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Prosecution Replenish

An Endeavour for Learning and Excellence

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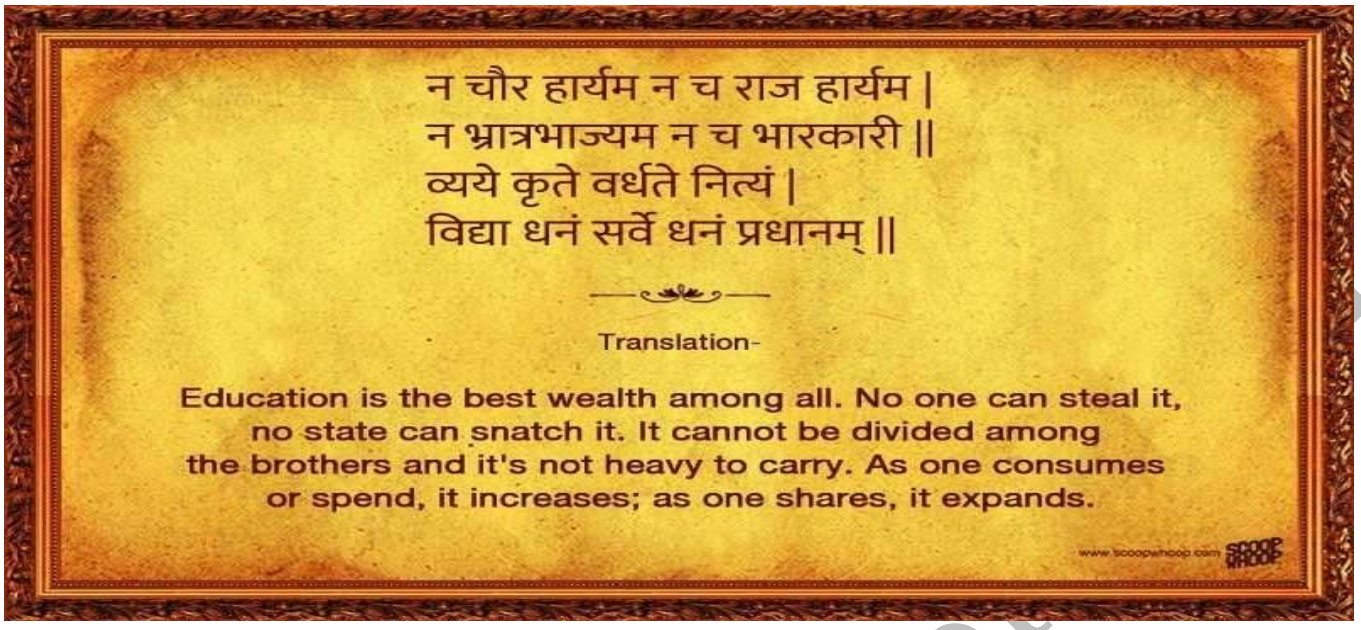
Aano Bhadra Krtavo Yantu Vishwatah.(RIG VEDAM)
"Let Noble Thoughts Come To Me From All Directions"



VICTIM COMPENSATION

DVR Tejo Karthik
Judicial Magistrate of First Class,
Special Mobile Court,
Mahabubnagar

INTRODUCTION

Section 2(wa) of the Code of Criminal Procedure defines "Victim" means a person who has suffered any loss or injury caused by reason of the act or omission for which the accused person has been charged and the expression victim includes his or her guardian or legal heir; Victim compensation is a financial reimbursement to a victim for an expense that resulted from a crime. Sections 357 and 357-A of the Code of Criminal Procedure, 1973 deals with the procedure for granting compensation to the victims of crime in India. Section 357 deals with order to pay compensation. Under Sub Section (1) of Section 357 when a Court imposes a sentence of fine or a sentence including a sentence of death of which fine forms a part, the Court may, when passing judgment, order the whole or any part of the fine recovered. Such order for recovery of fine is to be applied for defraying the expenses properly incurred in the prosecution, in the payment to any person of compensation for any loss or injury caused by the offence, when compensation is, in the opinion of the Court, recoverable by such person in a civil court, when any person is convicted of any offence for having caused the death of another person or of having abetted the commission of such an offence, in paying compensation to the persons who are, under the Fatal Accidents Act, 1855, entitled to recover damages from the person sentenced for the loss resulting to them from such death and when any person is convicted of any offence which includes theft, criminal misappropriation, criminal breach of trust, or cheating, or of having dishonestly received or retained, or of having voluntarily assisted in disposing of, stolen property knowing or having reason to believe the same to be stolen, in compensating any bonafide purchaser of such property for the loss of the same if such property is restored to the possession of the person entitled thereto. Under Sub-Section (3) of Section 357 when a Court imposes a sentence, of which fine does not form a part, the Court may, when passing judgment, order the accused person to pay, by way of compensation, such amount as may be specified in the order to the person who has suffered any loss or injury by reason of the act for which the accused person has been so sentenced. So far as Sub-Section (1) is concerned imposition of a substantive sentence of fine is a sine qua non for an order of compensation. But under Sub-Section (3) even in the absence of fine thereof court can direct payment of compensation. A State

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person against whom an offence is committed belongs to Scheduled Castes or Scheduled Tribes except when both the accused persons and the person against whom an offence is committed belong either to such castes or tribes, the Court shall order compensation. Under Sub-Section (3) when a Court imposes a sentence of which fine does not form a part, the Court may, and where a person against whom an offence is committed belongs to Scheduled Castes or Scheduled Tribes the Court Shall, when passing judgment, order the accused person to pay, by way of compensation, such amount as may be specified in the order to the person who has suffered any loss or injury by reason of the act for which the accused person has been so sentenced, provided that the Court may not order the accused person to pay by way of compensation any amount, if both the accused person and the person against whom an offence is committed belong either to the Scheduled Castes or the Scheduled Tribes.

DIFFERENCE BETWEEN FINE AND COMPENSATION

In **Dilip S. Dahanukar v. Kotak Mahindra Co. Ltd. & Anr., (2007) 6 SCC 528** while considering the difference between Sub-Sections (1) and (3) of Section 357 Cr.P.C. i.e.,fine and compensation, the Court observed thus:

> *"The distinction between sub-Sections (1) and (3) of Section 357 is apparent. Sub-Section (1) provides for application of an amount of fine while imposing a sentence of which fine forms a part; whereas sub-Section (3) calls for a situation where a Court imposes a sentence of which fine does not form a part of the sentence. Compensation is awarded towards sufferance of any loss or injury by reason of an act for which an accused person is sentenced. Although it provides for a criminal liability, the amount which has been awarded as compensation is considered to be recourse of the victim in the same manner which may be granted in a civil suit."*
>
> *"The purposes for application of fine imposed has been set out in clauses (a) to (d) of subSections (1) of Section 357. Clause (b) of sub- Section (1) of Section 357 provides for payment of compensation out of the amount of fine. The purpose enumerated in clause (b) of sub-Section (1) of Section 357 is the same as sub-Section (3) thereof, the difference being that whereas in a case under sub-Section (1) fine imposed forms a part of the sentence, under sub-Section (3) compensation can be directed to be paid whence fine does not form a part of the sentence. The fine can be imposed only in terms of the provisions of the Act. Fine which can be imposed under the Act, however, shall be double of the amount of the cheque which stood dishonoured. When, however, fine is not imposed, compensation can be directed to be paid for loss or injury caused to the complainant by reason of commission of the offence. Clause (b) of sub-Section (1) of Section 357 only provides for application of amount of fine which may be in respect of the entire amount or in respect of a part thereof. Sub-Section (3) of Section 357 seeks to achieve the same purpose. We must, however, observe that there exists a distinction between fine and compensation, although, in a way it seeks to achieve the same purpose. An amount of compensation can be directed to be recovered as a 'fine' but the legal fiction raised in relation to recovery of fine only, it is in that sense `fine' stands on a higher footing than compensation awarded by the Court."*

A Constitution Bench of 5 Judges constituting of Chief Justice Y.V. Chandrachud, Justices P.N. Bhagwati, V.R. Krishna Iyer, Syed Murtaza Fazalali and A.D.Koshal in **Maru Ram Etc. Etc v. Union of India & Anr., AIR 1980 SC 2147** speaking through Justice V.R. Krishna Iyer observed as: "…….We are afraid there is a confusion about fundamentals mixing up victimology with penology to warrant retributive severity by the backdoor. If crime claims a victim, criminology must include victimology as a major component of its concerns. Indeed, when a murder or other grievous offence is committed the dependants or other aggrieved persons must receive reparation and the social responsibility of the criminal to restore the loss or heal the injury is part of the punitive exercise. But the length of the prison term is no reparation to the crippled or bereaved and is futility compounded with cruelty…..……"

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"…….victimology a burgeoning branch of humane criminal justice, must find fulfillment, not through barbarity but by. compulsory recoupment by the wrong-doer of the damage inflicted, not by giving more pain to the offender but by lessening the loss of the forlorn……"

In **Hari Kishan & Anr v. Sukhbir Singh & Ors, AIR 1988 SC 2127** the Court observed that Sub-section (1) of Section 357 of the Code of Criminal Procedure provides power to award compensation to victims of the offence out of the sentence of fine imposed on accused and subsection (3) of Section 357 is an important provision but Courts have seldom invoked it, perhaps due to ignorance of the object of it. It empowers the Court to award compensation to victims while passing judgment of conviction. In addition to conviction, the Court may order the accused to pay some amount by way of compensation to victim who has suffered by the action of accused. It may be noted that this power of Courts to award compensation is not ancillary to other sentences but it is in addition thereto. This power was intended to do something to re-assure the victim that he or she is not forgotten in the criminal justice system. It is a measure of responding appropriately to crime as well of reconciling the victim with the offender. It is, to some extent a constructive approach to crimes. It is indeed a step forward in our criminal justice system. The Court further recommended that all Courts to exercise this power liberally so as to meet the ends of justice in a better way. The payment by way of compensation must, however, be reasonable. What is reasonable may depend upon the facts and circumstances of each case. The quantum of compensation may be determined by taking into account the nature of crime, the justness of claim by the victim and the ability of accused to pay. If there are more than one accused they may be asked to pay in equal terms unless their capacity to pay varies considerably. The payment may also vary depending upon the acts of each accused. Reasonable period for payment of compensation, if necessary by installments, may also be given. The Court may enforce the order by imposing sentence in default.

In **Ankush Shivaji Gaikwad v. State of Maharashtra., AIR 2013 SC 2454 = (2013) 6 SCC 770** the Court while dealing with the compensation to victim(s) of a crime and whether Courts have a duty to advert to the question of awarding compensation to the victim and record reasons while granting or refusing relief to them observed as follows:

✔The language of Section 357 Cr.P.C. at a glance may not suggest that any obligation is cast upon a Court to apply its mind to the question of compensation. Sub-section (3) of Section 357 further empowers the Court by stating that it "may" award compensation even in such cases where the sentence imposed does not include a fine.

✔The legal position is, however, well- established that cases may arise where a provision is mandatory despite the use of language that makes it discretionary.

✔The provision Section 357 confers a power coupled with a duty on the Courts to apply its mind to the question of awarding compensation in every criminal case in view of the background and context in which it was introduced.

✔The power to award compensation was intended to reassure the victim that he or she is not forgotten in the criminal justice system.

✔The victim would remain forgotten in the criminal justice system if despite Legislature having gone so far as to enact specific provisions relating to victim compensation, Courts choose to ignore the provisions altogether and do not even apply their mind to the question of compensation.

✔It follows that unless Section 357 is read to confer an obligation on Courts to apply their mind to the question of compensation, it would defeat the very object behind the introduction of the provision.

✔If application of mind is not considered mandatory, the entire provision would be rendered a dead letter.

✔Section 357 Cr.P.C. confers a duty on the Court to apply its mind to the question of compensation in every criminal case. It necessarily follows that the Court must disclose that it has applied its mind to this question in every criminal case.

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✔The power to award compensation under Section 357 is not ancillary to other sentences but in addition thereto. It would necessarily follow that the Court has a duty to apply its mind to the question of awarding compensation under Section 357 too.

✔While the award or refusal of compensation in a particular case may be within the Court's discretion, there exists a mandatory duty on the Court to apply its mind to the question in every criminal case.

✔Application of mind to the question is best disclosed by recording reasons for awarding/ refusing compensation.

✔It is axiomatic that for any exercise involving application of mind, the Court ought to have the necessary material which it would evaluate to arrive at a fair and reasonable conclusion.

✔It is also beyond dispute that the occasion to consider the question of award of compensation would logically arise only after the court records a conviction of the accused.

✔Capacity of the accused to pay which constitutes an important aspect of any order under Section 357 Cr.P.C. would involve a certain enquiry albeit summary unless of course the facts as emerging in the course of the trial are so clear that the court considers it unnecessary to do so.

Such an enquiry can precede an order on sentence to enable the court to take a view, both on the question of sentence and compensation that it may in its wisdom decide to award to the victim or his/her family.

In **Arun Garg v. State of Punjab & Anr, (2004) 8 SCC 251**, it was observed by the Supreme Court that Section 357(3) of the Code contemplates a situation where the complainant has suffered any loss or injury and for which the accused person has been found prima facie responsible. It is also pertinent to note that Section 357 (5) of the Cr.P.C. says that at the time of awarding compensation in any subsequent civil suit relating to the same matter, the Court shall take into account any sum paid or recovered as compensation under this Section. The direction to pay compensation under Section 357(3) is on the assumption of basic civil liability on the part of person who committed the offence to redress the victim or his dependents by payment of compensation.

In **Hari Singh v. Sukhbir Singh & Ors.,(supra)** while emphasizing the need for making liberal use of the provisions contained in Section 357 of the Code the Court has observed thus: *"It may be noted that this power of Courts to award compensation is not ancillary to other sentences but it is in addition thereto. This power was intended to do something to reassure the victim that he or she is not forgotten in the criminal justice system. It is a measure of responding appropriately to crime as well of reconciling the victim with the offender. It is, to some extent, a constructive approach to crimes. It is indeed a step forward in our criminal justice system."*

However, in awarding compensation, it is necessary for the Court to decide if the case is a fit one in which compensation deserves to be awarded. If the Court is convinced that compensation should be paid, then quantum of compensation is to be determined by taking into consideration the nature of the crime, the injury suffered and the capacity of the convict to pay compensation etc. It goes without saying that the amount of compensation has to be reasonable, which the person concerned is able to pay. If the accused is not in a position to pay the compensation to the injured or his dependents to which they are held to be entitled to, there could be no reason for the Court to direct such compensation. (See: **Sarwan Singh & Ors. v.State of Punjab., (1978) 4 SCC 111**).

In **Dilip S. Dahanukar v. Kotak Mahindra Co. Ltd. & Anr.., (2007) 6 SCC 528** explaining the scope and the purpose of imposition of fine and/or grant of compensation, this Court observed as follows: "The purpose of imposition of fine and/or grant of compensation to a great extent must be considered having the relevant factors therefor in mind. It may be compensating the person in one way or the other. The amount of compensation sought to be imposed, thus, must be reasonable and not arbitrary. Before issuing a direction to pay compensation, the capacity of accused to pay the same must be judged. A fortiori, an enquiry in this behalf even in a summary way may be necessary. Some

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reasons, which may not be very elaborate, may also have to be assigned; the purpose being that whereas the power to impose fine is limited and direction to pay compensation can be made for one or the other factors enumerated out of the same; but sub- Section (3) of Section 357 does not impose any such limitation and thus, power thereunder should be exercised only in appropriate cases. Such a jurisdiction cannot be exercised at the whims and caprice of a judge."

In **Sube Singh v. State of Haryana & Ors., (2006) 3 SCC 178.**, it was observed by the Court that the quantum of compensation will, however, depend upon the facts and circumstances of each case. Award of such compensation (by way of public law remedy) will not come in the way of the aggrieved person claiming additional compensation in a civil court, in enforcement of the private law remedy in tort, nor come in the way of the criminal court ordering compensation under section 357 of Code of Criminal Procedure.

In **Shanti Lal v. State of Madhya Pradesh., (2007) 11 SCC 243** it was held that the term of imprisonment in default of payment of fine is not a sentence. It is a penalty which a person incurs on account of non-payment of fine. The sentence is something which an offender must undergo unless it is set aside or remitted in part or in whole either in appeal or in revision or in other appropriate judicial proceedings or otherwise. A term of imprisonment ordered in default of payment of fine stands on a different footing. A person is required to undergo imprisonment either because he is unable to pay the amount of fine or refuses to pay such amount. He, therefore, can always avoid to undergo imprisonment in default of payment of fine by paying such amount. It is, therefore, not only the power, but the duty of the court to keep in view the nature of offence, circumstances under which it was committed, the position of the offender and other relevant considerations before ordering the offender to suffer imprisonment in default of payment of fine.

In **Vijayan v. Sadanandan K. & Anr., (2009) 6 SCC 652,** it was observed by the Supreme Court that The provisions of Sections 357(3) and 431 Cr.P.C., when read with Section 64 IPC, empower the Court, while making an order for payment of compensation, to also include a default sentence in case of non-payment of the same. While awarding compensation under Section 357(3) Cr.P.C., the Court is within its jurisdiction to add a default sentence of imprisonment

Section 357A of the Code deals with Victim Compensation Scheme. The provision has been incorporated in the Code of Criminal Procedure vide Act V of 2009 and the amendment duly came into force in view of the Notification dated 31st December, 2009. The object and purpose of the provision is to enable the Court to direct the State to pay compensation to the victim where the compensation under Section 357 was not adequate or where the case ended in acquittal or discharge and the victim was required to be rehabilitated. The provision was incorporated on the recommendation of 154th Report of Law Commission. It recognizes compensation as one of the methods of protection of victims. Under Sub-Section (1) of Section 357A every State Government in co-ordination with the Central Government shall prepare a scheme for providing funds for the purpose of compensation to the victim or his dependents who have suffered loss or injury as a result of the crime and who, require rehabilitation. Under Sub-Section (2) Whenever a recommendation is made by the Court for compensation, the District Legal Service Authority or the State Legal Service Authority, as the case may be, shall decide the quantum of compensation to be awarded under the scheme referred to in sub-section (1). As per Sub-Section (3) if the trial Court, at the conclusion of the trial, is satisfied, that the compensation awarded under section 357 is not adequate for such rehabilitation, or where the cases end in acquittal or discharge and the victim has to be rehabilitated, it may make recommendation for compensation. Sub-Section (4) envisages that where the offender is not traced or identified, but the victim is identified, and where no trial takes place, the victim or his dependents may make an application to the State or the District Legal Services Authority for award of compensation. Sub-Section (5) mandates that on receipt of such recommendations or on the application under sub-section (4), the State or the District Legal Services Authority shall, after due enquiry award adequate compensation by completing the enquiry within two months.

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As per Sub-Section (6) the State or the District Legal Services Authority, as the case may be, to alleviate the suffering of the victim, may order for immediate first-aid facility or medical benefits to be made available free of cost on the certificate of the police officer not below the rank of the officer in-charge of the police station or a Magistrate of the area concerned, or any other interim relief as the appropriate authority deems fit.

In **Suresh & Anr v. State of Haryana., AIR 2015 SC 518 = (2015) 2 SCC 227,** the Court dealt with compensation, interim compensation and rehabilitation of the victims of crime and the object and purport of Section 357A and the duty of the Court to ascertain financial need of victim arising out of crime immediately and to grant interim compensation suo motu irrespective of application by the victim and factors to be considered for grant of compensation.

After discussing various judicial precedents, the Court observed thus:

✔It is the duty of the Courts, on taking cognizance of a criminal offence, to ascertain whether there is tangible material to show commission of crime, whether the victim is identifiable and whether the victim of crime needs immediate financial relief.

✔On being satisfied on an application or on its own motion, the Court ought to direct grant of interim compensation, subject to final compensation being determined later.

✔Such duty continues at every stage of a criminal case where compensation ought to be given and has not been given, irrespective of the application by the victim.

✔At the stage of final hearing it is obligatory on the part of the Court to advert to the provision and record a finding whether a case for grant of compensation has been made out and, if so, who is entitled to compensation and how much.

✔Award of such compensation can be interim.

✔Gravity of offence and need of victim are some of the guiding factors to be kept in mind, apart from such other factors as may be found relevant in the facts and circumstances of an individual case.

✔The discretion to decide the quantum has been left with the State/District legal authorities.

✔The State of Telangana is directed to notify the scheme within one month from receipt of a copy of the order

THE TELANGANA VICTIM COMPENSATION SCHEME, 2015

In pursuance to Section 357A of the Code and in compliance with the directions issued by the Hon'ble Supreme Court of India in Suresh's case, the Government of Telangana vide G.O.Ms. No. 9 issued by LAW (LA,LA & J – HOME – COURTS.B) Department, dated 07.03.2015 framed the victim compensation scheme which came into force with effect from 1st April, 2015. This scheme dealt with the offences committed against the human body of the victim. As per the scheme apart from the victim even the dependent of the victim can also claim the compensation.

In Tekan alias Tekram v. State of Madhya Pradesh (Now Chhattisgarh), (2016) 4 SCC 461., the Supreme Court while considering victim compensation schemes of different States and the Union Territories and different schemes for relief and rehabilitation of victims of rape, observed that insofar as victim compensation schemes of different States and the Union Territories are concerned no uniform practice is being followed in providing compensation to the rape victim for the offence and for her rehabilitation and in most of the schemes the compensation amount is ranging between from Rs.20,000/- to Rs.10,00,000/- for the offence of rape under Section 357A. The Court observed that this practice of giving different amount ranging from Rs.20,000/- to Rs.10,00,000/- as compensation for the offence of rape needs to be introspected by all the States and the Union Territories and they should consider and formulate a uniform scheme specially for the rape victims in the light of the scheme framed in the State of Goa which has decided to give compensation up to Rs.10,00,000/-.

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A Scheme was made by the National Commission of Women (NCW) on the direction of the Supreme Court in **Delhi Domestic Working Women's Forum vs. Union of India and Ors., (1995) 1 SCC 14** whereby the Court inter alia had directed the National Commission for Women to evolve a "scheme" so as to wipe out the tears of unfortunate victims of rape. This scheme has been revised by the NCW on 15th April 2010. The application under this scheme will be in addition to any application that may be made under Sections 357 and 357A of the Code of Criminal Procedure as provided in paragraph 22 of the Scheme. Under this scheme maximum of Rs.3,00,000/- can be given to the victim of the rape for relief and rehabilitation in special cases like the present case where the offence is against an handicapped woman who required specialized treatment and care.

In **Nipun Saxena v. Union of India., 2018 SCC OnLine SC 2439,** Writ Petition(s) (Civil)No(s).565/2012, dated 11.05.2018., the Supreme Court observed that , NALSA has framed the "Compensation Scheme for Women Victims/Survivors of Sexual Assault/other Crimes – 2018 and the Scheme prepared by NALSA with the assistance of learned amicus curiae Smt Indira Jaising, Senior Advocate contains the best practices of all similar schemes and should be implemented by all the State Governments and Union Territory Administrations and that the Scheme postulates only the minimum requirements. This does not preclude the State Governments and Union Territory Administrations from adding to the Scheme. However, nothing should be taken away from the Scheme.

In pursuance to the directions of the Supreme Court, the Government of Telangana vide G.O.Ms. No. 9 issued by LAW (LA,LA & J – HOME – COURTS.B) Department, dated 28.02.2019 implemented the directions of the Supreme Court and made suitable amendments to the Telangana Victim Compensation Scheme, 2015 and notified the NALSA's Compensation Scheme for women victims/survivors of sexual assault/other crimes, 2018 as Additional Chapter to the Telangana Victim Compensation Scheme, 2015 which came into force with effect from 2nd October, 2018. This scheme is specially framed for the women victims/survivors of sexual assault/other crimes. As per the scheme "Sexual Assault Victims" means female who has suffered mental or physical injury or both as a result of sexual offence including Sections 376 (A) to (E), Section 354 (A) to (D), Section 509 IPC and "Woman Victim/ survivor of other crime" means a woman who has suffered physical or mental injury as a result of any offence mentioned in the attached Schedule including Sections 304 B, Section 326A, Section 498A IPC (in case of physical injury of the nature specified in the schedule) including the attempts and abetment.

In **Laxmi v. Union of India, (2014) 4 SCC 427 and also in (2016) 3 SCC 699.**, the Supreme Court had fixed the minimum compensation of Rs.3,00,000/- (Rupees three lakhs only) per acid attack victim. The Court further directed that full medical assistance should be provided to the victims of acid attack and that private hospitals should also provide free medical treatment to such victims. Action may be taken against hospital/clinic for refusal to treat victims of acid attacks and other crimes in contravention of the provisions of Section 357C of the Code of Criminal Procedure, 1973. The Court also gave directions to the hospitals that the hospital, where the victim of an acid attack is first treated, should give a certificate that the individual is a victim of an acid attack. This certificate may be utilized by the victim for treatment and reconstructive surgeries or any other scheme that the victim may be entitled to with the State Government or the Union Territory, as the case may be.

In case of any compensation claim made by any acid attack victim, the matter will be taken up by the District Legal Services Authority, which will include the District Judge and such other co-opted persons who the District Judge feels will be of assistance, particularly the District Magistrate, the Superintendent of Police and the Civil Surgeon or the Chief Medical Officer of that District or their nominee. This body will function as the Criminal Injuries Compensation Board for all purposes.

Victims of Acid attack are also entitled to additional compensation of Rs. 1 lakh under Prime Minister's National Relief Fund vide memorandum no. 24013/94/Misc./2014-CSR-III/GoI/MHA dated 09.11.2016. Victims of Acid Attack are also entitled to additional special financial assistance up to Rs.

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5 lakhs who need treatment expenses over and above the compensation paid by the respective State/UTs in terms of Central Victim Compensation Fund Guidelines-2016, no. 24013/94/Misc/2014-CSR.III, MHA/GoI. Collocation of scheme, 2015 and additional chapter, 2018

On juxtaposition of the schemes it could be noticed that 2015 scheme is intended to cover the crimes committed against human body and furthermore it is gender neutral. However, all the offences affecting the human body are not covered and it took in its sweep only the offences affecting human life and hurt. The scheme of 2015 did not cover the offences of wrongful restraint and wrongful confinement, criminal force and assault including kidnapping and abduction though they are the offences affecting human body and cover under the Chapter – XVI – of offences affecting human body under IPC. Insofar as 2018 additional chapter is concerned it is a special chapter intended to compensate the women victims/survivors of sexual assault and other crimes committed against women. This chapter is gender specific and it covers offences pertaining to life, rape, sexual assault, hurt causing grievous physical injury, offences causing of miscarriage , pregnancy on account of rape acid attacks and burning cases. Most importantly the additional chapter of 2018 does not apply to minor victims under POCSO Act, 2012 as the compensation issues are to be dealt with only by the Special Courts under Section 33 (8) of POCSO Act, 2012 and Rule 7 of the POCSO Rules, 2012. The main purport of the scheme 2015 and additional chapter of 2018 is to pay compensation to the victims or their dependents who suffer loss or injury as a result of crime and also to provide rehabilitation. This scheme also covers offences of rape or sexual assault committed against physically handicapped women.

(Prosecution Replenish conveys its heartfelt thanks to **Sri D.V.R. Tejo Karthik,** Judicial Magistrate of First Class, Special Mobile Court, Mahabubnagar, for contributing this article for our leaflet)

CITATIONS

2021 0 Supreme(SC) 499; Kanchan Sharma Vs. State of Uttar Pradesh and Another; Criminal Appeal No. 1022 of 2021, S.L.P. (Crl.) No. 7554 of 2019: Decided On : 17-09-2021

'Abetment' involves mental process of instigating a person or intentionally aiding a person in doing of a thing. Without positive act on the part of the accused to instigate or aid in committing suicide, no one can be convicted for offence under Section 306, IPC. To proceed against any person for the offence under Section 306 IPC it requires an active act or direct act which led the deceased to commit suicide, seeing no option and that act must have been intended to push the deceased into such a position that he committed suicide. There is nothing on record to show that appellant was maintaining relation with the deceased and further there is absolutely no material to allege that appellant abetted for suicide of the deceased within the meaning of Section 306, IPC. Even with regard to offence alleged under Section 3(2)(v) of the Act it is to be noticed that except vague and bald statement that the appellant and other family members abused deceased by uttering casteist words but there is nothing on record to show to attract any of the ingredients for the alleged offence also.

Except the statement that the deceased was in relation with the appellant, there is no material at all to show that appellant was maintaining any relation with the deceased. In fact, at earlier point of time when the deceased was stalking the appellant, the appellant along with her father went to the police station complained about the calls which were being made by the deceased to the appellant. Same is evident from the statement of S.I. Manoj Kumar recorded on 05.07.2018. In his statement recorded he has clearly deposed that the father along with the appellant went to the police post and complained against the deceased who was continuously calling the appellant and proposing that she should marry him with a threat that he will die otherwise. Having regard to such material placed on record and in absence of any material within the meaning of Section 107 of IPC, there is absolutely no basis to proceed against the appellant for the alleged offence under Section 306 IPC and Section 3(2)(v) of the

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Act. It would be travesty of justice to compel the appellant to face a criminal trial without any credible material whatsoever.

2021 0 Supreme(SC) 503; Bhagwan Narayan Gaikwad Vs. The State of Maharashtra and Others: Criminal Appeal No. 1039 of 2021, SLP (Crl.) No. 7001 of 2021, Diary No. 14956 of 2021: Decided On : 20-09-2021

Giving punishment to the wrongdoer is the heart of the criminal delivery system, but we do not find any legislative or judicially laid down guidelines to assess the trial Court in meeting out the just punishment to the accused facing trial before it after he is held guilty of the charges. Nonetheless, if one goes through the decisions of this Court, it would appear that this Court takes into account a combination of different factors while exercising discretion in sentencing, that is proportionality, deterrence, rehabilitation, etc.

The compromise if entered at the later stage of the incident or even after conviction can indeed be one of the factor in interfering the sentence awarded to commensurate with the nature of offence being committed to avoid bitterness in the families of the accused and the victim and it will always be better to restore their relation, if possible, but the compromise cannot be taken to be a solitary basis until the other aggravating and mitigating factors also support and are favourable to the accused for molding the sentence which always has to be examined in the facts and circumstances of the case on hand.

As already observed, we have not be able to record our satisfaction in reference to the kind of compromise which has now been obtained and placed on record after 28 years of the incident and this Court cannot be oblivious of the sufferings which the victim has suffered for such a long time and being crippled for life and the leg and arm of the victim are amputated in the alleged incident dated 13th December, 1993 and since then he has been fighting for life and is pursuing his daily chores with a prosthetic arm and leg and has lost his vital organs of his body and became permanently disabled and such act of the appellant is unpardonable.

2021 0 Supreme(SC) 508; Union of India through Narcotics Control Bureau, Lucknow Vs. Md. Nawaz Khan : Criminal Appeal No. 1043 of 2021 (Arising out of SLP (Crl) No.1771 of 2021): Decided On : 22-09-2021

What amounts to “conscious possession” was also considered in Dharampal Singh v. State of Punjab, (2010) 9 SCC 608, where it was held that the knowledge of possession of contraband has to be gleaned from the facts and circumstances of a case. The standard of conscious possession would be different in case of a public transport vehicle with several persons as opposed to a private vehicle with a few persons known to one another. In Mohan Lal v. State of Rajasthan, (2015) 6 SCC 222, this Court also observed that the term “possession” could mean physical possession with animus; custody over the prohibited substances with animus; exercise of dominion and control as a result of concealment; or personal knowledge as to the existence of the contraband and the intention based on this knowledge.

In line with the decision of this Court in Rattan Mallik ((2009) 2 SCC 624), we are of the view that a finding of the absence of possession of the contraband on the person of the respondent by the High Court in the impugned order does not absolve it of the level of scrutiny required under Section 37(1)(b)(ii) of the NDPS Act.

2021 0 Supreme(SC) 498; Mohd. Rafiq @ Kallu Vs. The State of Madhya Pradesh; Criminal Appeal No. 856 of 2021: Decided On : 15-09-2021

The use of the term “likely” in several places in respect of culpable homicide, highlights the element of uncertainty that the act of the accused may or may not have killed the person. Section 300 IPC which defines murder, however refrains from the use of the term likely, which reveals absence of ambiguity left on behalf of the accused. The accused is for sure that his act will definitely cause death. It is often difficult to distinguish between culpable homicide and murder as both involve death. Yet, there is a subtle distinction of intention and knowledge

involved in both the crimes. This difference lies in the degree of the act. There is a very wide variance of degree of intention and knowledge among both the crimes.

The decision in State of Andhra Pradesh vs. Rayavarapu Punnayya and Another, 1976 (4) SCC 382 notes the important distinction between the two provisions, and their differing, but subtle distinction. The court pertinently pointed out that:

> "12. In the scheme of the Penal Code, "culpable homicide" is genus and "murder" its specie. All "murder" is "culpable homicide" but not vice-versa. Speaking generally, "culpable homicide" sans "special characteristics of murder" is "culpable homicide not amounting to murder." For the purpose of fixing punishment, proportionate to the gravity of this generic offence, the Code practically recognises three degrees of culpable homicide. The first is, what may be called, "culpable homicide of the first degree." This is the greatest form of culpable homicide, which is defined in Section 300 as "murder." The second may be termed as "culpable homicide of the second degree." This is punishable under the first part of Section 304. Then, there is "culpable homicide of the third degree." This is the lowest type of culpable homicide and the punishment provided for it is, also, the lowest among the punishments provided for the three grades. Culpable homicide of this degree is punishable under the second part of Section 304.
>
> 13. The academic distinction between "murder" and "culpable homicide not amounting to murder" has vexed the courts for more than a century. The confusion is caused, if courts losing sight of the true scope and meaning of the terms used by the legislature in these sections, allow themselves to be drawn into minute abstractions. The safest way of approach to the interpretation and application of these provisions seems to be to keep in focus the keywords used in the various clauses of Sections 299 and 300."

2021 0 Supreme(SC) 473; Gumansinh @ Lalo @ Raju Bhikhabhai Chauhan & Anr. Vs. The State Of Gujarat: Criminal Appeal Nos. 940-941 OF 2021 Arising Out Of Special Leave Petition (Crl.) Nos. 2860-2861 OF 2019: Decided On : 03-09-2021

Most often the offence of subjecting the married woman to cruelty is committed within the boundaries of the house which in itself diminishes the chances of availability of any independent witness and even if an independent witness is available whether he or she would be willing to be a witness in the case is also a big question because normally no independent or unconnected person would prefer to become a witness for a number of reasons. There is nothing unnatural for a victim of domestic cruelty to share her trauma with her parents, brothers and sisters and other such close relatives. The evidentiary value of the close relatives/interested witness is not liable to be rejected on the ground of being a relative of the deceased. Law does not disqualify the relatives to be produced as a witness though they may be interested witness.

A three-Judge Bench of this Court in the case of Maranadu and Anr. Vs. State by Inspector of Police, Tamil Nadu, (2008) 16 SCC 529, while considering this issue, has observed as under:-

> "Merely because the eyewitnesses are family members their evidence cannot per se be discarded. When there is allegation of interestedness, the same has to be established. Mere statement that being relatives of the deceased they are likely to falsely implicate the accused cannot be a ground to discard the evidence which is otherwise cogent and credible. We shall also deal with the contention regarding interestedness of the witnesses for furthering prosecution version.
>
> "….Relationship is not a factor to affect credibility of a witness. It is more often than not that a relation would not conceal actual culprit and make allegations against an innocent person. Foundation has to be laid if plea of false implication is made. In such cases, the court has to adopt a careful approach and analyse evidence to find out whether it is cogent and credible.

2021 0 Supreme(SC) 483; SHAKUNTALA SHUKLA Vs. STATE OF UTTAR PRADESH AND ANOTHER; CRIMINAL APPEAL NO.876 TO 879 OF 2021; DECIDED ON : 07-09-2021

First of all, let us consider what is “judgment”. “Judgment” means a judicial opinion which tells the story of the case; what the case is about; how the court is resolving the case and why. “Judgment” is defined as any decision given by a court on a question or questions or issue between the parties to a proceeding properly before court. It is also defined as the decision or the sentence of a court in a legal proceeding along with the reasoning of a judge which leads him to his decision. The term “judgment” is loosely used as judicial opinion or decision. Roslyn Atkinson, J., Supreme Court of Queensland, in her speech once stated that there are four purposes for any judgment that is written:

i) to spell out judges own thoughts;
ii) to explain your decision to the parties;
iii) to communicate the reasons for the decision to the public; and
iv) to provide reasons for an appeal court to consider

9.3 It is not adequate that a decision is accurate, it must also be reasonable, logical and easily comprehensible. The judicial opinion is to be written in such a way that it elucidates in a convincing manner and proves the fact that the verdict is righteous and judicious. What the court says, and how it says it, is equally important as what the court decides.

Every judgment contains four basic elements and they are (i) statement of material (relevant) facts, (ii) legal issues or questions, (iii) deliberation to reach at decision and (iv) the ratio or conclusive decision. A judgment should be coherent, systematic and logically organised. It should enable the reader to trace the fact to a logical conclusion on the basis of legal principles. It is pertinent to examine the important elements in a judgment in order to fully understand the art of reading a judgment. In the Path of Law, Holmes J. has stressed the insentient factors that persuade a judge. A judgment has to formulate findings of fact, it has to decide what the relevant principles of law are, and it has to apply those legal principles to the facts. The important elements of a judgment are:

i) Caption
ii) Case number and citation
iii) Facts
iv) Issues
v) Summary of arguments by both the parties
vi) Application of law
vii) Final conclusive verdict

9.4 The judgment replicates the individuality of the judge and therefore it is indispensable that it should be written with care and caution. The reasoning in the judgment should be intelligible and logical. Clarity and precision should be the goal. All conclusions should be supported by reasons duly recorded. The findings and directions should be precise and specific. Writing judgments is an art, though it involves skilful application of law and logic. We are conscious of the fact that the judges may be overburdened with the pending cases and the arrears, but at the same time, quality can never be sacrificed for quantity. Unless judgment is not in a precise manner, it would not have a sweeping impact. There are some judgments that eventually get overruled because of lack of clarity. Therefore, whenever a judgment is written, it should have clarity on facts; on submissions made on behalf of the rival parties; discussion on law points and thereafter reasoning and thereafter the ultimate conclusion and the findings and thereafter the operative portion of the order. There must be a clarity on the final relief granted. A party to the litigation must know what actually he has got by way of final relief. The aforesaid aspects are to be borne in mind while writing the judgment, which would reduce the burden of the appellate court too. We have come across many judgments which lack clarity on facts, reasoning and the findings and many a times it is very difficult to appreciate what the

learned judge wants to convey through the judgment and because of that, matters are required to be remanded for fresh consideration. Therefore, it is desirable that the judgment should have a clarity, both on facts and law and on submissions, findings, reasonings and the ultimate relief granted.

2021 0 Supreme(SC) 516; M.A Khaliq & Ors. Vs. Ashok Kumar & Anr.: Criminal Appeal No.1003 of 2021 (Arising Out of Special Leave Petition (Crl.) No. 10427 of 2019): Decided On : 15-09-2021

The mere fact that no crime was registered, could not be a defence, nor would it be an escape from the rigour of the decisions rendered by this Court. As a matter of fact, summoning the person without there being any crime registered against him and detaining him would itself be violative of basic principles.

However, considering the facts and circumstances on record, the substantive sentence of three months as recorded in paragraph 32 of the decision of the Single Judge is modified to 15 days leaving rest of the incidents of sentence completely intact.

2021 0 Supreme(SC) 518; Shri Mahadev Meena Vs. Raveen Rathore and Another: Criminal Appeal No. 1089 of 2021 (Arising Out of SLP (Criminal) No. 4072 of 2021: Decided On : 27-09-2021

A two-judge Bench of this Court in Ram Govind Upadhyay v. Sudharshan Singh, (2002) 3 SCC 598 has listed the considerations that govern the grant of bail without attributing an exhaustive character to them. This Court has observed:

> "4. Apart from the above, certain other which may be attributed to be relevant considerations may also be noticed at this juncture, though however, the same are only illustrative and not exhaustive, neither there can be any. The considerations being:
>
> (a) While granting bail the court has to keep in mind not only the nature of the accusations, but the severity of the punishment, if the accusation entails a conviction and the nature of evidence in support of the accusations.
>
> (b) Reasonable apprehensions of the witnesses being tampered with or the apprehension of there being a threat for the complainant should also weigh with the court in the matter of grant of bail.
>
> (c) While it is not expected to have the entire evidence establishing the guilt of the accused beyond reasonable doubt but there ought always to be a prima facie satisfaction of the court in support of the charge.
>
> (d) Frivolity in prosecution should always be considered and it is only the element of genuineness that shall have to be considered in the matter of grant of bail, and in the event of there being some doubt as to the genuineness of the prosecution, in the normal course of events, the accused is entitled to an order of bail."

This Court has further elucidated on the power of the court to interfere with an order of bail in the following terms:

> "3. Grant of bail though being a discretionary order -- but, however, calls for exercise of such a discretion in a judicious manner and not as a matter of course. Order for bail bereft of any cogent reason cannot be sustained."

The above principles have been reiterated by a two judge Bench of this Court in Prasanta Kumar Sarkar v. Ashis Chatterjee, (2010) 14 SCC 496 :

> "9. … It is trite that this Court does not, normally, interfere with an order passed by the High Court granting or rejecting bail to the accused. However, it is equally incumbent upon the High Court to exercise its discretion judiciously, cautiously and strictly in compliance with the basic principles laid down in a plethora of decisions of this Court on the point. It is well settled that, among other circumstances, the factors to be borne in mind while considering an application for bail are:

(i) whether there is any prima facie or reasonable ground to believe that the accused had committed the offence;
(ii) nature and gravity of the accusation;
(iii) severity of the punishment in the event of conviction;
(iv) danger of the accused absconding or fleeing, if released on bail;
(v) character, behaviour, means, position and standing of the accused;
(vi) likelihood of the offence being repeated;
(vii) reasonable apprehension of the witnesses being influenced; and
(viii) danger, of course, of justice being thwarted by grant of bail.
[internal citation omitted]"

In Ramesh Bhavan Rathod v. Vishanbhai Hirabhai Makwana, 2021 (6) SCC 230, a two judge Bench of this Court of which one of us (Justice DY Chandrachud) was a part, has held that the High Court while granting bail must focus on the role of the accused in deciding the aspect of parity. This Court observed:

"26.…The High Court has evidently misunderstood the central aspect of what is meant by parity. Parity while granting bail must focus upon the role of the accused. Merely observing that another accused who was granted bail was armed with a similar weapon is not sufficient to determine whether a case for the grant of bail on the basis of parity has been established. In deciding the aspect of parity, the role attached to the accused, their position in relation to the incident and to the victims is of utmost importance. The High Court has proceeded on the basis of parity on a simplistic assessment as noted above, which again cannot pass muster under the law."

2021 0 Supreme(SC) 522; Ravindranatha Bajpe Vs. Mangalore Special Economic Zone Ltd. & Others: Criminal Appeal Nos.1047-1048 of 2021: Decided On : 27-09-2021

As observed by this Court in the case of Pepsi Foods Ltd. v. Special Judicial Magistrate, (1998) 5 SCC 749 and even thereafter in catena of decisions, summoning of an accused in a criminal case is a serious matter. Criminal Law cannot be set into motion as a matter of course. In paragraph 28 in Pepsi Foods Limited (supra), it is observed and held as under :

"28. Summoning of an accused in a criminal case is a serious matter. Criminal law cannot be set into motion as a matter of course. It is not that the complainant has to bring only two witnesses to support his allegations in the complaint to have the criminal law set into motion. The order of the Magistrate summoning the accused must reflect that he has applied his mind to the facts of the case and the law applicable thereto. He has to examine the nature of allegations made in the complaint and the evidence both oral and documentary in support thereof and would that be sufficient for the complainant to succeed in bringing charge home to the accused. It is not that the Magistrate is a silent spectator at the time of recording of preliminary evidence before summoning of the accused. The Magistrate has to carefully scrutinise the evidence brought on record and may even himself put questions to the complainant and his witnesses to elicit answers to find out the truthfulness of the allegations or otherwise and then examine if any offence is prima facie committed by all or any of the accused."

As held by this Court in the case of India Infoline Limited (supra), in the order issuing summons, the learned Magistrate has to record his satisfaction about a prima facie case against the accused who are Managing Director, the Company Secretary and the Directors of the Company and the role played by them in their respective capacities which is sine qua non for initiating criminal proceedings against them.

https://indiankanoon.org/doc/83715386/: Udari Laxman And Lachaiah vs The State Of Telangana on 3 September, 2021; (Advocates Vaman Rao & Nagamani murder case)

Filing of charge sheet does not entitle the accused for bail.

Sec 41A CrPC notices given in case registered under Sections 120-B, 302, 201 read with Section 34 IPC.

https://indiankanoon.org/doc/78753963/; The State Of Andhra Pradesh vs K. Shyam Rao on 28 September, 2021

Various expressions, such as, "substantial and compelling reasons", "good and sufficient grounds", "very strong circumstances", "distorted conclusions", "glaring mistakes", etc. are not intended to curtail extensive powers of an appellate court in an appeal against acquittal. Such phraseologies are more in the nature of "flourishes of language" to emphasise the reluctance of an appellate court to interfere with acquittal than to curtail the power of the court to review the evidence and to come to its own conclusion.

https://indiankanoon.org/doc/12531248/; Yamusani Venkatesh vs The State Of Telangana And 4 Others on 28 September, 2021.

The Petitioner who was not cooperating when called for counselling by the Police, was directed to cooperate with the Investigating Officer by furnishing information and documents as sought by him in concluding the investigation by receiving notice issued under Section 41-A Cr.P.C and submitting reply to the same along with documents, if any in support of his contentions.

2021 2 ALT(Cri)(SC) 201; 2021 2 Crimes(SC) 258; 2021 5 SCC 543; 2021 0 Supreme(SC) 243; ACHHAR SINGH Vs. STATE OF HIMACHAL PRADESH; CRIMINAL APPEAL NOS. 1140-1141 OF 2010: WITH BUDHI SINGH Vs. STATE OF HIMACHAL PRADESH; CRIMINAL APPEAL No. 1144 of 2010 Decided on : 07-05-2021

There is, thus, a marked differentia between an ‘exaggerated version’ and a ‘false version’. An exaggerated statement contains both truth and falsity, whereas a false statement has no grain of truth in it (being the ‘opposite’ of ‘true’). It is well said that to make a mountain out of a molehill, the molehill shall have to exist primarily. A Court of law, being mindful of such distinction is duty bound to disseminate ‘truth’ from ‘falsehood’ and sift the grain from the chaff in case of exaggerations. It is only in a case where the grain and the chaff are so inextricably intertwined that in their separation no real evidence survives, that the whole evidence can be discarded.

There is no gainsaid that homicidal deaths cannot be left to judicium dei. The Court in their quest to reach the truth ought to make earnest efforts to extract gold out of the heap of black sand. The solemn duty is to dig out the authenticity. It is only when the Court, despite its best efforts, fails to reach a firm conclusion that the benefit of doubt is extended.

2021 2 ALD Crl 460(TS); 2021 0 Supreme(Telangana) 76; Smt. Farhat Kausar Vs. State of Telangana, Writ Petition No.19999 of 2020 Decided On : 14-06-2021 (DB)

it is apt to state that the power of preventive detention is qualitatively different from punitive detention. The power of preventive detention is a precautionary power exercised in reasonable anticipation. It may or may not relate to an offence. It is not a parallel proceeding. It does not overlap with prosecution, even if it relies on certain facts for which prosecution may be launched or may have been launched. An order of preventive detention may be made before or during prosecution. An order of preventive detention may be made with or without prosecution and in anticipation or after discharge or even acquittal. The pendency of prosecution is not a bar to an order of preventive detention and an order of preventive detention is also not a bar to prosecution. It cannot be considered to be a parallel proceeding. The anticipated behaviour of a person based on his past conduct in the light of surrounding circumstances may provide sufficient ground for detention. The basis of preventive detention is suspicion and its justification is necessary.

Though the detaining authority had relied over a single case, the material placed on record, as indicated above, reveals that a mentally challenged minor girl was repeatedly sexually assaulted by the detenu and others, the manner in which the sexual assault was committed repeatedly would certainly cause fear in the minds of the public at large. In view of the material on record, the apprehension of detaining authority is justified. Therefore, the contention raised by the petitioner is unsustainable. The detaining authority had sufficient material to record subjective satisfaction that the detention of the detenu was necessary to maintain public order and even tempo of life of the community. The order of detention does not suffer from any illegality. The grounds of detention, as indicated in the impugned order, are found to be relevant and in tune with the provisions of the P.D. Act. Since the detenu was granted bail in the aforesaid case relied by the detaining authority, there is nothing wrong on the part of the detaining authority in raising an apprehension that there is possibility of the detenu indulging in similar shameful and inhuman acts of sexual assault on minor girls and women exploiting their innocence in a deceptive manner in due course, which would again certainly affect the public morale at large. The manner in which the alleged offence committed by the detenu makes it amply clear that there is every possibility of detenu committing similar offences in future, which are prejudicial to the maintenance of public order. The subjective satisfaction of the detaining authority is not tainted or illegal on any account. Further, the material placed on record reveals that the detenu was supplied with the material relied upon by the detaining authority in the language known to him, i.e., Hindi apart from 'English'. The acts of the detenu cannot be effectively dealt with under ordinary criminal law. Under these circumstances, the detaining authority is justified in passing the impugned detention order. Therefore, the impugned orders are legally sustainable.

NOSTALGIA

NDPS:

This Court Karnail Singh v. State of Haryana, (2009) 8 SCC 539 held that though the writing down of information on the receipt of it should normally precede the search and seizure by the officer, in exceptional circumstances that warrant immediate and expedient action, the information shall be written down later along with the reason for the delay:

> "35. […](c) In other words, the compliance with the requirements of Sections 42(1) and 42(2) in regard to writing down the information received and sending a copy thereof to the superior officer, should normally precede the entry, search and seizure by the officer. But in special circumstances involving emergent situations, the recording of the information in writing and sending a copy thereof to the official superior may get postponed by a reasonable period, that is, after the search, entry and seizure. The question is one of urgency and expediency.
>
> (d) While total non-compliance with requirements of subsections (1) and (2) of Section 42 is impermissible, delayed compliance with satisfactory explanation about the delay will be acceptable compliance with Section 42. To illustrate, if any delay may result in the accused escaping or the goods or evidence being destroyed or removed, not recording in writing the information received, before initiating action, or non-sending of a copy of such information to the official superior forthwith, may not be treated as violation of Section 42. But if the information was received when the police officer was in the police station with sufficient time to take action, and if the police officer fails to record in writing the information received, or fails to send a copy thereof, to the official superior, then it will be a suspicious circumstance being a clear violation of Section 42 of the Act. Similarly, where the police officer does not record the information at

all, and does not inform the official superior at all, then also it will be a clear violation of Section 42 of the Act. Whether there is adequate or substantial compliance with Section 42 or not is a question of fact to be decided in each case. The above position got strengthened with the amendment to Section 42 by Act 9 of 2001."

REVENUE RECORDS

Right from 1997, the law is very clear. In the case of Balwant Singh v. Daulat Singh (D) By Lrs., reported in (1997) 7 SCC 137, this Court had an occasion to consider the effect of mutation and it is observed and held that mutation of property in revenue records neither creates nor extinguishes title to the property nor has it any presumptive value on title. Such entries are relevant only for the purpose of collecting land revenue. Similar view has been expressed in the series of decisions thereafter.

In the case of Suraj Bhan v. Financial Commissioner, (2007) 6 SCC 186, it is observed and held by this Court that an entry in revenue records does not confer title on a person whose name appears in record-of-rights. Entries in the revenue records or jamabandi have only "fiscal purpose", i.e., payment of land revenue, and no ownership is conferred on the basis of such entries. It is further observed that so far as the title of the property is concerned, it can only be decided by a competent civil court. Similar view has been expressed in the cases of Suman Verma v. Union of India, (2004) 12 SCC 58; Faqruddin v. Tajuddin (2008) 8 SCC 12; Rajinder Singh v. State of J&K, (2008) 9 SCC 368; Municipal Corporation, Aurangabad v. State of Maharashtra, (2015) 16 SCC 689; T. Ravi v. B. Chinna Narasimha, (2017) 7 SCC 342; Bhimabai Mahadeo Kambekar v. Arthur Import & Export Co., (2019) 3 SCC 191; Prahlad Pradhan v. Sonu Kumhar, (2019) 10 SCC 259; and Ajit Kaur v. Darshan Singh, (2019) 13 SCC 70.

NON-EXAMINATION OF ALL WITNESSES

It is not necessary for the prosecution to examine every cited or possible witness. So long as the prosecution case can withstand the test of proof beyond doubt, non-examination of all or every witness is immaterial.

In Sarwan Singh v. State of Punjab, (1976) 4 SCC 369, 13. was of the view that:

"13.…The onus of proving the prosecution case rests entirely on the prosecution and it follows as a logical corollary that the prosecution has complete liberty to choose its witnesses if it is to prove its case. The court cannot compel the prosecution to examine one witness or the other as its witness. At the most, if a material witness is withheld, the court may draw an adverse inference against the prosecution…**The law is well-settled that the prosecution is bound to produce only such witnesses as are essential for unfolding of the prosecution narrative.** In other words, before an adverse inference against the prosecution can be drawn it must be proved to the satisfaction of the court that the witnesses who had been withheld were eyewitnesses who had actually seen the occurrence and were therefore material to prove the case. **It is not necessary for the prosecution to multiply witnesses after witnesses on the same point; it is the quality rather than the quantity of the evidence that matters.** In the instant case, the evidence of the eyewitnesses does not suffer from any infirmity or any manifest defect on its intrinsic merit…" (emphasis supplied)

NEWS

- The Adoption (Amendment) Regulations, 2021 by including Chapter IV-A Procedure For Children Adopted Under The Hindu Adoption And Maintenance Act, 1956, By Parents Who Desire To Relocate Child Abroad, published.
- Prosecution replenish congratulates all the Prosecuting officers and the Judicial officers, on their promotion.

SL NO.	NAME AND DESIGNATION OF THE OFFICER	POSTED AS	HAND OVER CHARGE OF HIS/HER POST TO	TAKE CHARGE OF HIS/HER POST FROM
(1)	(2)	(3)	(4)	(5)
1.	Smt. S.Sailaja, Principal Junior Civil Judge, Kavali, Nellore District.	Senior Civil Judge, Adoni, Kurnool District. (post kept vacant)	Additional Junior Civil Judge, Kavali, Nellore District.	Additional Junior Civil Judge, Kurnool.
2.	Sri G.Yagna Narayana, Junior Civil Judge, Jangareddigudem, West Godavari District.	Senior Civil Judge, Parvathipuram, Vizianagaram District. (post kept vacant)	Judicial Magistrate of First Class, Jangareddigudem, West Godavari District.	Senior Civil Judge, Vizianagaram.
3.	Sri N.Ramesh Naidu, Principal Junior Civil Judge, Kakinada, East Godavari District.	Senior Civil Judge, Markapur, Prakasam District. (post kept vacant)	I Additional Junior Civil Judge, Kakinada, East Godavari District.	Principal Senior Civil Judge, Ongole, Prakasam District.
4.	Sri N.Vijaya Babu, Principal Junior Civil Judge, Ongole, Prakasam District.	Senior Civil Judge, Kandukur, Prakasam District. (post kept vacant)	II Additional Junior Civil Judge, Ongole, Prakasam District.	Additional Senior Civil Judge, Ongole, Prakasam District.
5.	Sri R.Sanyasi Naidu, VI Metropolitan Magistrate, for Railways, Visakhapatnam.	VII Additional Senior Civil Judge, Visakhapatnam. (post kept vacant)	VII Additional Metropolitan Magistrate (Special Mobile Court), Visakhapatnam.	VI Additional Senior Civil Judge, Visakhapatnam.
6.	Sri T.V.S.S.Prakash, II Additional Junior Civil Judge, Bheemunipatnam, Visakhapatnam District.	I Additional Chief Metropolitan Magistrate, Vijayawada, Krishna District. (post kept vacant)	I Additional Junior Civil Judge, Bheemunipatnam, Visakhapatnam District.	Chief Metropolitan Magistrate, Vijayawada, Krishna District.
7.	Smt. P.Vijaya, Principal Junior Civil Judge-cum-IV Additional M.M. Bheemunipatnam, Visakhapatnam District.	Additional Senior Civil Judge, Eluru, West Godavari District. (post kept vacant)	I Additional Junior Civil Judge, Bheemunipatnam, Visakhapatnam District.	Principal Senior Civil Judge, Eluru, West Godavari District.
8.	Smt. K.Vani, I Additional Junior Civil Judge, Ongole, Prakasam District.	Additional Senior Civil Judge, Tenali, Guntur District. Vice Sri T.Ramachandrudu transferred.	III Additional Junior Civil Judge, Ongole, Prakasam District.	Additional Senior Civil Judge, Tenali, Guntur District.
9.	On relief, Sri T.Ramachandrudu, Additional Senior Civil Judge, Tenali, Guntur District.	Principal Senior Civil Judge, Tenali, Guntur District. (post kept vacant)	---	Shall assume charge as Principal Senior Civil Judge.
10.	Sri G.Shiva Prasad Yadav, Principal Junior Civil Judge, Tirupathi, Chittoor District.	Senior Civil Judge, Proddatur, Kadapa District. (post kept vacant)	III Additional Junior Civil Judge, Tirupati, Chittoor District.	Principal Senior Civil Judge, Kadapa.
11.	Sri T.Vasudevan, Principal Junior Civil Judge, Chilakaluripet, Guntur District.	Senior Civil Judge, Bobbili, Vizianagaram District. (post kept vacant)	Additional Junior Civil Judge, Chilakaluripet, Guntur District.	Senior Civil Judge, Vizianagaram.

12.	Smt. A.Padma, Principal Junior Civil Judge, Kurnool.	Additional Senior Civil Judge, Kurnool. Vice Sri T. Kesava transferred. (post kept vacant)	I Additional Junior Civil Judge, Kurnool.	Additional Senior Civil Judge, Kurnool.
13.	On relief, Sri T.Kesava, Additional Senior Civil Judge, Kurnool.	Principal Senior Civil Judge, Kurnool (post kept vacant)	---	Shall assume charge as Principal Senior Civil Judge, Kurnool
14.	Smt. D.Naga Venkata Lakshmi, Principal Junior Civil Judge, Ananthapuram.	Senior Civil Judge, Sattenapalle, Guntur District. (post kept vacant)	Additional Junior Civil Judge, Ananthapuramu.	Additional Senior Civil Judge, Narasaraopet, Guntur District.
15.	Smt. S.Hemalatha, Principal Junior Civil Judge, Kadapa.	Additional Senior Civil Judge, Kadapa. (post kept vacant)	II Additional Junior Civil Judge, Kadapa.	Principal Senior Civil Judge, Kadapa.
16.	Sri G.Ganga Raju, Junior Civil Judge, Kanigiri, Prakasam District.	Additional Senior Civil Judge, Anakapalle, Visakhapatnam District. Vice Sri P.Goverdan, transferred.	Junior Civil Judge, Podili, Prakasam District.	Additional Senior Civil Judge, Gajuwaka, Visakhapatnam District.
17.	Sri Ch.Yugandhar, I Additional Junior Civil Judge, Rajamahendra-varam, East Godavari District.	I Additional Chief Metropolitan Magistrate, Visakhapatnam (post kept vacant)	II Additional Junior Civil Judge, Rajamahendravaram, East Godavari District.	Chief Metropolitan Magistrate, Visakhapatnam.
18.	Smt. K.Aruna, VI Additional Junior Civil Judge, Guntur.	Senior Civil Judge, Srikalahasti, Chittoor District. (post kept vacant)	V Additional Junior Civil Judge, Guntur.	Additional Senior Civil Judge, Tirupathi, Chittoor District.
19.	Smt. M.V.N. Padmaja, Special Mobile Court for trial of cases under PCR Act-cum-III Additional Junior Civil Judge, Kurnool.	II Additional Senior Civil Judge, Kakinada, East Godavari District. (post kept vacant)	Special Judicial Magistrate of First Class, Excise Court, Kurnool.	III Additional Senior Civil Judge, Kakinada, East Godavari District.
20.	Smt. K.Madhavi Devi, IV Additional Junior Civil Judge, Nellore.	Senior Civil Judge, Ramachandrapuram, East Godavari	Special Judicial Magistrate of First Class, Excise Court,	I Additional Senior Civil Judge, Kakinada, East

21.	Smt. A.Sunitha Rani, Principal Junior Civil Judge, Guntur.	IV Additional Senior Civil Judge, Guntur. (post kept vacant)	II Additional Junior Civil Judge, Guntur.	I Additional Senior Civil Judge, Guntur.
22.	Smt. K.Madhavi, I Additional Junior Civil Judge, Kovvur, West Godavari District.	Senior Civil Judge, Pithapuram, East Godavari District. (post kept vacant)	Principal Junior Civil Judge, Kovvur, West Godavari District.	Senior Civil Judge, Peddapuram, East Godavari District.
23.	Smt. A.Shobha Rani, I Additional Junior Civil Judge, Tirupathi, Chittoor District.	Additional Senior Civil Judge, Narasaraopet, Guntur District. Vice Smt. Sunkara Sridevi transferred.	IV Additional Junior Civil Judge, Tirupathi, Chittoor District.	Additional Senior Civil Judge, Narasaraopet, Guntur District.
24.	On relief, Smt. Sunkara Sridevi, Additional Senior Civil Judge, Narasaraopet, Guntur District.	Principal Senior Civil Judge, Narasaraopet, Guntur District. (post kept vacant)	---	Shall assume charge as Principal Senior Civil Judge, Narsaraopet.
25.	Sri M.Babu, Principal Junior Civil Judge, Kandukur, Prakasam District.	Senior Civil Judge, Rajam, Srikakulam District. (post kept vacant)	Additional Junior Civil Judge, Kandukur, Prakasam District.	Principal Senior Civil Judge, Srikakulam.
26.	Sri K.Vasudeva Rao, Principal Junior Civil Judge, Tadepalligudem, West Godavari District.	Senior Civil Judge, Punganur, Chittoor District. (post kept vacant)	I Additional Junior Civil Judge, Tadepalligudem, West Godavari District.	Principal Senior Civil Judge, Madanapalle, Chittoor District.
27.	Sri K.Prakash Babu, Junior Civil Judge, Kotabommali, Srikakulam District.	Senior Civil Judge, Tadepalligudem, West Godavari District.	Shall handover charge of his post and also the posts of Junior Civil Judge, Pathapatnam, Junior Judge, Tekkali, Junior Civil Judge, Palasa, to Junior Civil Judge, Kottur and also handover charge of the posts of Junior Civil Judge, Ichapuram, Junior Civil Jude, Narasannapet, Prl and Addl. Junior Civil Judge, Sompeta to Judicial Magistrate of First Class, Special Mobile Court,	Senior Civil Judge, Tanuku, West Godavari District.

28.	Sri Yalamarthi Srinivasa Rao, Junior Civil Judge, Udayagiri, Nellore District.	Senior Civil Judge, Narsapur, West Godavari District. (post kept vacant)	Additional Junior Civil Judge, Kavali, Nellore District.	Senior Civil Judge, Bhimavaram, West Godavari District.
29.	Smt. S.Arunasri, Principal Junior Civil Judge, Puttur, Chittoor District.	Senior Civil Judge, Chodavaram, Visakhapatnam District. (post kept vacant)	Additional Junior Civil Judge, Puttur, Chittoor District.	Principal Senior Civil Judge, Anakapalle/Addl. Senior Civil Judge, Gajuwaka, Visakhapatnam District, as the case may be.
30.	Sri G.L.V.Prasad, Principal Junior Civil Judge, Tuni, East Godavari District.	Senior Civil Judge, Darsi, Prakasam District (post kept vacant)	Principal Junior Civil Judge, Pithapuram, East Godavari District.	Senior Civil Judge, Addanki, Prakasam District.
31.	Sri H.Amara Rangeswara Rao, Principal Junior Civil Judge, Alamur, East Godavari District.	Additional Senior Civil Judge, Anakapalle, Visakhapatnam District Vice (post kept vacant)	Additional Junior Civil Judge, Ramachandrapuram. East Godavari District.	Additional Senior Civil Judge, Gajuwaka, Visakhapatnam District.
32.	Sri B.Leela Venkata Seshadri, V Additional Junior Civil Judge, Nellore.	Senior Civil Judge, Gurazala, Guntur District (post kept vacant)	Special Judicial Magistrate of First Class, Excise Court, Nellore.	Additional Senior Civil Judge, Narasaraopet, Guntur Dsitrict.
33.	Sri Marpu Sreedhar, Principal Junior Civil Judge, Vijayawada, Krishna District.	Senior Civil Judge, Kothapet, East Godavari District. (post kept vacant)	I Additional Junior Civil Judge, Vijayawada, Krishna District.	Senior Civil Judge, Amalapuram, East Godavari District.
34.	Smt. K.Prathush Kumari, Junior Civil Judge, Lakkireddipalli, Kadapa District.	Secretary, District Legal Services Authority, Rajamahendravaram, East Godavari District. VICE Smt. K.V.L.Hima Bindhu, transferred.	Principal Junior Civil Judge, Rayachoti, Kadapa District.	Principal Senior Civil Judge, Rajamahendravaram, East Godavari District.
35.	Sri P.Goverdhan, Principal Senior Civil Judge, Anakapalle, Visakhapatnam District.	Principal Senior Civil Judge, Visakhapatnam. (post kept vacant)	Addl. Senior Civil Judge, Gajuwaka, Visakhapatnam District.	I Additional Senior Civil Judge, Visakhapatnam.

36.	Smt. K.V.L.Hima Bindhu, Secretary, District Legal Services Authority, East Godavari at Rajamahendravaram.	II Additional Chief Metropolitan Magistrate, (Juvenile Court) Visakhapatnam. (post kept vacant)	Principal Senior Civil Judge, Rajamahendravaram, East Godavari District.	III Additional Chief Metropolitan Magistrate, Visakhapatnam.
37.	Sri S.Praveen Kumar, Additional Senior Civil Judge, Kadapa.	I Additional Senior Civil Judge, Rajamahendravaram, East Godavari District. (post kept vacant)	Principal Senior Civil Judge, Kadapa.	Principal Senior Civil Judge, Rajamahendravaram, East Godavari District.

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Sl. No.	Name of the Assistant Public Prosecutor	Promotion and Place of posting	To whom charge to be handover	From whom Charge to be taken
1	2	3	4	5
1	Sri. M. Adinarayana, Assistant Public Prosecutor, Judicial First Class Magistrate Court, Sompeta, Srikakulam District	Senior Assistant Public Prosecutor, Chief Metropolitan Magistrate Court, Visakhapatnam	Ms.R.Santhi Santhoshi, Assistant Public Prosecutor, Additional Judicial First Class Magistrate Court, Sompeta, Srikakulam District. She is placed as incharge to the post of Assistant Public Prosecutor, JFCM Court, Sompeta, Srikakulam District, until further orders	Assumed Charge
2	Sri.G.Chinna Rao, Assistant Public Prosecutor/ Legal Advisor-cum-Special Public Prosecutor, Anti-Corruption Bureau, Visakhapatnam	Senior Assistant Public Prosecutor, Additional Judicial First Class Magistrate Court, Vizianagaram	As directed by the Director General, ACB, A.P, Vijayawada	Sri.P.Kesava Rao, Assistant Public Prosecutor,- Judicial First Class Magistrate Court, S.Kota, Vizianagaram Dist.

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Sl. No.	Name of the Assistant Public Prosecutor	Promotion and Place of posting	To whom charge to be handover	From whom Charge to be taken
1	2	3	4	5
1	Smt.N.Umavathi, Assistant Public Prosecutor, Special Mobile (PCR) Court, Eluru, West Godavari District	Senior Assistant Public Prosecutor, II Additional Judicial First Class Magistrate Court, Machilipatnam, Krishna Dist.	Sri.B.Gangadhar Assistant Public Prosecutor, Judicial First Class Magistrate Court, Bhimadolu, West Godavari District. He is placed as incharge to the post of Assistant Public Prosecutor, Special Mobile (PCR) Court, Eluru, W.G.District	Smt.G.Aruna Madhuri, Assistant Public Prosecutor, Judicial First Class Magistrate Court, Bantumilli, Krishna District.
2	Sri.K.Srikrishna, Assistant Public Prosecutor/ Legal Advisor-cum-Public Prosecutor, O/o Additional Director General of Police, Intelligence Department, Andhra Pradesh, Vijayawada	Senior Assistant Public Prosecutor/ Legal Advisor-cum-Public Prosecutor, O/o Additional Director General of Police, Intelligence Department, Andhra Pradesh, Vijayawada	As directed by the Additional Director General of Police, Intelligence Department, A.P, Vijayawada	

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Sl. No.	Name of the Assistant Public Prosecutor	Promotion and Place of posting	To whom charge to be handover	From whom Charge to be taken
1	2	3		
1	Sri.P.Sunil Kumar Assistant Public Prosecutor, II Additional Judicial First Class Magistrate Court, Narasaraopet, Guntur District	Senior Assistant Public Prosecutor, I Additional Judicial First Class Magistrate Court, Tenali, Guntur District	Sri.L.Lakshmi Ram Naik, Senior Assistant Public Prosecutor, I Additional Judicial First Class Magistrate Court, Narasararaopet, Guntur District He is placed as incharge to the post of Assistant Public Prosecutor, II Additional Judicial First Class Magistrate Court, Narasaraopet, Guntur Dist.	Smt.K.Kalavathi, Senior Assistant Public Prosecutor, IV Additional Judicial First Class Magistrate Court,Guntur

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ON A LIGHTER VEIN

Why do we tell actors to "break a leg?"
Because every play has a cast

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✍The Prosecution Replenish, 4-235, Gita Nagar, Malkajgiri, Hyderabad, Telangana-500047
📱: 9848844936; 🖳e-mail:- prosecutionreplenish@gmail.com