adjourned, then accused was seeking time for filing counter. There cannot be any delay in serving notices to the accused. Notices can be served to accused and endorsement can also be taken from the Superintendent of Jail and when the extension petition was coming up for hearing, it can be fixed for appearance of the accused.

6. In NDPS cases, with regard to extension petitions, it is between the Court and prosecution and the Court should not adjourn the matter for counter of accused and the same shall be disposed of expeditiously, the order copy shall be uploaded on the same day and even the certified copy also shall be furnished as expeditiously as possible, within three (03) days.

https://indiankanoon.org/doc/58602358/; CRIMINAL PETITION No.3735 of 2021 Dated: 26.10.2021;

DNA is unique to an individual (barring twins) and can be used to identify a person's identity, trace familial linkages or even reveal sensitive health information. Whether a person can be compelled to provide a sample for DNA in such matters can also be answered considering the test of proportionality laid down in the unanimous decision of this Court in K.S. Puttaswamy v. Union of India, 2019 (1) SCC 1, wherein the right to privacy has been declared a constitutionally protected right in India. The Court should therefore examine the proportionality of the legitimate aims being pursued, i.e. whether the same are not arbitrary or discriminatory, whether they may have an adverse impact on the person and that they justify the encroachment upon the privacy and personal autonomy of the person, being subjected to the DNA Test.

The learned Judge while noting the sensitivities involved with the issue of ordering a DNA test, opined that the discretion of the court must be exercised after balancing the interests of the parties and whether a DNA Test is needed for a just decision in the matter and such a direction satisfies the test of "eminent need".

The above decision in Bhabani Prasad Jena (supra) was considered and approved in Dipanwita Roy vs. Ronobroto Roy, (2015) 1 SCC 365, where the Court noticed from the facts that the husband alleged infidelity against his wife and questioned the fatherhood of the child born to his wife. In those circumstances, when the wife had denied the charge of infidelity, the Court opined that but for the DNA test, it would be impossible for the husband to establish the assertion made in the pleadings. In these facts, the decision of the High Court to order for DNA testing was approved by the Supreme Court. Even then, Justice J.S. Khehar, writing for the Division Bench, considered it appropriate to record a caveat to the effect that the wife may refuse to comply with the High Court direction for the DNA test but in that case, presumption may be drawn against the party.

In circumstances where other evidence is available to prove or dispute the relationship, the court should ordinarily refrain from ordering blood tests. This is because such tests impinge upon the right of privacy of an individual and could also have major societal repercussions. Indian law leans towards

legitimacy and frowns upon bastardy. The presumption in law of legitimacy of a child cannot be lightly repelled.

2021 0 Supreme(SC) 534; Ashok Kumar Vs. Raj Gupta & Ors.: Civil Appeal No. 6153 of 2021 (Arising out of SLP(C) No. 11663 of 2019) Decided On : 01-10-2021

The ground of parity with co-accused Daksh Adya invoked by the High Court is equally unwarranted. The allegations in the FIR against the Respondent-Mother-in-Law and her younger Son Daksh Adya are materially different. It is indubitable that some of the allegations against all the family members are common but there are other specific allegations accusing the Respondent-Accused of playing a key role in the alleged offence. The conduct of the Respondent-Accused in absconding for more than two years without any justifiable reason should have weighed in mind while granting her any discretionary relief. These facts put her on a starkly different pedestal than the co-accused with whom she seeks parity. We are, thus, of the considered view that the High Court has wrongly accorded the benefit of parity in favour of the Respondent-Accused.

Even if there was any procedural irregularity in declaring the Respondent-Accused as an absconder, that by itself was not a justifiable ground to grant pre-arrest bail in a case of grave offence save where the High Court on perusal of case-diary and other material on record is, prima facie, satisfied that it is a case of false or over-exaggerated accusation.

At the outset, it would be fruitful to recapitulate the well-settled legal principle that the cancellation of bail is to be dealt on a different footing in comparison to a proceeding for grant of bail. It is necessary that 'cogent and overwhelming reasons' are present for the cancellation of bail. Conventionally, there can be supervening circumstances which may develop post the grant of bail and are non-conducive to fair trial, making it necessary to cancel the bail. This Court in Daulat Ram and Others vs. State of Haryana, (1995) 1 SCC 349, observed that:

> "Rejection of bail in a non-bailable case at the initial stage and the cancellation of bail so granted, have to be considered and dealt with on different basis. Very cogent and overwhelming circumstances are necessary for an order directing the cancellation of the bail, already granted. Generally speaking, the grounds for cancellation of bail, broadly (illustrative and not exhaustive) are: interference or attempt to interfere with the due course of administration of Justice or evasion or attempt to evade the due course of justice or abuse of the concession granted to the accused in any manner. The satisfaction of the court, on the basis of material placed on the record of the possibility of the accused absconding is yet another reason justifying the cancellation of bail. However, bail once granted should not be cancelled in a mechanical manner without considering whether any supervening circumstances have rendered it no longer conducive to a fair trial to allow the accused to retain his freedom by enjoying the concession of bail during the trial."

These principles have been reiterated time and again, more recently by a 3-judge Bench of this Court in X vs. State of Telegana and Another, (2018) 16 SCC 511.

In addition to the caveat illustrated in the cited decisions, bail can also be revoked where the court has considered irrelevant factors or has ignored relevant material available on record which renders the order granting bail legally untenable. The gravity of the offence, conduct of the accused and societal impact of an undue indulgence by Court when the investigation is at the threshold, are also amongst a few situations, where a Superior Court can interfere in an order of bail to prevent the miscarriage of justice and to bolster the administration of criminal justice system. This Court has repeatedly viewed that while granting bail, especially anticipatory bail which is per se extraordinary in nature, the possibility of the accused to influence prosecution witnesses, threatening the family members of the deceased, fleeing from justice or creating other impediments in the fair investigation, ought not to be overlooked.

Broadly speaking, each case has its own unique factual scenario which holds the key for adjudication of bail matters including cancellation thereof. The offence alleged in the instant case is heinous and protrudes our medieval social structure which still wails for reforms despite multiple efforts made by Legislation and Judiciary.

2021 0 Supreme(SC) 541; Vipan Kumar Dhir Vs State of Punjab and Another ; Criminal Appeal Nos. 1161-1162 of 2021, SLP (Crl.) Nos. 5404-5405 of 2021; Decided On : 04-10-2021 (THREE JUDGE BENCH)

What is required to constitute an alleged abetment of suicide under Section 306 IPC is there must be an allegation of either direct or indirect act of incitement to the commission of offence of suicide and mere allegations of harassment of the deceased by another person would not be sufficient in itself, unless, there are allegations of such actions on the part of the accused which compelled the commission of suicide. Further, if the person committing suicide is hypersensitive and the allegations attributed to the accused is otherwise not ordinarily expected to induce a similarly situated person to take the extreme step of committing suicide, it would be unsafe to hold the accused guilty of abetment of suicide. Thus, what is required is an examination of every case on its own facts and circumstances and keeping in consideration the surrounding circumstances as well, which may have bearing on the alleged action of the accused and the psyche of the deceased.

If, a student is simply reprimanded by a teacher for an act of indiscipline and bringing the continued act of indiscipline to the notice of Principal of the institution who conveyed to the parents of the student for the purposes of school discipline and correcting a child, any student who is very emotional or sentimental commits suicide, can the said teacher be held liable for the same and charged and tried for the offence of abetment of suicide under section 306 IPC.

Our answer to the said question is 'No'.

2021 0 Supreme(SC) 542; Geo Varghese Vs. The State Of Rajasthan & Anr.; Criminal Appeal No. 1164 OF 2021 (Arising out of S.L.P (Crl.) No. 4512 OF 2019)' Decided On : 05-10-2021

We are inclined to accept the guidelines and make them a part of the order of the Court for the benefit of the Courts below. The guidelines are as under :

"Categories/Types of Offences

A) Offences punishable with imprisonment of 7 years or less not falling in category B & D.

B) Offences punishable with death, imprisonment for life, or imprisonment for more than 7 years.

C) Offences punishable under Special Acts containing stringent provisions for bail like NDPS (S.37), PMLA (S.45), UAPA (S.43D(5), Companies Act, 212(6), etc.

D) Economic offences not covered by Special Acts.

REQUISITE CONDITIONS

1) Not arrested during investigation.

2) Cooperated throughout in the investigation including appearing before Investigating Officer whenever called.

(No need to forward such an accused along with the chargesheet (Siddharth Vs. State of UP, 2021 SCC online SC 615)

CATEGORY A

After filing of chargesheet/complaint taking of cognizance

a) Ordinary summons at the 1st instance/including permitting appearance through Lawyer.

b) If such an accused does not appear despite service of summons, then Bailable Warrant for physical appearance may be issued.

c) NBW on failure to failure to appear despite issuance of Bailable Warrant.

d) NBW may be cancelled or converted into a Bailable Warrant/Summons without insisting physical appearance of accused, if such an application is moved on behalf of the accused before execution of the NBW on an undertaking of the accused to appear physically on the next date/s of hearing.

e) Bail applications of such accused on appearance may be decided w/o the accused being taken in physical custody or by granting interim bail till the bail application is decided.

CATEGORY B/D

On appearance of the accused in Court pursuant to process issued bail application to be decided on merits.

CATEGORY C

Same as Category B & D with the additional condition of compliance of the provisions of Bail uner NDPS S. 37, 45 PMLA, 212(6) Companies Act 43 d(5) of UAPA, POSCO etc."

4. Needless to say that the category A deals with both police cases and complaint cases.

5. The trial Courts and the High Courts will keep in mind the aforesaid guidelines while considering bail applications. The caveat which has been put by learned ASG is that where the accused have not cooperated in the investigation nor appeared before the Investigating Officers, nor answered summons when the Court feels that judicial custody of the accused is necessary for the completion of

the trial, where further investigation including a possible recovery is needed, the aforesaid approach cannot give them benefit, something we agree with.

2021 0 Supreme(SC) 603; SATENDER KUMAR ANTIL Vs. CENTRAL BUREAU OF INVESTIGATION & ANR. : Petition(s) for Special Leave to Appeal (Crl.) No(s). 5191 of 2021; Decided On : 07-10-2021

The registration of a Regular Case can have disastrous consequences for the career of an officer, if the allegations ultimately turn out to be false. In a Preliminary Enquiry, the CBI is allowed access to documentary records and speak to persons just as they would in an investigation, which entails that information gathered can be used at the investigation stage as well. Hence, conducting a Preliminary Enquiry would not take away from the ultimate goal of prosecuting accused persons in a timely manner. However, we once again clarify that if the CBI chooses not to hold a Preliminary Enquiry, the accused cannot demand it as a matter of right. As clarified by this Court in Managipet (supra), the purpose of Lalita Kumari (supra) noting that a Preliminary Enquiry is valuable in corruption cases was not to vest a right in the accused but to ensure that there is no abuse of the process of law in order to target public servants.

2021 0 Supreme(SC) 607; Central Bureau of Investigation (CB) and Anr. Vs. Thommandru Hannah Vijayalakshmi @ T. H. Vijayalakshmi and Anr. : Criminal Appeal No. 1045 of 2021 (Arising out of SLP (Crl) No. 1597 of 2021) Decided On : 08-10-2021; THREE JUDGE BENCH

it has also been argued on behalf of Suryabhan Singh that while the appellant's statement under Section 164 of the Cr.P.C. is that Suryabhan also shot at the appellant, the FIR and his statement under Section 161 of the Cr.P.C. only record that he hit him with the butt of the gun. The trial is yet to take place where the evidence adduced by the prosecution will be appreciated, and the veracity of appellant's claim in his statement under Section 164 can be determined there. However, at the present stage, the FIR and both the appellant's statements under Section 161 and 164 are consistent in as much as that Surbhayan Singh did hit him in his head with the butt of the gun.

the High Court has not addressed the clear deficiencies in the course of the investigation which have been highlighted in the order of the JMFC dated 13 February 2021 and the trial Court's order dated 24 March 2021. These are, inter-alia: (i) the failure to notice eyewitness statements; (ii) reliance on CCTV footage for the period of time after incident had occurred, ignoring prior or contemporaneous footage; (iii) not collecting CCTV footage between Jabalpur and the scene of offence; (iv) relying on CDRs without determining if Joginder Singh and Suryabhan Singh had actually used the number and (v) not conducting any finger print analysis. In the order dated 13 February 2021, the JMFC identified these deficiencies with the investigation and directed further investigation.

2021 0 Supreme(SC) 608; Prashant Singh Rajput Vs. The State of Madhya Pradesh and Another; Criminal Appeal Nos. 1202, 1203 of 2021, SLP (Crl) Nos. 5786, 5788 of 2021; Decided On : 08-10-2021

We may hasten to add that the fact that the Investigating Agency was unable to collect material during investigation against the writ petitioner-Mohan Nayak.N for offence under Section 3(1) of the 2000 Act, does not mean that the information regarding commission of a crime by him within the meaning of Section 3(2), 3(3) or 3(4) of the 2000 Act cannot be recorded and investigated against him as being a member of the organized crime syndicate and/or having played role of an abettor, being party to the conspiracy to commit organized crime or of being a facilitator, as the case may be. For the latter category of offence, it is not essential that more than two chargesheets have been filed against the person so named, before a competent court within the preceding period of ten years and that court had taken cognizance of such offence. That requirement applies essentially to an offence punishable only under Section 3(1) of the 2000 Act.

24. As regards offences punishable under Section 3(2), 3(3), 3(4) or 3(5), it can proceed against any person sans such previous offence registered against him, if there is material to indicate that he happens to be a member of the organized crime syndicate who had committed the offences in question and it can be established that there is material about his nexus with the accused who is a member of the organized crime syndicate. This position is expounded in the case of Ranjitsingh Brahmajeetsing Sharma vs. State of Maharashtra, (2005) 5 SCC 294 which has been quoted with approval in paragraph 85 of the judgment in Prasad Shrikant Purohit[29][supra at Footnote No.10].

The same reads thus:

"85. A reading of para 31 in Ranjitsing Brahmajeetsing Sharma case[30][supra at Footnote No.28] shows that in order to invoke MCOCA even if a person may or may not have any direct role to play as regards the commission of an organised crime, if a nexus either with an accused who is a member of an "organised crime syndicate" or with the offence in the nature of an "organised crime" is established that would attract the invocation of Section 3(2) of MCOCA. **Therefore, even if one may not have any direct role to play relating to the commission of an "organised crime", but when the nexus of such person with an accused who is a member of the "organised crime syndicate" or such nexus is related to the offence in the nature of "organised crime" is established by showing his involvement with the accused or the offence in the nature of such "organised crime", that by itself would attract the provisions of MCOCA.** The said statement of law by this Court, therefore, makes the position clear as to in what circumstances MCOCA can be applied in respect of a person depending upon his involvement in an organised crime in the manner set out in the said paragraph. In paras 36 and 37, **it was made further clear that such an analysis to be made to ascertain the invocation of MCOCA against a person need not necessarily go to the extent for holding a person guilty of such offence and that even a finding to that extent need not be recorded.** But such findings have to be necessarily recorded for the purpose of arriving at an objective finding on the basis of materials on record only for the limited purpose of grant of bail and not for any other purpose. Such a requirement is, therefore, imminent under Section 21(4)(b) of MCOCA." (emphasis supplied)

2021 0 Supreme(SC) 616; KAVITHA LANKESH Vs. STATE OF KARNATAKA & ORS.; CRIMINAL APPELLATE JURISDICTION CRIMINAL APPEAL NO. OF 2021 (ARISING OUT OF S.L.P. (CRIMINAL) NO.__OF 2021) (@ DIARY NO.13309 OF 2021) WITH CRIMINAL APPEAL NO.---- OF 2021 (ARISING OUT OF S.L.P. (CRIMINAL) NO. 5387 OF 2021); Decided on : 21-10-2021; THREE JUDGE BENCH

Normally, when the accused is 'absconding' and declared as a 'proclaimed offender', there is no question of granting anticipatory bail. We reiterate that when a person against whom a warrant had been issued and is absconding or concealing himself in order to avoid execution of warrant and declared as a proclaimed offender in terms of Section 82 of the Code he is not entitled to the relief of anticipatory bail.

2021 0 Supreme(SC) 617; PREM SHANKAR PRASAD Vs. THE STATE OF BIHAR & ANR.: CRIMINAL APPEAL NO.1209 OF 2021; DECIDED ON : 21-10-2021.

There is a visible distinction between 'preparation' and 'attempt' to commit an offence and it all depends on the statutory edict coupled with the nature of evidence produced in a case. The stage of 'preparation' consists of deliberation, devising or arranging the means or measures, which would be necessary for the commission o f the offence. Whereas, an 'attempt' to commit the offence, starts immediately after the completion of preparation. 'Attempt' is the execution of mens rea after preparation. 'Attempt' starts where 'preparation' comes to an end, though it falls short of actual commission of the crime.

an 'attempt' is a mixed question of law and facts. 'Attempt' is the direct movement towards the commission after the preparations are over. It is essential to prove that the attempt was with an intent to commit the offence. An attempt is possible even when the accused is unsuccessful in committing the principal offence. Similarly, if the attempt to commit a crime is accomplished, then the crime stands committed for all intents and purposes.

2021 0 Supreme(SC) 626; State of Madhya Pradesh Vs. Mahendra alias Golu : Criminal Appeal No. 1827 of 2011; Decided On : 25-10-2021

this Court has at innumerable instances expressed its disapproval for imparting criminal color to a civil dispute, made merely to take advantage of a relatively quick relief granted in a criminal case in contrast to a civil dispute. Such an exercise is nothing but an abuse of the process of law which must be discouraged in its entirety.

2021 0 Supreme(SC) 628; Mitesh Kumar J. Sha Vs The State of Karnataka and Others; Criminal Appeal No. 1285 of 2021, S.L.P (Crl.) No. 9871 of 2019; Decided On : 26-10-2021

While we understand that the allegations made in these petitions pertain to matters about which ordinary citizens would not have information except for the investigating reporting done by news agencies, looking to the quality of some of the petitions filed, we are constrained to observe that individuals should not file half-baked petitions merely on a few newspaper reports. Such an exercise, far from helping the cause espoused by the individual filing the petition, is often detrimental to the cause itself. This is because the Court will not have proper assistance in the matter, with the burden to even determine preliminary facts being left to the Court. It is for this reason that trigger happy filing of such petitions in Courts, and more particularly in this Court which is to be the final adjudicatory body in the country, needs to be discouraged. This should not be taken to mean that the news agencies are not trusted by the Court, but to emphasize the role that each pillar of democracy occupies in the polity. News agencies report facts and bring to light issues which might otherwise not be publicly known. These may then become the basis for further action taken by an active and concerned civil society, as well as for any subsequent filings made in Courts. But newspaper reports, in and of themselves, should not in the ordinary course be taken to be readymade pleadings that may be filed in Court.

MANOHAR LAL SHARMA Vs UNION OF INDIA AND ORS. : WRIT PETITION (CRL.) NO. 314 OF 2021, WRIT PETITION (CIVIL) NO. 826, 909, 861, 849, 855, 829, 850, 848, 853, 851, 890 OF 2021; DECIDED ON : 27-10-2021; THREE JUDGE BENCH; PEGASUS CASE

The Charge Sheet would disclose that the petitioner was arrayed as A5 and he was also shown as the complainant - LW.1. Summons were issued to him to depose as a witness in the capacity of LW 1. The object of Article 20 (3) is to protect the accused from self- incrimination. Right to silence was available to him. He can claim immunity from testifying in the case and refuse to answer the questions which tend to incriminate him. Hence, it is considered fit to direct the trial Court to ignore LW.1 being examined as a witness and to proceed with the case by examining the other witnesses and to complete the trial.

Doli Sudhakar vs The State Of Telangana on 28 October, 2021; CRIMINAL REVISION CASE No.2653 of 2015

SC ST POA Act - sub-section (3) of Section 15A provides that a reasonable and timely notice must be issued to the victim or their dependent. This would entail that the notice is served upon victims or their dependents at the first or earliest possible instance. If undue delay is caused in the issuance of notice, the victim, or as the case may be, their dependents, would remain uninformed of the progress made in the case and it would prejudice their rights to effectively oppose the defense of the accused. It would also ultimately delay the bail proceedings or the trial, affecting the rights of the accused as well

Criminal Appeal No. 1278 of 2021; Hariram Bhambhi Versus Satyanarayan & Anr.; October 29, 2021.

It may be that there might not be any serious injuries and/or visible injuries, the hospital might not have issued the injury report. However, production of an injury report for the offence under Section 323 IPC is not a sine qua non for establishing the case for the offence under Section 323 IPC. Section 323 IPC is a punishable section for voluntarily causing hurt. “Hurt” is defined under Section 319 IPC. As per Section 319 IPC, whoever causes bodily pain, disease or infirmity to any person is said to cause “hurt.” Therefore, even causing bodily pain can be said to be causing “hurt.”

“the evidence of injured witnesses has greater evidentiary value and unless compelling reasons exist, their statements are not to be discarded lightly.” It is further observed in the said decision that “minor discrepancies do not corrode the credibility of an otherwise acceptable evidence.” It is further observed that “mere non-mention of the name of an eyewitness does not render the prosecution version fragile.”

2021 2 ALD Crl 541(SC); 2021 3 Crimes(SC) 98; 2021 5 Supreme 106; 2021 0 Supreme(SC) 380; Lakshman Singh Vs State of Bihar (Now Jharkhand) With Shiv Kumar Singh and Others Vs. State of Bihar (Now Jharkhand) : Criminal Appeal No. 606, 630-631 of 2021; Decided On : 23-07-2021

Section 195(1)(b)(i), CrPC will not bar prosecution by the investigating agency for offence punishable under Section 193, IPC, which is committed during the stage of investigation. This is provided that the investigating agency has lodged complaint or registered the case under Section 193, IPC prior to commencement of proceedings and production of such evidence before the trial court. In such circumstance, the same would not be considered an offence committed in, or in relation to, any proceeding in any Court for the purpose of Section 195(1)(b)(i), CrPC.

2021 2 ALD Crl 638(SC); 2021 0 AIR(SC) 2090; 2021 1 Crimes(SC) 508; 2021 2 KHC(SN) 21; 2021 1 KLD 550; 2021 2 KLT(SN) 46; 2021 2 KLT(SN) 46; 2021 4 Scale 195; 2021 2 Supreme 742; 2021 0 Supreme(SC) 143; Bhima Razu Prasad Vs STATE, REP. BY DEPUTY SUPERINTENDENT OF POLICE, CBI/SPE/ACU-II: Criminal Appeal No. 305 of 2021 (Arising out of SLP (Criminal) No. 5102 of 2020) with Criminal Appeal No. 305 of 2021 (Arising out of SLP (Criminal) No. 6720 of 2020) and Criminal Appeal No. 305 of 2021 (Arising out of SLP (Criminal) No. 6327 of 2020) Decided on : 12-03-2021;

The said information / documents sought by the Investigating Officer is from the possession of petitioner - accused No. 1 and the same is incriminating material which the Investigating Officer cannot call for from the petitioner - accused No. 1 under Section - 91 of Cr.P.C. Therefore, the impugned notice is illegal and the action of respondent No. 4 in calling for the said information, which is incriminating material, from the possession of accused No. 1 under Section - 91 of Cr.P.C. is illegal, violative of the principle laid down in the aforesaid judgments and against the protection guaranteed under Article - 20(3) of the Constitution of India. Further, respondent No. 4 has no power to direct the petitioner - accused No. 1 to produce the incriminating material from his possession.

2021 2 ALD Crl 685(TS); 2021 4 ALD 291; 2021 0 Supreme(Telangana) 102; A. Srinivas Reddy Vs The State of Telangana and Ors. Writ Petition No. 7333 of 2021; Decided On : 31-03-2021

NOSTALGIA

Whether refusal to undergo DNA Testing amounts to 'other evidence' or in other words, can an adverse inference be drawn in such situation.

In Sharda vs. Dharmpal, 2003 (4) SCC 493 a three judges bench in the opinion written by Justice S.B. Sinha rightly observed in paragraph 79 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" can be made out against the person within the ambit of Section 114 of the Evidence Act.

NEWS

- S.O. 4063(E), notified regarding coming into force the 150th Amendment of the constitution.
- A.P.State Notified regarding the enhancement of the case-wise remuneration to law officers for defending the contempt petitions.
- the ANDHRA PRADESH GUIDELINES FOR FOSTER CARE, 2021 notified.
- MINES & MINERALS - AMENDMENTS TO ANDHRA PRADESH MINOR MINERAL CONCESSION RULES, 1966 notified.
- A.P. Cadre IPS confirmation on following officers confirmed

S.No.	Name	Date of Confirmation
1.	B.Srinivasulu(SL-1998)	02.08.2003
2.	M.Kantha Rao(SL-1998)	11.07.2006
3.	D.Nagendra Kumar(SL-1998)	15.03.2011
4.	P. Venkatrami Reddy(SL-1998)	19.12.2012
5.	G. Pala Raju(SL-1998)	19.12.2012
6.	L.K.V. Ranga Rao(SL-1998)	19.12.2012
7.	G.V. Ashok Kumar(SL-1998)	19.12.2012
8.	G.Vijay Kumar(SL-1998)	19.12.2012
9.	S.Hari Krishna(SL-1998)	19.12.2012
10.	M.Ravi Prakash(SL-1998)	19.12.2012
11.	S.V.Rajasekhar Babu(SL-1998)	19.12.2012
12.	K.V.Mohan Rao(SL-1998)	19.12.2012

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ON A LIGHTER VEIN

"Technology has stopped him from thinking for himself. He's using his GPS to guide him to the bathroom."

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✍The Prosecution Replenish,
4-235, Gita Nagar, Malkajgiri, Hyderabad, Telangana-500047
: 9848844936;
e-mail:- prosecutionreplenish@gmail.com
telegram app :*http://t.me/prosecutionreplenish ;*
Website : prosecutionreplenish.com