Prosecution Replenish

Vol- X

Part – 11

November, 2022

Aano Bhadra Kratvo Yantu Viswatah (Rig Ved)

Let all Noble thoughts come to us from all directions

अन्नदानं परं दानं विद्यादानमतः परम् ।
अन्नेन क्षणिका तृप्ति र्यावज्जीवं च विद्यया ॥

In this beautiful Subhashita, the poet writes about the difference between food and knowledge. Even the provided food is of great importance, but the knowledge that we acquire is even more important. While the food lasts for a few moments until we are hungry again, the skill or knowledge that we acquire takes the responsibility of taking care of us for the entire life, including earning Food.

We are 10 now. Please await the special edition

CITATIONS

https://indiankanoon.org/doc/123882828/; T.Soundarya, vs The State Of Andhra Pradesh, on 14 October, 2022; Writ Petition No.15180 OF 2022
if the detenue was already enlarged on bail in the cases which were placed before the Detaining Authority seeking preventive detention, duty will be cast on the Sponsoring Authority to place the entire relevant material such as FIRs, remand reports, bail applications and bail orders along with the other record and the Detaining Authority shall invariably consider the same for forming opinion.

https://indiankanoon.org/doc/79145297/; Paltthiya Srinu vs The State Of Andhra Pradesh on 20 October, 2022; Writ Petition No.15517 OF 2022(DB)
https://indiankanoon.org/doc/95508540/; Polavarapu Lakshmi Sirisha vs The State Of Andhra Pradesh, on 19 October, 2022; Writ Petition No.17333 OF 2022 (DB)
Andhra Pradesh Prevention of Dangerous Activities of Bootleggers, Dacoits, Drug Offenders, Goondas, Immoral Traffic Offenders and Land Grabbers Act, 1986- When the scheme of the Act as envisaged in the above provisions is perused, under Section-13 the maximum period of detention under this Act shall be twelve months from the date of detention. Be that it may, we will find in the Section-3 that the said period of detention of twelve months is not in one stretch and it is regulated by Section-3. Then as per Section-3(3) after making initial detention order, the officer passing the detention order shall report to the Government within twelve days for approval. Then the Government as per Section-3(2) proviso can extend the period of detention at the first instance for three months and amend such order from time to time for further period not exceeding three months at any one time. Then according to Section-12 of the Act, 1986, the Government on the report of the Advisory Board, may confirm the detention order and continue the same not exceeding the maximum period specified in Section-13 i.e., twelve months from the date of detention.
Thus the detention at the first instance shall not exceed three months as per proviso to Section 3(2). Then the Government shall act upon the report of Advisory

Board within the said initial period of three months of detention and either confirm the detention or set aside.
a perusal of the record would show that admittedly the detention order was passed on 30.04.2022 and the 1st respondent have issued G.O.Rt.No.839, dated 10.05.2022 according approval for the order of detention. So far so good, however no material is placed by the respondents to show that the confirmation order was passed thereafter within 3 months after detention, in terms of Section 12 of the Act 1 of 1986.
It is true that in Section-12 no time limit is prescribed for confirming the detention order by the Government. However, when the above provisions are studied conjunctively, one can understand that three months limitation is implicit in Section-12.

https://indiankanoon.org/doc/77021476/; Gogineni Lakshmi Gowthami vs The State Of Andhra Pradesh on 20 October, 2022; CRIMINAL PETITION No.2837 of 2022
Respondent permitted to mark documents and to depose before the Court of Trial via Skype or Blue Jeans or any other alternative electronic media under Section 275(1) Cr.P.C and 285(3) of Cr.P.C.

2022 0 Supreme(SC) 1081; State of Himachal Pradesh Vs. Nirmal Kaur @ Nimmo and Others; Criminal Appeal No. 956 of 2012; 20-10-2022
'Poppy straw' has been defined to mean all parts of 'opium poppy' after harvesting, whether in their original form or cut, crushed or powdered and whether or not juice has been extracted therefrom. However, the said definition excludes the seeds. As such, 'poppy straw' would mean all parts of 'opium poppy' except the seeds
it is more than a settled principle of law that, while interpreting the provisions of the statute, the court has to prefer an interpretation which advances the purpose of the statute.
once a Chemical Examiner establishes that the seized 'poppy straw' indicates a positive test for the contents of 'morphine' and 'meconic acid', it is sufficient to establish that it is covered by sub-clause (a) of Clause (xvii) of Section 2 of the 1985 Act and no further test would be necessary for establishing that the seized material is a part of 'papaver somniferum L'. In other words, once it is established that the seized 'poppy straw' tests positive for the contents of 'morphine' and 'meconic acid', no other test would be necessary for bringing home the guilt of the accused under the provisions of Section 15 of the 1985 Act.

2022 0 Supreme(SC) 1065; Md. Jabbar Ali & Ors. Vs. State of Assam; Criminal Appeal No.1105 of 2010 With Md. Ajmot Ali Vs. The State of Assam; Criminal Appeal No.1128 of 2010; Decided On : 17-10-2022
This Court is conscious of the well-settled principle that just because the witnesses are related/interested/partisan witnesses, their testimonies cannot be disregarded, however, it is also true that when the witnesses are related/interested, their testimonies have to be scrutinized with greater care and circumspection.

In the present case, owing to the substantial and material contradictions in the testimonies of the prosecution witnesses, the evidence of the prosecution is considered wholly unreliable. Additionally, the prosecution has examined only related witnesses and not a single independent witness. Therefore, in the facts and circumstances of the case, the evidence does not prove the alleged offences against the accused-appellants.

2022 0 Supreme(SC) 1067; Gurmail Singh & Anr. Vs State of Uttar Pradesh & Anr.; Criminal Appeal No. 965 of 2018; 17-10-2022

The first question in that regard is when once the prosecution established the membership of an accused/convict in the unlawful assembly whether the individual overt act also to be established by the prosecution to bring culpability on him on the principle of constructive/vicarious liability. According to us, no such burden can be fastened on the prosecution in view of the phraseology under Section 149, I.P.C.

whether the reduction in number of the convicts below five on account of death of the co-accused got any impact or effect on the surviving convict(s) in the matter of consideration of his/their, vicarious liability in view of Section 149, I.P.C. There can be no two views on the position that reduction of number of accused/convicts in an appeal, below five on account of acquittal of co-accused/co-convicts and such reduction in numbers below five due to death of co-convicts are different and distinct. The impact and effect of the former situation is no longer res integra. In the decision in Amar Singh & Ors. v. State of Punjab, (1987) 1 SCC 679 seven persons were charged for offences punishable under Section 148, Section 302 read with Section 149, IPC. There was no case for the prosecution that other persons had also involved in the commission of the offence. It was held that because of the acquittal of three out of the seven accused the remaining four could not have been convicted under Section 148 read with Section 149, IPC.

In Nethala Pothuraju & Ors. v. State of Andhra Pradesh, (1992) 1 SCC 49 also this position was reiterated. That was a case where the case of the prosecution was that seven accused persons formed an unlawful assembly and committed murder in pursuance of a common object and they were charged under Section 302/149, IPC. Four of them were acquitted. In the appeal this Court held that in the said factual situation the remaining three accused could not have been convicted by applying Section 149, IPC. At the same time, it was further held that the non-applicability of Section 149, IPC would not be a bar for convicting accused/appellants if evidence would disclose commission of offence in furtherance of a common intention.

The term ‘abatement’ or ‘abate’ has not been defined in Cr.P.C. In the said circumstances, its dictionary meaning has to be looked into. As relates criminal proceedings going by the meaning given in Black’s Law Dictionary, 10th Edition, abatement means ‘the discontinuation of criminal proceedings before they are concluded in the normal course of litigation, as when the defendant dies’. Thus, it can be seen that the meaning of abatement can only be taken in criminal proceedings as ‘discontinuation of such proceedings owing to the death of the accused/convict pending such proceedings’. In short, it would reveal that an appeal against conviction (except an appeal from a sentence of fine) would abate on the death of the appellant as in such a situation, the sentence under appeal could no

longer be executed. The abatement is certainly different from acquittal and a mere glance at the proviso to Section 394 (2), Cr.P.C., will make this position very clear.
the non-recovery of the weapons cannot be a ground to discard the evidence of the injured eye witnesses

2022 0 Supreme(SC) 1054; State through the Inspector of Police Vs. Laly @ Manikandan and Another; Criminal Appeal Nos. 1750-1751 of 2022; Decided On : 14-10-2022

Merely because the original complainant is not examined cannot be a ground to discard the deposition of PW-1. As observed hereinabove, PW-1 is the eye-witness to the occurrence at both the places. Similarly, assuming that the recovery of the weapon used is not established or proved also cannot be a ground to acquit the accused when there is a direct evidence of the eye-witness. Recovery of the weapon used in the commission of the offence is not a sine qua non to convict the accused. If there is a direct evidence in the form of eye-witness, even in the absence of recovery of weapon, the accused can be convicted. Similarly, even in the case of some contradictions with respect to timing of lodging the FIR/complaint cannot be a ground to acquit the accused when the prosecution case is based upon the deposition of eye-witness.

As per settled position of law, there can be a conviction on the basis of the deposition of the sole eye-witness, if the said witness is found to be trustworthy and/or reliable.

2022 0 Supreme(SC) 1045; Ramanand @ Nandlal Bharti Vs. State of Uttar Pradesh; Criminal Appeal Nos. 64-65 of 2022; Decided On : 13-10-2022 (THREE JUDGE BENCH)

In ‘A Treatise on Judicial Evidence’, Jeremy Bentham, an English Philosopher included a whole chapter upon what lies next when the direct evidence does not lead to any special inference. It is called Circumstantial Evidence. According to him, in every case, of circumstantial evidence, there are always at least two facts to be considered:

a) The **Factum probandum** , or say, the principal fact (the fact the existence of which is supposed or proposed to be proved; &

b) The **Factum probans** or the evidentiary fact (the fact from the existence of which that of the factum probandumis inferred).

Although there can be no straight jacket formula for appreciation of circumstantial evidence, yet to convict an accused on the basis of circumstantial evidence, the Court must follow certain tests which are broadly as follows :

1. Circumstances from which an inference of guilt is sought to be drawn must be cogently and firmly established;
2. Those circumstances must be of a definite tendency unerringly pointing towards guilt of the accused and must be conclusive in nature;
3. The circumstances, if taken cumulatively, should form a chain so complete that there is no escape from the conclusion that within all human probability the crime was committed by the accused and none else; and

4. The circumstantial evidence in order to sustain conviction must be complete and incapable of explanation of any other hypothesis than that of the guilt of the accused but should be inconsistent with his innocence. In other words, the circumstances should exclude every possible hypothesis except the one to be proved.

When the accused while in custody makes such statement before the two independent witnesses (panch witnesses) the exact statement or rather the exact words uttered by the accused should be incorporated in the first part of the panchnama that the investigating officer may draw in accordance with law. This first part of the panchnama for the purpose of Section 27 of the Evidence Act is always drawn at the police station in the presence of the independent witnesses so as to lend credence that a particular statement was made by the accused expressing his willingness on his own free will and volition to point out the place where the weapon of offence or any other article used in the commission of the offence had been hidden. Once the first part of the panchnama is completed thereafter the police party along with the accused and the two independent witnesses (panch witnesses) would proceed to the particular place as may be led by the accused. If from that particular place anything like the weapon of offence or blood stained clothes or any other article is discovered then that part of the entire process would form the second part of the panchnama. This is how the law expects the investigating officer to draw the discovery panchnama as contemplated under Section 27 of the Evidence Act.

We are conscious of the position of law that even if the independent witnesses to the discovery panchnama are not examined or if no witness was present at the time of discovery or if no person had agreed to affix his signature on the document, it is difficult to lay down, as a proposition of law, that the document so prepared by the police officer must be treated as tainted and the discovery evidence unreliable. In such circumstances, the Court has to consider the evidence of the investigating officer who deposed to the fact of discovery based on the statement elicited from the accused on its own worth.

But where the evidence is clear, cogent and creditworthy and where the court can distinguish the truth from falsehood, the mere fact that the injuries are not explained by the prosecution cannot itself be a sole basis to reject such evidence, and consequently the whole case. Much depends on the facts and circumstances of each case. These aspects were highlighted by this Court in Vijay Singh and Ors. v. State of U.P., (1990) CriLJ 1510.

2022 0 Supreme(SC) 1047; Md. Anowar Hussain Vs. State of Assam; Criminal Appeal No. 414 of 2019; Decided On : 13-10-2022

Where an offence like murder is committed in secrecy inside a house, the initial burden to establish the case would undoubtedly be upon the prosecution, but the nature and amount of evidence to be led by it to establish the charge cannot be of the same degree as is required in other cases of circumstantial evidence. The burden would be of a comparatively lighter character. In view of Section 106 of the Evidence Act there will be a corresponding burden on the inmates of the house to give a cogent explanation as to how the crime was committed. The inmates of the house cannot get away by simply keeping quiet and offering no explanation on the

supposed premise that the burden to establish its case lies entirely upon the prosecution and there is no duty at all on an accused to offer any explanation.
Fact of the matter remains that all the aforesaid facts and factors, which ought to be in the knowledge of the appellant, are either not clarified or the explanation given by the appellant turns out to be false. Hence, in the given set of facts and circumstances, the legal consequence is that such omission coupled with such falsehood indeed provide additional links in the chain of circumstances.
the sum and substance of the matter is that the falsehood cooked up by the witnesses (regarding illness and hospitalisation of the victim) and readily accepted by the appellant coupled with the undischarged burden of Section 106 of the Evidence Act provide such strong links in this matter that the chain of circumstances is complete, leading to the conclusion on the guilt of the appellant beyond any doubt.

2022 0 Supreme(SC) 1036; Devendra Nath Singh Vs. State Of Bihar & Ors.; Criminal Appeal No. 1768 of 2022 (Arising Out Of SLP (Crl.) No. 9609 of 2022 @ Diary No. 22814 of 2019); Decided on : 12-10-2022

For what has been noticed hereinbefore, we could reasonably cull out the principles for application to the present case as follows:

(a) The scheme of the Code of Criminal Procedure, 1973 is to ensure a fair trial and that would commence only after a fair and just investigation. The ultimate aim of every investigation and inquiry, whether by the police or by the Magistrate, is to ensure that the actual perpetrators of the crime are correctly booked and the innocents are not arraigned to stand trial.

(b) The powers of the Magistrate to ensure proper investigation in terms of Section 156 CrPC have been recognised, which, in turn, include the power to order further investigation in terms of Section 173(8) CrPC after receiving the report of investigation. Whether further investigation should or should not be ordered is within the discretion of the Magistrate, which is to be exercised on the facts of each case and in accordance with law.

(c) Even when the basic power to direct further investigation in a case where a charge-sheet has been filed is with the Magistrate, and is to be exercised subject to the limitations of Section 173(8) CrPC, in an appropriate case, where the High Court feels that the investigation is not in the proper direction and to do complete justice where the facts of the case so demand, the inherent powers under Section 482 CrPC could be exercised to direct further investigation or even reinvestigation. The provisions of Section 173(8) CrPC do not limit or affect such powers of the High Court to pass an order under Section 482 CrPC for further investigation or reinvestigation, if the High Court is satisfied that such a course is necessary to secure the ends of justice.

(d) Even when the wide powers of the High Court in terms of Section 482 CrPC are recognised for ordering further investigation or reinvestigation, such powers are to be exercised sparingly, with circumspection, and in exceptional cases.

(e) The powers under Section 482 CrPC are not unlimited or untrammelled and are essentially for the purpose of real and substantial justice. While exercising such powers, the High Court cannot issue directions so as to be impinging upon

the power and jurisdiction of other authorities. For example, the High Court cannot issue directions to the State to take advice of the State Public Prosecutor as to under what provision of law a person is to be charged and tried when ordering further investigation or reinvestigation; and it cannot issue directions to investigate the case only from a particular angle. In exercise of such inherent powers in extraordinary circumstances, the High Court cannot specifically direct that as a result of further investigation or reinvestigation, a particular person has to be prosecuted.

More so, the accused has no right to have any say as regards the manner and method of investigation. Save under certain exceptions under the entire scheme of the Code, the accused has no participation as a matter of right during the course of the investigation of a case instituted on a police report till the investigation culminates in filing of a final report under Section 173(2) of the Code or in a proceeding instituted otherwise than on a police report till the process is issued under Section 204 of the Code, as the case may be Code, as the case may be. Even in cases where cognizance of an offence. Even is taken on a complaint notwithstanding that the said offence is triable by a Magistrate or triable exclusively by the Court of Sessions, the accused has no right to have participation till the process is issued. In case the issue of process is postponed as contemplated under Section 202 of the Code, the accused may attend the subsequent inquiry but cannot participate.

even if the appellant had been exonerated in the departmental proceedings, such a fact, by itself, may not be conclusive of criminal investigation;

2022 0 Supreme(SC) 1025; Vijay Rajmohan Vs. State Represented by the Inspector of Police, CBI, ACB, Chennai, Tamil Nadu; Criminal Appeal No. 1746 of 2022 Arising Out of SLP (CRL) No. 1568 of 2022; Decided On : 11-10-2022 (THREE JUDGE BENCH)

PC Act- upon expiry of the three months and the additional one-month period, the aggrieved party, be it the complainant, accused or victim, would be entitled to approach the concerned writ court. They are entitled to seek appropriate remedies, including directions for action on the request for sanction and for the corrective measure on accountability that the sanctioning authority bears. This is especially crucial if the non-grant of sanction is withheld without reason, resulting in the stifling of a genuine case of corruption. Simultaneously, the CVC shall enquire into the matter in the exercise of its powers under Section 8(1)(e) and (f) and take such corrective action as it is empowered under the CVC Act.

The second issue is answered by holding that the period of three months, extended by one more month for legal consultation, is mandatory. The consequence of non-compliance with this mandatory requirement shall not be quashing of the criminal proceeding for that very reason. The competent authority shall be Accountable for the delay and be subject to judicial review and administrative action by the CVC under Section 8(1)(f) of the CVC Act.

2022 0 Supreme(SC) 1030; Lalankumar Singh & Ors. Vs. State of Maharashtra; Criminal Appeal No. 1757 of 2022 [Arising out of SLP (Crl.) No. 8882 of 2015]; Decided On : 11-10-2022

It was held that merely because a person is a director of a company, it is not necessary that he is aware about the day-to-day functioning of the company. This Court held that there is no universal rule that a director of a company is in charge of its everyday affairs. It was, therefore, necessary, to aver as to how the director of the company was in charge of day-to-day affairs of the company or responsible to the affairs of the company. This Court, however, clarified that the position of a managing director or a joint managing director in a company may be different. This Court further held that these persons, as the designation of their office suggests, are in charge of a company and are responsible for the conduct of the business of the company. To escape liability, they will have to prove that when the offence was committed, they had no knowledge of the offence or that they exercised all due diligence to prevent the commission of the offence.

https://indiankanoon.org/doc/29197799/; Perla Venkata Swamy, Nalgonda vs State Of Telangana on 29 October, 2022; CRIMINAL APPEAL No.646 OF 2014;(DB)

considering the factual scenario of the case on hand, legally acceptable evidence available on record, in the background of the principles laid by the Apex Court and Division Bench of this Court in the above decisions we arrive at an inevitable conclusion that the appellant / accused was in inebriated state, he was not in his full senses and it was not a premeditated act, he had no intention to kill the deceased though he may be having knowledge of the AIR 2000 SC 3630 AVR,J & GAC,J Crl.A_646_2014 consequences of his act of pouring kerosene and setting fire the deceased and that the deceased succumbed to the injuries after eight days of the said incident, he cannot be held liable for the offence punishable under Section 302 of IPC but only for the offence of culpable homicide not amounting to murder and liable to be convicted for the offence punishable under Section 304 part II of IPC.

https://indiankanoon.org/doc/87966852/; S.Venkatreddy, Dichpally M., vs State Of Telanganaon 29 October, 2022; CRIMINAL APPEAL No.647 of 2014

In a case of homicide, it is for the prosecution to prove the intention, motive and knowledge of the offence committed by the accused. In the present case, as per the evidence of PWs.1, 2 and 4 to 6, the accused had quarrelled with his mother for the purpose of gold which proves the motive and intention to commit the offence. Further, the accused had knowledge that the injuries inflicted with an axe will cause the death of the deceased. Thus, the prosecution AVR, J & GAC, J Crl.A.No.647 of 2014 has proved the guilt of the accused beyond reasonable doubt. Therefore, this Court is of the considered opinion that there is no error or irregularity in the judgment passed by the Sessions Court so as to interfere with the same and the trial Court is justified in convicting the appellant for the offence punishable under Section 302 of IPC.

https://indiankanoon.org/doc/75969412/; Dereddy Muralidhara Reddy vs The State Of Telangana on 28 October, 2022; CRIMINAL PETITION No.4075 OF 2018

considering the refusal to grant sanction by the State Government under Section 19 of the PC Act to prosecute the petitioner and on a thorough examination of the allegations made against the petitioner, Court is of the view that the main allegations against the petitioner on the basis of which IPC related offences have been alleged to have been committed by the petitioner, were intrinsically connected with the discharge of official duty by the petitioner. Therefore, the protection under Section 197 Cr.P.C cannot be denied to the petitioner. Stand taken by the CBI that no previous sanction is required to prosecute the petitioner for the IPC related offences is therefore clearly unsustainable in law and on facts.

https://indiankanoon.org/doc/198292873/; T.Vijay & 5 Otrs. Vs State Of AP. Rep. PP. Hyd., on 29 October, 2022; CRIMINAL APPEAL No.526 OF 2014

As such in the given facts and circumstances of the case, the evidence of PWs.1, 2 and 5 cannot be discarded only on the ground that either they are closely related family members of the deceased or that there are minor discrepancies here and there which are not touching the root of the matter. Therefore, in such circumstances, being rustic village women, having lost three of their family members in a ghastly crime they cannot be expected to give picture perfect details as to the individual overt acts of each of the appellants. On an overall consideration of their evidence, we hold that it is wholly reliable and the mere fact that they are relatives of the deceased or there are minor discrepancies here and there not touching the root of the matter itself is not sufficient to discard their evidence and accused cannot be acquitted only on the ground of not furnishing the copy of dying declaration of PW5 or faulty investigation if any (State of U.P. Vs.Jagdeep and others8).

https://indiankanoon.org/doc/88486194/; Kanumuru Raghu Ramakrishan Raju vs Central Bureau Of Investigation on 28 October, 2022; CRIMINAL PETITION No.9246 OF 2021

Merely saying that respondent No.2 has been abusing his official position by giving important posts/offices to other co-accused to tamper evidence by influencing witnesses is not adequate to cancel the bail granted to respondent No.2. Further, saying that respondent No.2 has no regard for democracy and judiciary is no ground to cancel the bail granted to respondent No.2. The supporting affidavit is conspicuous by complete absence of any details whatsoever essential for considering a prayer for cancellation of bail. No single instance of violation of the bail conditions has been mentioned by the petitioner.

https://indiankanoon.org/doc/184726735/; Mekarthi Mallesham And 5 Others vs The Station House Officer And 2 Ors on 18 October, 2022; CRIMINAL PETITION No.9131 of 2022

The Station House Officer, Gambhiraopet Police Station/Investigating Officer shall adhere to the requirement to follow Section 41-A Cr.P.C except under the circumstances mentioned under Sections 41(1) and 41-A (4) Cr.P.C.

2022 LiveLaw (SC) 890; Criminal Appeal No. 1441 of 2022; October 31, 2022 The State of Jharkhand versus Shailendra Kumar Rai @ Pandav Rai

The "two-finger test" or pre vaginum test must not be conducted

It is patriarchal and sexist to suggest that a woman cannot be believed when she states that she was raped, merely for the reason that she is sexually active

Conduct workshops for health providers to communicate the appropriate procedure to be adopted while examining survivors of sexual assault and rape

Although a dying declaration ought to ideally be recorded by a Magistrate if possible, it cannot be said that dying declarations recorded by police personnel are inadmissible for that reason alone. The issue of whether a dying declaration recorded by the police is admissible must be decided after considering the facts and circumstances of each case

The fact that the dying declaration is not in the form of questions and answers does not impact either its admissibility or its probative value

There is no rule mandating the corroboration of the dying declaration through medical or other evidence, when the dying declaration is not otherwise suspicious.

CRIMINAL APPEAL NO. 242 OF 2022; October 13, 2022 SUBRAMANYA versus STATE OF KARNATAKA

In the aforesaid context, we may also refer to a decision of this Court in the case of Bodhraj alias Bodha and Others v. State of Jammu and Kashmir reported in (2002) 8 SCC 45, as under: “18. …..It would appear that under Section 27 as it stands in order to render the evidence leading to discovery of any fact admissible, the information must come from any accused in custody of the police. The requirement of police custody is productive of extremely anomalous results and may lead to the exclusion of much valuable evidence in cases where a person, who is subsequently taken into custody and becomes an accused, after committing a crime meets a police officer or voluntarily goes to him or to the police station and states the circumstances of the crime which lead to the discovery of the dead body, weapon or any other material fact, in consequence of the information thus received from him. This information which is otherwise admissible becomes inadmissible under Section 27 if the information did not come from a person in the custody of a police officer or did come from a person not in the custody of a police officer. The statement which is admissible under Section 27 is the one which is the information leading to discovery. Thus, what is admissible being the information, the same has to be proved and not the opinion formed on it by the police officer. In other words, the exact information given by the accused while in custody which led to recovery of the articles has to be proved. It is, therefore, necessary for the benefit of both the accused and the prosecution that information given should be recorded and proved and if not so recorded, the exact information must be adduced through evidence. The basic idea embedded in Section 27 of the Evidence Act is the doctrine of confirmation by subsequent events. The doctrine is founded on the principle that if any fact is discovered as a search made on the strength of any information obtained from a prisoner, such a discovery is a guarantee that the information supplied by the prisoner is true. The information might be confessional or non-inculpatory in nature

but if it results in discovery of a fact, it becomes a reliable information. It is now well settled that recovery of an object is not discovery of fact envisaged in the section. Decision of the Privy Council in Pulukuri Kottaya v. Emperor [AIR 1947 PC 67 : 48 Cri LJ 533 : 74 IA 65] is the most-quoted authority for supporting the interpretation that the "fact discovered" envisaged in the section embraces the place from which the object was produced, the knowledge of the accused as to it, but the information given must relate distinctly to that effect. (See State of Maharashtra v. Damu Gopinath Shinde [(2000) 6 SCC 269 : 2000 SCC (Cri) 1088 : 2000 Cri LJ 2301] .) No doubt, the information permitted to be admitted in evidence is confined to that portion of the information which "distinctly relates to the fact thereby discovered". But the information to get admissibility need not be so truncated as to make it insensible or incomprehensible. The extent of information admitted should be consistent with understandability. Mere statement that the accused led the police and the witnesses to the place where he had concealed the articles is not indicative of the information given." [Emphasis supplied]

NOSTALGIA

Unlawful Assembly- proof

the decisions in Amerika Rai & Ors. v. State of Bihar, AIR 2011 SC 1379; Surendra & Ors. v. State of Uttar Pradesh, AIR 2012 SC 1743 and in Yunis alias Kariya v. State of M.P., AIR 2003 SC 539. In Amerika Rai's case (supra) this Court held that even the presence in an unlawful assembly, with an active mind, to achieve the common object, would make a person vicariously liable for the acts of the unlawful assembly. In Surendra's case (supra) this Court held that inference of common object has to be drawn from the various factors such as the weapons with which the members were armed, their movements, the acts of violence committed by them and the result. In Yunis' case (supra) it was held that the presence of the accused as a part of the unlawful assembly is sufficient for his conviction. It was further held that when the presence of the accused at the place of occurrence as part of the unlawful assembly was not disputed it will be sufficient to hold him guilty even if no overt act was attributed to him.

NEWS

- Prosecution Replenish congratulates all the awardees and the following Telangana awardees of "Union Home Minister's Medal for Excellence in Investigation" for the year 2022:-
  - Shri Pratapagiri Venkata Ramana, Dy. Superintendent of Police Telangana
  - Shri Rudravaram Gandla Siva Maruthi, Asst. Commissioner of Police Telangana
  - Shri Bujoor Anji Reddy, Inspector of Police Telangana
  - Shri Ashala Gangaram, Dy. Superintendent of Police Telangana

- Shri Veggalam Raghu, Dy. Superintendent of Police Telangana

- Notification Of Joint Collector In The State As "Adjudicating Officer" Of The District Concerned Under Section 68 Of The Food Safety And Standards Act, 2006.

- The Andhra Pradesh Prevention Of Anti-Social And Hazardous Activities, Tribunal (Procedure) Rules, 2022 Under Section 6 Of The A. P. Prevention Of Anti- Social And Hazardous Activities Act, 1980.

- Motor Vehicles Act 1988 And Andhra Pradesh Motor Vehicles Rules, 1989 - Reconstitution Of The State Transport Authority For The State Of Andhra Pradesh.

- Establishment of A.P.Judicial Academy notified.

- Public Services - Child Care Leave — Enhancement of maximum spells to avail the eligible Child Care Leave of 180 days up to 10 spells — Orders — Issued.

ON A LIGHTER VEIN

The first thing I did when I heard our great-granddaughter was born was to text my son: "You are a great uncle!"
He texted me back immediately: "Thank you. What did I do?"

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